



**2018/0111(COD)**

19.10.2018

# OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Industry, Research and Energy

on the proposal for a directive of the European Parliament and of the Council  
on the re-use of public sector information (recast)  
(COM(2018)0234 – C8-0169/2018 – 2018/0111(COD))

Rapporteur for opinion: Julia Reda

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## SHORT JUSTIFICATION

### *I. Background*

Over the last decade and a half, Open Data has evolved and matured to become a concept that is observed at the heart of modern administration. Governments and authorities have embraced the principle that where data *can* be made available for re-use, they *must* be made available.

Following the fundamental right to access to information, the right to access and re-use of public sector data enables citizens to actively participate in their communities. Numerous individuals and initiatives make use of data to create benefits for society. Rather than through rumours or sporadic evidence, they make use of reliable data as a source of information.

In the Commission's evaluation accompanying the recast proposal, the data economy in the European Union was estimated to be worth 300 billion EUR in 2016. In the same year, around 134.000 data businesses existed in the EU.<sup>1</sup>

Next to citizens and businesses, administrations themselves benefit from Open Data. While allowing governments and authorities to fulfil their democratic obligations to making their policy and decision processes transparent, embracing Open Data also creates incentives for departments to cooperate more. Data becomes accessible to internal users where they would not have had access before. According to the Commission evaluation, the benefits of making data open from the start by far outweigh any cost for public administration, at a rate of "roughly 26:1 today"<sup>2</sup>.

### *II. The Rapporteur's position*

#### **A. Open by Design and by Default**

The access to information is a fundamental right, guaranteed by the Charter of Fundamental Rights of the European Union, in particular Article 11. That is why Member States should make all reasonable efforts to design policies governing the creation of data so that their publication is already foreseen.

Making public sector information accessible and re-usable creates cost for public administration. Already today, the benefits outweigh the costs. By giving thought to the subsequent possibility of publication at the stage of data production, costs could be further reduced, and publication streamlined.

The principle should be called open by design and by default.

#### **B. High Value Datasets**

The Commission has identified High Value Datasets to be particularly valuable for economy and society. Opening up High Value Datasets for access is therefore essential to the aim of the recast.

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<sup>1</sup> Commission Staff Working Document SWD (2018) 145 final, page 24

<sup>2</sup> SWD (2018) 145 final, page 27

Therefore, building on experiences in MS, the Directive is amended with a list of categories of high value data and exemplary datasets from areas identified as high-value by the Open Knowledge Foundation<sup>1</sup> and in the G8 Open Data Charter's Technical Annex<sup>2</sup>. The Commission is given delegated powers to update this list and enhance it with concrete datasets that it identifies through public consultations, and by encouraging the public to submit suggestions.

### **C. Charging**

Governments and public administration can charge for data they have commissioned to be produced, produced themselves, or licensed.

The cautious approach in the recast fails to correct the status quo, where large multi-national corporations benefit from public data, while civic initiatives lose out. For example, Google reportedly made a licensing deal for mapping data with the German Federal Agency for Cartography and Geodesy<sup>3</sup> that involves a low six-figure yearly fee. Where Google can afford such a fee, the data remain inaccessible and unaffordable for SMEs or competing community-based civil society alternatives like OpenStreetMap<sup>4</sup> that created detailed maps of the world largely at the hand of volunteers.

As a result, public sector information ends up strengthening the already dominant market position of large multinational companies, while limiting the ability for the development of alternatives.

The possibility for the public sector to charge for data must therefore be further limited. The re-use of data should be free of charge, unless under very narrowly defined circumstances.

### **D. Open Data Directive**

The Directive should not get in the way of MS that already embrace Open Data and release their information in open formats, and under permissive, open licences. It should help those MS that are not yet committed and guide them with steps and methods to be adopted.

It should underscore the European dimension of Open Data, promote the pan-European aggregation of data, and the collaboration across borders.

At the time of the adoption of Directive 2003/98/EC, the term Open Data was not widely known. Today, the situation is different. Open Data as a term is broadly established and used by the Commission and MS. Therefore, the best term to describe what the Directive wants to achieve is Open Data.

The Directive's name should showcase what it can achieve and consequently be renamed the "Open Data Directive".

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<sup>1</sup> Open Knowledge Foundation (OKFN): Global Open Data Index <https://index.okfn.org/dataset/>

<sup>2</sup> Cabinet Office: G8 Open Data Charter and Technical Annex <https://www.gov.uk/government/publications/open-data-charter/g8-open-data-charter-and-technical-annex>

<sup>3</sup> Bundesamt für Kartographie und Geodäsie <https://www.bkg.bund.de/>

<sup>4</sup> OpenStreetMap <https://www.openstreetmap.org/>

## AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a directive Title 1

*Text proposed by the Commission*

Proposal for a  
DIRECTIVE OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
on the re-use of public sector information  
(recast)

*Amendment*

Proposal for a  
DIRECTIVE OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
on ***Open Data and the*** re-use of public  
sector information (recast)

### Amendment 2

#### Proposal for a directive Recital 1

*Text proposed by the Commission*

(1) Directive 2003/98/EC of the European Parliament and of the Council<sup>28</sup> has been substantially amended. Since further amendments are to be made, that Directive should be recast in the interests of clarity.

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<sup>28</sup> Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ L 345, 31.12.2003, p. 90).

*Amendment*

(1) Directive 2003/98/EC of the European Parliament and of the Council<sup>28</sup> has been substantially amended<sup>28a</sup>. Since further amendments are to be made, that Directive should be recast in the interests of clarity.

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<sup>28</sup> Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ L 345, 31.12.2003, p. 90).

<sup>28a</sup> ***See Annex I, Part A.***

### Amendment 3

#### Proposal for a directive

##### Recital 2

*Text proposed by the Commission*

(2) Pursuant to **Article 13 of** Directive 2003/98/EC and five years after the adoption of the amending Directive 2013/37/EU, the Commission has, after consulting the relevant stakeholders, undertaken an evaluation and review of the functioning of the Directive in the framework of a Regulatory Fitness and Performance Programme<sup>29</sup>.

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<sup>29</sup> SWD(2018) 145.

*Amendment*

(2) Pursuant to Directive 2003/98/EC and five years after the adoption of the amending Directive 2013/37/EU, the Commission has, after consulting the relevant stakeholders, undertaken an evaluation and review of the functioning of the Directive in the framework of a Regulatory Fitness and Performance Programme<sup>29</sup>.

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<sup>29</sup> SWD(2018) 145.

### Amendment 4

#### Proposal for a directive

##### Recital 3

*Text proposed by the Commission*

(3) Following the stakeholder consultation and in the light of the Impact Assessment<sup>30</sup> results, the Commission considered that action at Union level was necessary in order to address the remaining and emerging barriers to a wide re-use of public sector and publicly-funded information across the Union and to bring the legislative framework up to date with the advances in digital technologies, such as Artificial Intelligence and the Internet of Things.

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<sup>30</sup> SWD(2018) 127.

*Amendment*

(3) Following the stakeholder consultation and in the light of the Impact Assessment<sup>30</sup> results, the Commission considered that action at Union level was necessary in order to address the remaining and emerging barriers to a wide re-use of public sector and publicly-funded information across the Union and to bring the legislative framework up to date with the advances in digital technologies, such as ***machine learning***, Artificial Intelligence and the Internet of Things.

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<sup>30</sup> SWD(2018) 127.

### Amendment 5

## Proposal for a directive

### Recital 4

*Text proposed by the Commission*

(4) The substantive changes introduced to the legal text so as to fully exploit the potential of public sector information for the European economy and society focus on the following areas: the provision of real-time access to dynamic data via adequate technical means, increasing the supply of high-value public data for re-use, including from public undertakings, research performing **organisations and** research funding organisations, tackling the emergence of new forms of exclusive arrangements, the use of exceptions to the principle of charging the marginal cost and the relationship between this Directive and certain related legal instruments, including Directive 96/9/EC<sup>31</sup> **and** Directive 2007/2/EC of the European Parliament and of the Council<sup>32</sup>.

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<sup>31</sup> Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).

<sup>32</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p.1).

## Amendment 6

### Proposal for a directive

#### Recital 4 a (new)

*Amendment*

(4) The substantive changes introduced to the legal text so as to fully exploit the potential of public sector information for the European economy and society focus on the following areas: the provision of real-time access to dynamic data via adequate technical means, increasing the supply of high-value public data for re-use, including from public undertakings, research performing **organisations and** research funding organisations, tackling the emergence of new forms of exclusive arrangements, the use of exceptions to the principle of charging the marginal cost and the relationship between this Directive and certain related legal instruments, including Directive 96/9/EC<sup>31</sup>, Directive 2007/2/EC of the European Parliament and of the Council, **and Regulation (EU) 2016/679**<sup>32</sup>.

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<sup>31</sup> Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).

<sup>32</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p.1).

*Text proposed by the Commission*

*Amendment*

**(4 a) *The access to information is a fundamental right. The Charter of Fundamental Rights of the European Union (the ‘Charter’) provides that everyone has the right to freedom of expression, including the right to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.***

## **Amendment 7**

### **Proposal for a directive Recital 6**

*Text proposed by the Commission*

*Amendment*

(6) The public sector in the Member States collects, produces, reproduces and disseminates a wide range of information in many areas of activity, such as social, economic, geographical, weather, tourist, business, patent and educational information. Documents produced by public sector bodies of executive, legislative or judicial nature constitute a vast, diverse and valuable pool of resources that can benefit the knowledge economy.

(6) The public sector in the Member States collects, produces, reproduces and disseminates a wide range of information in many areas of activity, such as social, economic, geographical, weather, tourist, business, patent and educational information. Documents produced by public sector bodies of executive, legislative or judicial nature constitute a vast, diverse and valuable pool of resources that can benefit the knowledge economy, ***which is based on the quantity, quality and accessibility of the information available and leads to better adaptation to consumer needs.***

## **Amendment 8**

### **Proposal for a directive Recital 7**

*Text proposed by the Commission*

*Amendment*

(7) Directive 2003/98/EC of the

(7) Directive 2003/98/EC of the

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European Parliament and of the Council of 17 November 2003 on the re-use of public sector information established a minimum set of rules governing the re-use and the practical means of facilitating re-use of existing documents held by public sector bodies of the Member States, including executive, legislative and judicial bodies. Since the adoption of the first set of rules on re-use of public sector information, the amount of data in the world, including public data, has increased exponentially and new types of data are being generated and collected. In parallel, *we are witnessing* a continuous evolution in technologies for analysis, exploitation and processing of data. This rapid technological evolution makes it possible to create new services and new applications, which are built upon the use, aggregation or combination of data. The rules originally adopted in 2003 and later amended in 2013 no longer keep pace with these rapid changes and as a result the economic and social opportunities offered by re-use of public data risk being missed.

European Parliament and of the Council of 17 November 2003 on the re-use of public sector information established a minimum set of rules governing the re-use and the practical means of facilitating re-use of existing documents held by public sector bodies of the Member States, including executive, legislative and judicial bodies. Since the adoption of the first set of rules on re-use of public sector information, the amount of data in the world, including public data, has increased exponentially and new types of data are being generated and collected. In parallel, *there is* a continuous evolution in technologies for analysis, exploitation and processing of data, *such as machine learning, Artificial intelligence and Internet of Things*. This rapid technological evolution makes it possible to create new services and new applications, which are built upon the use, aggregation or combination of data. The rules originally adopted in 2003 and later amended in 2013 no longer keep pace with these rapid changes and as a result the economic and social opportunities offered by re-use of public data risk being missed.

## Amendment 9

### Proposal for a directive Recital 8

#### *Text proposed by the Commission*

(8) The evolution towards a data-based society influences the life of every citizen in the *Community*, among other things, by enabling them to gain new ways of accessing and acquiring knowledge.

#### *Amendment*

(8) The evolution towards a data-based society influences the life of every citizen in the *Union*, among other things, by enabling them to gain new ways of accessing and acquiring knowledge.

## Amendment 10

**Proposal for a directive**  
**Recital 11**

*Text proposed by the Commission*

(11) Allowing re-use of documents held by a public sector body adds value for the re-users, for the end users and for society in general and in many cases for the public body itself, by promoting transparency and accountability and providing feedback from re-users and end users which allows the public sector body concerned to improve the quality of the information collected.

*Amendment*

(11) Allowing re-use of documents held by a public sector body adds value for the re-users, for the end users and for society in general and in many cases for the public body itself, by promoting transparency and accountability and providing feedback from re-users and end users which allows the public sector body concerned to improve the quality of the information collected *as well as the pursuit of its public tasks*.

**Amendment 11**

**Proposal for a directive**  
**Recital 12**

*Text proposed by the Commission*

(12) There are considerable differences in the rules and practices in the Member States relating to the exploitation of public sector information resources, which constitute barriers to bringing out the full economic potential of this key document resource. Practice in public sector bodies in exploiting public sector information continues to vary among Member States. That should be taken into account. Minimum harmonisation of national rules and practices on the re-use of public sector documents should therefore be undertaken, in cases where the differences in national regulations and practices or the absence of clarity hinder the smooth functioning of the internal market and the proper development of the information society in the *Community*.

*Amendment*

(12) There are considerable differences in the rules and practices in the Member States relating to the exploitation of public sector information resources, which constitute barriers to bringing out the full economic potential of this key document resource. Practice in public sector bodies in exploiting public sector information continues to vary among Member States. That should be taken into account. Minimum harmonisation of national rules and practices on the re-use of public sector documents should therefore be undertaken, in cases where the differences in national regulations and practices or the absence of clarity hinder the smooth functioning of the internal market and the proper development of the information society in the *Union*.

## Amendment 12

### Proposal for a directive Recital 13

*Text proposed by the Commission*

(13) Open data policies which encourage the wide availability and re-use of public sector information for private or commercial purposes, with minimal or no legal, technical or financial constraints, and which promote the circulation of information not only for economic operators but also for the public, can play an important role in *kick-starting* the development of new services based on novel ways to combine and make use of such information, stimulate economic growth and promote social engagement.

*Amendment*

(13) ***Member States should ensure the creation of data based on the principle of “open by design and by default”, with regard to all documents falling in the scope of this Directive, while ensuring a consistent level of protection of public interest objectives, such as public security or personal data protection, including where sensitive information related to critical infrastructures are concerned or where information in an individual dataset may not present a risk of identifying a natural person, but when combined with other available information, could entail such risk.*** Open data policies which encourage the wide availability and re-use of public sector information for private or commercial purposes, with minimal or no legal, technical or financial constraints, and which promote the circulation of information not only for economic operators but also for the public, can play an important role in *promoting* the development of new services based on novel ways to combine and make use of such information, stimulate economic growth and promote social engagement. ***Interoperability, open standards and open data should therefore be implemented at national, regional and local level of each Member State’s administration. At the same time, the Commission should facilitate the cooperation among Member States and support the design, testing, implementation and deployment of interoperable electronic interfaces that will enable more efficient and secure public services.***

## Amendment 13

### Proposal for a directive

#### Recital 14

*Text proposed by the Commission*

(14) **Moreover**, without minimum harmonisation at **Community** level, legislative activities at national level, which have already been initiated in a number of Member States in order to respond to the technological challenges, might result in even more significant differences. The impact of such legislative differences and uncertainties will become more significant with the further development of the information society, which has already greatly increased cross-border exploitation of information.

*Amendment*

(14) Without minimum harmonisation at **Union** level, legislative activities at national level, which have already been initiated in a number of Member States in order to respond to the technological challenges, might result in even more significant differences. The impact of such legislative differences and uncertainties will become more significant with the further development of the information society, which has already greatly increased cross-border exploitation of information.

## Amendment 14

### Proposal for a directive

#### Recital 18

*Text proposed by the Commission*

(18) This Directive should apply to documents that are made accessible for re-use when public sector bodies license, sell, disseminate, exchange or give out information. To avoid cross-subsidies, re-use should include further use of documents within the organisation itself for activities falling outside the scope of its public tasks. Activities falling outside the public task will typically include supply of documents that are produced and charged for exclusively on a commercial basis and in competition with others in the market.

*Amendment*

(18) This Directive should apply to documents that are made accessible for re-use when public sector bodies **commission the production of, or** license, sell, disseminate, exchange or give out information. To avoid cross-subsidies, re-use should include further use of documents within the organisation itself for activities falling outside the scope of its public tasks. Activities falling outside the public task will typically include supply of documents that are produced and charged for exclusively on a commercial basis and in competition with others in the market.

## Amendment 15

### Proposal for a directive

#### Recital 19

##### *Text proposed by the Commission*

(19) The Directive lays down an obligation for Member States to make all documents re-usable ***unless access is restricted or excluded under national rules on access to documents and subject*** to the ***other*** exceptions laid down in this Directive. The Directive builds on the existing access regimes in the Member States and does not change the national rules for access to documents. It does not apply in cases in which citizens or companies can, under the relevant access regime, only obtain a document if they can prove a particular interest. At Union level, Articles 41 (right to good administration) and 42 of the Charter of Fundamental Rights of the European Union recognise the right of any citizen of the Union and any natural or legal person residing or having its registered office in a Member State to have access to European Parliament, Council and Commission documents. Public sector bodies should be encouraged to make available for re-use any documents held by them. Public sector bodies should promote and encourage re-use of documents, including official texts of a legislative and administrative nature in those cases where the public sector body has the right to authorise their re-use.

##### *Amendment*

(19) The Directive lays down an obligation for Member States to make all documents re-usable ***without prejudice*** to the exceptions laid down in this Directive, ***such as national security or the protection of personal data, allowing Member States to restrict or exclude certain documents from access. In the absence of harmonisation, procedures and modalities regarding access to public sector information remain within the competence of Member States.*** The Directive builds on the existing access regimes in the Member States and does not change the national rules for access to documents. It does not apply in cases in which citizens or companies can, under the relevant access regime, only obtain a document if they can prove a particular interest. At Union level, Articles 41 (right to good administration) and 42 of the Charter of Fundamental Rights of the European Union recognise the right of any citizen of the Union and any natural or legal person residing or having its registered office in a Member State to have access to European Parliament, Council and Commission documents. Public sector bodies should be encouraged to make available for re-use any documents held by them. Public sector bodies should promote and encourage re-use of documents, including official texts of a legislative and administrative nature in those cases where the public sector body has the right to authorise their re-use. ***Although this Directive does not set an obligation for***

*public sector bodies to ensure the storage of a certain type of documents with a view to the re-use of such documents, Member States should make all reasonable efforts to ensure that this does not unduly impair the exploitation of their economic potential.*

## Amendment 16

### Proposal for a directive

#### Recital 21

##### *Text proposed by the Commission*

(21) Directive 2003/98/EC should therefore be amended in order to ensure that its provisions can be applied to the re-use of documents produced in the performance of services in the general interest by public undertakings pursuing one of the activities referred to in **Articles 8 to 14 of** Directive 2014/25/EU of the European Parliament and of the Council<sup>33</sup>, as well as by public undertakings acting as public service operators pursuant to **Article 2 of** Regulation (EC) No 1370/2007 of the European Parliament and the Council on public passenger transport services by rail and by road, public undertakings acting as air carriers fulfilling public service obligations pursuant to **Article 16 of** Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community, and public undertakings acting as Community ship owners fulfilling public service obligations pursuant to **Article 4 of** Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage).

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<sup>33</sup> Directive 2014/25/EU of the European

##### *Amendment*

(21) Directive 2003/98/EC should therefore be amended in order to ensure that its provisions can be applied to the re-use of documents produced in the performance of services in the general interest by public undertakings pursuing one of the activities referred to in Directive 2014/25/EU of the European Parliament and of the Council<sup>33</sup>, as well as by public undertakings acting as public service operators pursuant to Regulation (EC) No 1370/2007 of the European Parliament and the Council on public passenger transport services by rail and by road, public undertakings acting as air carriers fulfilling public service obligations pursuant to Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community, and public undertakings acting as Community ship owners fulfilling public service obligations pursuant to Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage).

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<sup>33</sup> Directive 2014/25/EU of the European

Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

## **Amendment 17**

### **Proposal for a directive Recital 22**

#### *Text proposed by the Commission*

(22) This Directive *should* not contain an obligation to allow the re-use of documents produced by public undertakings. The decision whether or not to authorise re-use should remain with the public undertaking concerned. Only after the public undertaking has chosen to make a document available for re-use, should it observe the relevant obligations laid down in Chapters III and IV of this Directive, in particular as regards formats, charging, transparency, licences, non-discrimination and prohibition of exclusive arrangements. On the other hand, the public undertaking is not required to comply with the requirements laid down in Chapter II, such as the rules applicable to processing of requests.

#### *Amendment*

(22) This Directive *does* not contain an obligation to allow the re-use of documents produced by public undertakings. The decision whether or not to authorise re-use *of documents or parts of documents, falling within the scope of this directive* should remain with the public undertaking concerned. Only after the public undertaking has chosen to make a document available for re-use, should it observe the relevant obligations laid down in Chapters III and IV of this Directive, in particular as regards formats, charging, transparency, licences, non-discrimination and prohibition of exclusive arrangements. On the other hand, the public undertaking is not required to comply with the requirements laid down in Chapter II, such as the rules applicable to processing of requests.

## **Amendment 18**

### **Proposal for a directive Recital 26**

#### *Text proposed by the Commission*

(26) This Directive lays down a generic definition of the term ‘document’. It covers any representation of acts, facts or

#### *Amendment*

(26) This Directive lays down a generic definition of the term ‘document’. It covers any representation of acts, facts or

information — and any compilation of such acts, facts or information — whatever its medium (written on paper, or stored in electronic form or as a sound, visual or audio-visual recording). *The definition of ‘document’ is not intended to cover computer programmes.*

information — and any compilation of such acts, facts or information — whatever its medium (written on paper, or stored in electronic form or as a sound, visual or audio-visual recording). *Member States should guarantee transparency as regards the methodology used in compiling the documents.*

## Amendment 19

### Proposal for a directive Recital 27

#### *Text proposed by the Commission*

(27) Public sector bodies are increasingly making their documents available for re-use in a proactive manner, by ensuring online *discoverability* and actual availability of both metadata and the underlying content. Documents should also be made available for re-use following a request lodged by a re-user. *In those cases*, the time limit for replying to requests for re-use should be reasonable and in accordance with the equivalent time for requests to access the document under the relevant access regimes. Public undertakings, educational establishments, research performing organisations and research funding organisations *should however* be exempt from this requirement. Reasonable time limits throughout the Union will stimulate the creation of new aggregated information products and services at pan-European level. This is particularly important for dynamic data (including traffic data, satellite data, weather data), the economic value of which depends on the immediate availability of the information and of regular updates. Dynamic data should therefore be made available immediately after collection, via an Application Programming Interface so

#### *Amendment*

(27) Public sector bodies are increasingly making their documents available for re-use in a proactive manner, by ensuring online *findability* and actual availability of both metadata and the underlying content. Documents should also be made available for re-use following a request lodged by a re-user. *Member States should enable applicants to request documents for re-use without having to state an interest. Member States should guarantee that practical arrangements are defined for ensuring that the re-use of public-sector information can be exercised effectively, such as the designation of information officers, the establishment and maintenance of facilities for the examination of documents, registers or lists of documents held by public sector bodies or information points, with clear indications of where such documents can be found.* The time limit for replying to requests for re-use should be reasonable and in accordance with the equivalent time for requests to access the document under the relevant access regimes. Public undertakings, educational establishments, research performing organisations and



as to facilitate the development of internet, mobile and cloud applications based on such data. Whenever this is not possible due to technical or financial constraints, public sector bodies should make the documents available in a timeframe that allows their full economic potential to be exploited. Should a licence be used, the timely availability of documents may be a part of the terms of the licence.

research funding organisations **could therefore** be exempt from this requirement. Reasonable time limits throughout the Union will stimulate the creation of new aggregated information products and services at pan-European level. This is particularly important for dynamic data (including traffic data, satellite data, weather data), the economic value of which depends on the immediate availability of the information and of regular updates. Dynamic data should therefore be made available immediately after collection, via an Application Programming Interface so as to facilitate the development of internet, mobile and cloud applications based on such data. Whenever this is not possible due to technical or financial constraints, public sector bodies should make the documents available in a timeframe that allows their full economic potential to be exploited. Should a licence be used, the timely availability of documents may be a part of the terms of the licence.

## Amendment 20

### Proposal for a directive

#### Recital 28

##### *Text proposed by the Commission*

(28) In order to get access to the data opened for re-use by this Directive, the use of suitable and well-designed Application Programming Interfaces (APIs) is needed. An API describes the kind of data can be retrieved, how to do this and the format in which the data will be received. It has different levels of complexity and can mean a simple link to a database to retrieve specific datasets, a web interface, or more complex set-ups. There is general value in re-using and sharing data via a suitable use of APIs as this will help developers and

##### *Amendment*

(28) In order to get access to the data opened for re-use by this Directive, the use of suitable and well-designed Application Programming Interfaces (APIs) is needed. An API describes the kind of data can be retrieved, how to do this and the format in which the data will be received. It has different levels of complexity and can mean a simple link to a database to retrieve specific datasets, a **structured** web interface, or more complex set-ups. **There are considerable differences among Member States in using APIs and**

start-ups to create new services and products. It is also a crucial ingredient of creating valuable ecosystems around data assets that are often unused. The set-up and use of API needs to be based on several principles: stability, maintenance over lifecycle, uniformity of use and standards, user-friendliness as well as security. For dynamic data, meaning frequently updated data, often in real time, public sector bodies and public undertakings **shall** make this available for re-use immediately after collection by ways of suitable APIs.

***additional financial support should be foreseen to move towards enhanced use of dynamic data and APIs in general. APIs are necessary to the development of fully interoperable information exchanges.***

There is general value in re-using and sharing data via a suitable use of APIs as this will help developers and start-ups to create new services and products. It is also a crucial ingredient of creating valuable ecosystems around data assets that are often unused. The set-up and use of API needs to be based on several principles: stability, ***reliability, availability, efficiency***, maintenance over lifecycle, uniformity of use and standards, user-friendliness as well as security. For dynamic data, meaning frequently updated data, often in real time, public sector bodies and public undertakings ***should*** make this available for re-use immediately after collection by ways of suitable APIs. ***In particular, the API should adhere to the principle of stability, meaning that it should consistently work on the same technical specifications. The API should adhere to the principle of reliability, so that when changes are made, these are communicated well in advance, unless in duly justified urgent cases where changes must be applied earlier. The API should ensure availability, by operating at a steady level of quality. In order to ensure efficiency, the API's performance and complexity should not significantly vary between when being accessed by the data provider or data producer, or the data user. In order to improve interoperability of API's the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the minimum criteria for the interoperability of APIs.***

## Amendment 21

### Proposal for a directive

#### Recital 32

##### *Text proposed by the Commission*

(32) Charges for the re-use of documents constitute an important market entry barrier for start-ups and SMEs. Documents should therefore be made available for re-use without charges **and**, where charges are necessary, they should in principle be limited to the marginal costs. In exceptional cases, the necessity of not hindering the normal running of public sector bodies that are required to generate revenue to cover **a substantial part of their costs relating to the performance of their public tasks** should be taken into consideration. The role of public undertakings in a competitive economic environment should also be acknowledged. In such cases, public sector bodies and public undertakings should therefore be able to charge above marginal costs. Those charges should be set according to objective, transparent and verifiable criteria and the total income from supplying and allowing re-use of documents should not exceed the cost of collection, production, reproduction **and** dissemination, together with a reasonable return on investment. Where applicable, the costs of anonymisation of personal data or of commercially sensitive information should also be included in the eligible cost. The requirement to generate revenue to cover **a substantial part** of the **public sector bodies' costs relating to the performance of their public tasks or the scope of the services of general interest entrusted with public undertakings does not have to be a legal requirement and may stem, for example, from administrative practices in Member States. Such a requirement** should be regularly reviewed by the Member States.

##### *Amendment*

(32) **A wide range of practices in terms of charging for the re-use of documents persists not only between Member States, but also between public sector bodies within the same Member State.** Charges for the re-use of documents constitute an important market entry barrier for start-ups and SMEs. Documents should therefore be made available for re-use without charges **or**, where charges are necessary, they should in principle be limited to the marginal costs, **as referred to in the Commission's Notice 2014 /C 240/01.** In exceptional cases, the necessity of not hindering **the performance of the public tasks and** the normal running of public sector bodies that are required to generate revenue to cover **at least 60 % of the costs relating to the documents, falling within the scope of this Directive** should be taken into consideration. The role of public undertakings in a competitive economic environment should also be acknowledged. In such cases, public sector bodies and public undertakings should therefore be able to charge above marginal costs. Those charges should be set according to objective, transparent and verifiable criteria and the total income from supplying and allowing re-use of documents should not exceed the cost of collection, production, reproduction, dissemination **and data storage**, together with a reasonable return on investment. Where applicable, the costs of anonymisation of personal data or of commercially sensitive information should also be included in the eligible cost. The requirement to generate revenue to cover **at least 60 %** of the costs should be regularly reviewed by the Member States.

## Amendment 22

### Proposal for a directive Recital 32 a (new)

*Text proposed by the Commission*

*Amendment*

***(32 a) The return on investment can be understood as a percentage, in addition to marginal costs, allowing for the recovery of the cost of capital and the inclusion of a real rate of return. As the cost of capital is closely linked to credit institutions' interest rates, themselves based on the ECB's fixed rate on main refinancing operations, the reasonable return on investment should not be expected to be more than 5 % above the ECB's fixed interest rate.***

## Amendment 23

### Proposal for a directive Recital 36

*Text proposed by the Commission*

*Amendment*

(36) Ensuring that the conditions for re-use of public sector documents are clear and publicly available is a pre-condition for the development of a Union-wide information market. Therefore, all applicable conditions for the re-use of the documents should be made clear to the potential re-users. Member States should encourage the creation of indices accessible on line, where appropriate, of available documents so as to promote and facilitate requests for re-use. Applicants for re-use of documents held by entities other than public undertakings, educational establishments, research performing organisations and research funding organisations should be informed of available means of redress relating to

(36) Ensuring that the conditions for ***access and*** re-use of public sector documents are clear and publicly available is a pre-condition for the development of a Union-wide information market. Therefore, all applicable conditions for the ***access and*** re-use of the documents should be made clear to the potential re-users. Member States should encourage the creation of indices accessible on line, where appropriate, of available documents so as to promote and facilitate requests for re-use. Applicants for ***access and*** re-use of documents held by entities other than public undertakings, educational establishments, research performing organisations and research funding organisations should be informed of

decisions or practices affecting them. This will be particularly important for SMEs which may not be familiar with interactions with public sector bodies from other Member States and corresponding means of redress.

available means of redress relating to decisions or practices affecting them. This will be particularly important for SMEs which may not be familiar with interactions with public sector bodies from other Member States and corresponding means of redress.

## **Amendment 24**

### **Proposal for a directive**

#### **Recital 37**

##### *Text proposed by the Commission*

(37) The means of redress should include the possibility of review by an impartial review body. That body could be an already existing national authority, such as the national competition authority, the national access to documents authority or a national judicial authority. That body should be organised in accordance with the constitutional and legal systems of Member States and should not prejudge any means of redress otherwise available to applicants for re-use. It should however be distinct from the Member State mechanism laying down the criteria for charging above marginal costs. The means of redress should include the possibility of review of negative decisions but also of decisions which, although permitting re-use, could still affect applicants on other grounds, notably by the charging rules applied. The review process should be swift, in accordance with the needs of a rapidly changing market.

##### *Amendment*

(37) The means of redress should include the possibility of review by an impartial review body. That body could be an already existing national authority, such as the national competition authority, the national access to documents authority or a national judicial authority. That body should be organised in accordance with the constitutional and legal systems of Member States and should not prejudge any means of redress otherwise available to applicants for *access and* re-use. It should however be distinct from the Member State mechanism laying down the criteria for charging above marginal costs. The means of redress should include the possibility of review of negative decisions but also of decisions which although permitting re-use, could still affect applicants on other grounds, notably by the charging rules applied. The review process should be swift, in accordance with the needs of a rapidly changing market.

## **Amendment 25**

### **Proposal for a directive**

#### **Recital 39**

(39) *In some cases* the re-use of documents will take place without *a licence being agreed. In other cases a licence will be issued imposing conditions on the re-use by the licensee* dealing with issues such as liability, the proper use of documents, guaranteeing non-alteration and the acknowledgement of source. If public sector bodies license documents for re-use, the licence conditions should be fair and transparent. Standard licences *that are* available online *may also* play an important role *in this respect. Therefore Member States* should provide *for the availability of* standard licences.

(39) *Member States should ensure that* the re-use of documents will take place without *conditions. Where necessary and justified by a public interest objective, Member States may impose* conditions, *where appropriate through a licence,* dealing with issues such as liability, the proper use of documents, guaranteeing non-alteration and the acknowledgement of source, *while guaranteeing that the least restrictive conditions or licensing terms apply, including the possibility of dedicating documents to the public domain.* If public sector bodies license documents for re-use, the licence conditions should be fair and transparent. *Member States should in particular evaluate the compatibility of these obligations with the principle of proportionality to ensure that such licences or conditions do not unnecessarily restrict possibilities for re-use or competition. Member States should also encourage the use of open standard licences for the re-use of public sector documents and ensure that such licences are available in digital format and can be processed electronically. Open licences available online, which grant wider re-use rights without technological, financial or geographical limitations and relying on open data formats, should play an important role and should eventually become common practice across the Union. The Commission* should provide *guidance on recommended* standard licences *and licensing approaches.*

## Amendment 26

### Proposal for a directive Recital 41

*Text proposed by the Commission*

(41) Conditions for re-use should be non-discriminatory for comparable categories of re-use. This should, for example, not prevent the exchange of information between public sector bodies free of charge for the exercise of public tasks, whilst other parties are charged for the re-use of the same documents. Neither should it prevent the adoption of a differentiated charging policy for commercial and non-commercial re-use.

*Amendment*

(41) Conditions for re-use should be non-discriminatory for comparable categories of re-use. ***Member States should guarantee fair competition between public sector bodies and public undertakings on the one hand, and other users on the other, in cases where documents are re-used by those public sector bodies or public undertakings as input for their commercial activities. Member States should in particular ensure that re-use of documents of public undertakings does not lead to market distortion and that fair competition is not undermined.*** This should, for example, not prevent the exchange of information between public sector bodies free of charge for the exercise of public tasks, whilst other parties are charged for the re-use of the same documents. Neither should it prevent the adoption of a differentiated charging policy for commercial and non-commercial re-use.

**Amendment 27**

**Proposal for a directive**

**Recital 42**

*Text proposed by the Commission*

***(42) In relation to any re-use that is made of the document, public sector bodies may impose conditions, where appropriate through a licence, such as acknowledgment of source and acknowledgment of whether the document has been modified by the re-user in any way. Any licences for the re-use of public sector information should in any event place as few restrictions on re-use as possible, for example limiting them to an indication of source. Open licences available online, which grant wider re-use***

*Amendment*

***deleted***

*rights without technological, financial or geographical limitations and relying on open data formats, should play an important role in this respect. Therefore, Member States should encourage the use of open licences that should eventually become common practice across the Union.*

## **Amendment 28**

### **Proposal for a directive Recital 43**

*Text proposed by the Commission*

(43) Public sector bodies should respect competition rules when establishing the principles for re-use of documents avoiding as far as possible exclusive agreements between themselves and private partners. However, in order to provide a service of general economic interest, an exclusive right to re-use specific public sector documents may sometimes be necessary. This may be the case if no commercial publisher would publish the information without such an exclusive right.

*Amendment*

(43) Public sector bodies should respect competition rules when establishing the principles for re-use of documents avoiding as far as possible exclusive agreements *or any preferential use of the data* between themselves and private partners. However, in order to provide a service of general economic interest, an exclusive right to re-use specific public sector documents may sometimes be necessary. This may be the case if no commercial publisher would publish the information without such an exclusive right.

## **Amendment 29**

### **Proposal for a directive Recital 51 a (new)**

*Text proposed by the Commission*

*Amendment*

*(51 a) This Directive is without prejudice to Directive 2014/24/EU of the European Parliament and the Council of 26 February 2014 on public procurement.*



## Amendment 30

### Proposal for a directive Recital 52

*Text proposed by the Commission*

(52) Tools that help potential re-users to find documents available for re-use and the conditions for re-use can facilitate considerably the cross-border use of public sector documents. Member States should therefore ensure that practical arrangements are in place that help re-users in their search for documents available for re-use. Assets lists, accessible preferably online, of main documents (documents that are extensively re-used or that have the potential to be extensively re-used), and portal sites that are linked to decentralised assets lists **are examples of such practical arrangements**.

*Amendment*

(52) Tools that help potential re-users to find documents available for **access and** re-use and the conditions for re-use can facilitate considerably the cross-border use of public sector documents. Member States should therefore ensure that practical arrangements are in place that help re-users in their search for documents available for re-use. **Such practical arrangements can include** assets lists, accessible preferably online, of main documents (documents that are extensively re-used or that have the potential to be extensively re-used), and portal sites that are linked to decentralised assets lists.

## Amendment 31

### Proposal for a directive Recital 52 a (new)

*Text proposed by the Commission*

*Amendment*

**(52 a) The Commission and the Member States should further simplify the access to datasets, in particular by providing a single point of access and progressively make available suitable datasets from public sector bodies with regard to all documents to which this Directive applies as well as to data from Union institutions.**

## Amendment 32

**Proposal for a directive**  
**Recital 58**

*Text proposed by the Commission*

(58) In order to set in place conditions supporting the re-use of documents which is associated with important socio-economic benefits having a particular high value for economy and society, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the **adoption of a** list of high-value datasets among the documents to which this Directive applies, along with the modalities of their publication and re-use. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

*Amendment*

(58) In order to set in place conditions supporting the re-use of documents which is associated with important *civic or* socio-economic benefits having a particular high value for economy and society, **a list of categories of high value datasets is included in Annex IIa**. The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of **additions to** the list of **categories of datasets set out in Annex IIa, and the addition of specific** high-value datasets among the documents to which this Directive applies, along with the modalities of their publication and re-use. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>1a</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>1a</sup> *OJ L 123, 12.5.2016, p. 1*

**Amendment 33**

**Proposal for a directive**  
**Recital 59**

*Text proposed by the Commission*

(59) An EU-wide list of datasets with a particular potential to generate socio-economic benefits together with harmonised re-use conditions constitutes an important enabler of cross-border data applications and services. ***In the process leading to the establishment of the list, the Commission should carry out appropriate consultations, including at expert level.*** The list should take into account sectoral legislation that already regulates the publication of datasets, as well as the categories indicated in the Technical Annex of the G8 Open Data Charter and in the Commission's Notice 2014 /C 240/01.

*Amendment*

(59) An EU-wide list of datasets with a particular potential to generate ***civic or*** socio-economic benefits together with harmonised re-use conditions constitutes an important enabler of cross-border data applications and services. ***Annex IIa provides a list of categories of high value datasets which could be amended by a delegated act. The additional categories for*** the list should take into account sectoral legislation that already regulates the publication of datasets, as well as the categories indicated in the Technical Annex of the G8 Open Data Charter and in the Commission's Notice 2014 /C 240/01. ***In the process leading to the identification of additional categories or datasets for the list, the Commission should carry out an impact assessment and appropriate public consultations, including at expert level. For the purposes of the impact assessment, the Commission should carry out public consultations with all interested parties, including public sector bodies, public undertakings, data re-users, research organisations, civil society groups and representative organisations. All interested parties should be given the possibility to submit suggestions to the Commission for additional categories of high value datasets or concrete datasets.***

**Amendment 34**

**Proposal for a directive  
Recital 60**

*Text proposed by the Commission*

(60) In view of ensuring their maximum impact and to facilitate re-use, the high-value datasets should be made available for re-use with minimal legal restrictions and at no cost. They should also be published

*Amendment*

(60) In view of ensuring their maximum impact and to facilitate re-use, the high-value datasets should be made available for re-use with minimal legal restrictions and at no cost. ***High value datasets should be***

via Application Programming Interfaces, whenever the dataset in question contains dynamic data.

*published via a single point of access to promote findability and facilitate access.* They should also be published via Application Programming Interfaces, whenever the dataset in question contains dynamic data.

## **Amendment 35**

### **Proposal for a directive Recital 60 a (new)**

*Text proposed by the Commission*

*Amendment*

*(60 a) The High Value Datasets identified within the categories listed in Annex IIa have the potential to generate civic or socio-economic benefits, and advance fundamental societal and democratic tasks. In order to further the goals of transparency, accountability, compliance, efficiency and fair competition, it is necessary to include datasets from among categories such as business registers, budget and government spending, procurement, and statistics. To encourage innovative services and products, to stimulate sustainable growth, and to contribute to high consumer protection standards, including by taking into account factors that have no immediate economic value, such as education, environment, or healthcare, it is necessary to include datasets from among the categories of national law, earth observation and environmental data, as well as geospatial data.*

## **Amendment 36**

### **Proposal for a directive Recital 62**

*Text proposed by the Commission*

(62) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the right to privacy (Article 7), the protection of personal data (Article 8), the right to property (Article 17) and the integration of persons with disabilities (Article 26). Nothing in this Directive should be interpreted or implemented in a manner that is inconsistent with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

*Amendment*

(62) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the right to privacy (Article 7), the protection of personal data (Article 8), the ***freedom of expression and information (Article 11)***, ***the*** right to property (Article 17) and the integration of persons with disabilities (Article 26). Nothing in this Directive should be interpreted or implemented in a manner that is inconsistent with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

**Amendment 37**

**Proposal for a directive**  
**Recital 63**

*Text proposed by the Commission*

(63) The Commission should carry out an evaluation of this Directive. Pursuant to ***paragraph 22 of*** the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016<sup>41</sup>, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU value added and should provide the basis for impact assessments of possible further measures.

*Amendment*

(63) The Commission should carry out an evaluation of this Directive [***36 months after its transposition***]. Pursuant to the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016<sup>41</sup>, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU value added and should provide the basis for impact assessments of possible further measures. ***Following the evaluation, the Commission could, where necessary, present relevant proposals.***

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<sup>41</sup> OJ L123, ***12.5. 2016***, p1.

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<sup>41</sup> OJ L123, ***12.5.2016***, p1.

## Amendment 38

### Proposal for a directive Article 1 – paragraph -1 (new)

*Text proposed by the Commission*

*Amendment*

**-1. This Directive aims at establishing a regulatory framework governing the re-use of public sector information in order to promote the use of open data and stimulate innovation in products and services.**

#### *Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

## Amendment 39

### Proposal for a directive Article 1 – paragraph 1 – point b

*Text proposed by the Commission*

*Amendment*

(b) **existing** documents held by public undertakings active in the areas defined in Directive 2014/25/EU of the European Parliament and of the Council<sup>42</sup> and by public undertakings acting as public service operators pursuant to Article 2 of Regulation (EC) No 1370/2007 of the European Parliament and of the Council<sup>43</sup>, public undertakings acting as air carriers fulfilling public service obligations pursuant to Article 16 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council<sup>44</sup>, and public undertakings acting as Community **ship owners** fulfilling public service obligations pursuant to Article 4 of Council Regulation (EEC) No 3577/92<sup>45</sup>.

(b) **publicly accessible** documents held by public undertakings active in the areas defined in Directive 2014/25/EU of the European Parliament and of the Council<sup>42</sup> and by public undertakings acting as public service operators pursuant to Article 2 of Regulation (EC) No 1370/2007 of the European Parliament and of **the Council**<sup>43</sup>, public undertakings acting as air carriers fulfilling public service obligations pursuant to Article 16 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council<sup>44</sup>, and public undertakings acting as Community **ship owners** fulfilling public service obligations pursuant to Article 4 of Council Regulation (EEC) No 3577/92<sup>45</sup>.

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<sup>42</sup> Directive 2014/25/EU of the European

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<sup>42</sup> Directive 2014/25/EU of the European

Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

<sup>43</sup> Regulation (EC) No. 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70.

<sup>44</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (Text with EEA relevance) (OJ L 293, 31.10.2008, p. 3–20).

<sup>45</sup> Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ L 364, 12.12.1992, p. 7–10).

Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

<sup>43</sup> Regulation (EC) No. 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (***OJ L 315, 3.12.2007, p. 1***).

<sup>44</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (OJ L 293, 31.10.2008, p. 3).

<sup>45</sup> Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ L 364, 12.12.1992, p. 7).

## Amendment 40

### Proposal for a directive

#### Article 1 – paragraph 2 – point d – indent 1

*Text proposed by the Commission*

— the protection of national security (*that is to say, State security*), defence, or public security,

*Amendment*

— the protection of national security *and* defence, or public order, *including sensitive critical infrastructure protection related information within the meaning of Article 2(d) of Directive 2008/114/EC,*

## Amendment 41

### Proposal for a directive

#### Article 1 – paragraph 3 a (new)

**3 a. This Directive is without prejudice to Regulation (EU) 2016/679 and it does not affect the level of protection of individuals with regard to the processing of personal data in accordance with Union law on personal data protection.**

## Amendment 42

### Proposal for a directive Article 1 – paragraph 5

*Text proposed by the Commission*

5. The right for the maker of a database provided for in Article 7(1) of Directive 96/9/EC shall not be exercised **by public sector bodies** in order to prevent or restrict the re-use of documents pursuant to this Directive.

*Amendment*

5. The right for the maker of a database provided for in Article 7(1) of Directive 96/9/EC shall not be exercised in order to prevent or restrict the re-use of documents pursuant to this Directive.

## Amendment 43

### Proposal for a directive Article 1 – paragraph 6

*Text proposed by the Commission*

6. This Directive governs the re-use **of existing** documents held by public sector bodies **of the** Member States, including documents to which Directive 2007/2/EC of **the European** Parliament and of the Council<sup>46</sup> applies.

*Amendment*

6. This Directive governs the re-use **of existing** documents held by public sector bodies **and public undertakings of the** Member States, including documents to which Directive 2007/2/EC of **the European** Parliament and of the Council<sup>46</sup> applies.

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<sup>46</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108,

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<sup>46</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108,



#### **Amendment 44**

##### **Proposal for a directive Article 2 – paragraph 1 – point 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**6 a.** *‘application programming interface’ (API) means a well-documented set of functions, procedures, definitions, and protocols for the structured retrieval of information online;*

#### **Amendment 45**

##### **Proposal for a directive Article 2 – paragraph 1 – point 8**

*Text proposed by the Commission*

*Amendment*

8. “high value datasets” means documents the re-use of which is associated with important socio-economic benefits, notably because of their suitability for the creation of value-added services and applications, and the number of potential beneficiaries of the value-added services and applications based on these datasets;

8. 'high value datasets" means documents the re-use of which is associated with important *civic or* socio-economic benefits, notably because of their suitability for the creation of value-added services and applications, and the number of potential beneficiaries of the value-added services and applications based on these datasets;

#### **Amendment 46**

##### **Proposal for a directive Article 2 – paragraph 1 – point 14 a (new)**

*Text proposed by the Commission*

*Amendment*

**14 a.** *'personal data' means data as referred to in Article 4(1) of Regulation (EU) 2016/679.*

#### **Amendment 47**

##### **Proposal for a directive Article 3 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. *Subject to paragraph 2* Member States shall ensure *that documents* to which this Directive applies in accordance with Article 1 shall *be re-usable* for commercial or non-commercial purposes in accordance with *the conditions* set out in Chapters III and IV.

1. Member States shall ensure *that documents* to which this Directive applies in accordance with Article 1 shall *be re-usable* for commercial or non-commercial purposes in accordance with *the conditions* set out in Chapters III and IV.

#### **Amendment 48**

##### **Proposal for a directive Article 3 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2 a.** *Member States shall ensure that documents falling within the scope of this Directive are produced and made available for re-use according to the principle of "open by design and by default".*

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

## Amendment 49

### Proposal for a directive Article 4 – paragraph 1

*Text proposed by the Commission*

1. Public sector bodies shall, through electronic means where possible and appropriate, process requests for re-use and shall make the document available for re-use to the applicant or, if a licence is needed, finalise the licence offer to the applicant within a reasonable time that is consistent with the time-frames laid down for the processing of requests for access to documents.

*Amendment*

1. Public sector bodies shall, through electronic means where possible and appropriate, process requests for **access to documents and/or for their** re-use and shall make the document available for re-use to the applicant or, if a licence is needed **for re-use**, finalise the licence offer to the applicant within a reasonable time that is consistent with the time-frames laid down for the processing of requests for access to documents.

## Amendment 50

### Proposal for a directive Article 4 – paragraph 2

*Text proposed by the Commission*

2. Where no time limits or other rules regulating the timely provision of documents have been established, public sector bodies shall process the request and shall deliver the documents for re-use to the applicant or, if a licence is needed, finalise the licence offer to the applicant within a timeframe of not more **than 20** working days after its receipt. This timeframe may be extended by another **20 working** days for extensive or complex requests. In such cases the applicant shall be notified within three weeks after the initial request that more time is needed to process it.

*Amendment*

2. Where no time limits or other rules regulating the timely provision of documents have been established, public sector bodies shall process the request and shall deliver the documents for re-use to the applicant or, if a licence is needed **for re-use**, finalise the licence offer to the applicant **as soon as possible or, at the latest**, within a timeframe of not more **than 20** working days after its receipt. This timeframe may be extended by another **20 working** days for extensive or complex requests. In such cases the applicant shall be notified **as soon as possible, and in any case** within three weeks after the initial request that more time is needed to process it **and of the reasons for it**.

## Amendment 51

### Proposal for a directive Article 4 – paragraph 3

*Text proposed by the Commission*

3. In the event of a negative decision, the public sector bodies shall communicate ***the grounds for refusal*** to the applicant on the basis of the relevant provisions of the access regime in that Member State or of the national provisions adopted pursuant to this Directive, in particular points (a) to (g) of Article 1(2) ***or Article 3***. Where a negative decision is based on point (c) of Article 1(2), the public sector body shall include a reference to the natural or legal person who is the right-holder, where known, or alternatively to the licensor from which the public sector body has obtained the relevant material. Libraries, including university libraries, museums and archives shall not be required to include such a reference.

*Amendment*

3. In the event of a negative decision, the public sector bodies shall communicate ***within 20 working days the reasons for refusing, in full or in part, access to and/or re-use of a document in the form or format requested***, to the applicant on the basis of the relevant provisions of the access regime in that Member State or of the national provisions adopted pursuant to this Directive, in particular points (a) to (g) of Article 1(2). Where a negative decision is based on point (c) of Article 1(2), the public sector body shall include a reference to the natural or legal person who is the right-holder, where known, or alternatively to the licensor from which the public sector body has obtained the relevant material. Libraries, including university libraries, museums and archives shall not be required to include such a reference.

## Amendment 52

### Proposal for a directive Article 4 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***3 a. Member State shall draw up a publicly accessible list of criteria on the basis of which the body concerned may decide how to handle requests.***

## Amendment 53

**Proposal for a directive**  
**Article 4 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4 a. For the purposes of this Article, Member States shall ensure that:**

- (a) support is granted in seeking access to documents;**
- (b) lists of public sector bodies are publicly accessible;**
- (c) practical arrangements are defined for ensuring that the re-use of public-sector information can be exercised effectively;**
- (d) public sector bodies inform the public adequately of the rights they enjoy on the basis of this Directive and as a result of existing access to information rules, laid down at national or at Union level, and to an appropriate extent provide information, guidance and advice to this end.**

**Amendment 54**

**Proposal for a directive**  
**Article 5 – title**

*Text proposed by the Commission*

*Amendment*

Available formats

Available formats **and quality of documents**

**Amendment 55**

**Proposal for a directive**  
**Article 5 – paragraph -1 (new)**

*Text proposed by the Commission*

*Amendment*

**-1. Member States shall make all reasonable efforts to ensure that**

*documents to which this Directive applies are up to date, accurate and comparable.*

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

**Amendment 56**

**Proposal for a directive  
Article 5 – paragraph 1**

*Text proposed by the Commission*

1. Without prejudice to Chapter V, public sector bodies and public undertakings shall make their documents available in any pre-existing format or language, and, where possible and appropriate, in open and machine-readable format together with their metadata. Both the format and the metadata shall, where possible, comply with formal open standards.

*Amendment*

1. Without prejudice to Chapter V, public sector bodies and public undertakings shall make their documents available, ***interoperable, readily findable and re-usable by electronic means***, in any pre-existing format or language, and, where possible and appropriate, in open and machine-readable format together with their metadata. Both the format and the metadata shall, where possible, comply with formal open standards.

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

**Amendment 57**

**Proposal for a directive  
Article 5 – paragraph 3**

*Text proposed by the Commission*

3. ***On the basis of this Directive***, public sector bodies and public undertakings ***cannot*** be required to continue the production and storage of a

*Amendment*

3. Public sector bodies and public undertakings ***shall not*** be required to continue the production and storage of a certain type of documents with a view to

certain type of documents with a view to the re-use of such documents by a private or public sector organisation.

the re-use of such documents by a private or public sector organisation.

#### *Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

### **Amendment 58**

#### **Proposal for a directive Article 5 – paragraph 4**

##### *Text proposed by the Commission*

4. Public sector bodies and public undertakings shall make dynamic data available for re-use immediately after collection, via suitable Application Programming Interfaces (APIs).

##### *Amendment*

4. Public sector bodies and public undertakings shall make dynamic data available for re-use immediately after collection, ***in real-time and without delay where possible***, via suitable Application Programming Interfaces (APIs).

### **Amendment 59**

#### **Proposal for a directive Article 5 – paragraph 5**

##### *Text proposed by the Commission*

5. Where making available documents immediately after collection would exceed the financial and technical capacities of the public sector body or the public undertaking, documents referred to in paragraph 4 shall be made available in a timeframe that does not unduly impair the exploitation of their economic potential.

##### *Amendment*

5. Where making available documents immediately after collection ***in real-time and without delay*** would exceed the financial and technical capacities of the public sector body or the public undertaking, documents referred to in paragraph 4 shall be made available in a timeframe that does not unduly impair the exploitation of their economic potential. ***Users shall be notified of the exact timeframe of making documents available and the frequency with which documents are updated.***

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

**Amendment 60**

**Proposal for a directive  
Article 5 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5 a. Where applicable, public sector bodies shall reply to requests for information on the methodology used in compiling the documents.**

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

**Amendment 61**

**Proposal for a directive  
Article 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 5 a**

***Application Programming Interfaces***

- 1. Whenever a document is made available for re-use to an applicant or when a licence is granted to an applicant, a public sector body or a public undertaking shall also make this document available for re-use through Application Programming Interfaces and portal sites if possible and appropriate.**
- 2. Where a public sector body or a**



*public undertaking makes information available for re-use through an API, that body shall give access to all users. In particular for real-time information, the public sector body or public undertaking shall also ensure access to past information, where available. This shall be without prejudice to obligations laid down in Union law. Where such obligations exist, resulting restrictions shall be justified and the justification shall be made publicly available.*

*3. Where an API is used to make information available, the information shall be of the same scope and extent as when made available by other means.*

*4. Public sector bodies or public undertakings shall develop and document the API and its technical specification using open standards and structured, machine-readable, and open formats.*

*5. Public sector bodies or public undertakings shall communicate any change to an API's technical specification in advance to users, as soon as possible and no later than 3 months before the change is implemented, except in duly justified urgent cases where the changes must be applied immediately.*

*6. Public sector bodies or public undertakings shall ensure that the API is consistently accessible, and at a consistent level of quality.*

*7. Public sector bodies or public undertakings shall make access to the API and its technical specification available under the conditions set out in Articles 5, 6, 7, 8, 9, and 10 of this Directive. Documentation shall be made available free of charge, applying as few formal restrictions and conditions as possible, but in any case under conditions no more restrictive than for the information itself.*

*8. The Commission shall lay down criteria for the interoperability of APIs*

*among public sector bodies and public undertakings in the Member States to facilitate their use of documents through APIs and in order to support machine-to-machine interaction.*

*9. The measures referred to in paragraph 8 shall be adopted by the Commission by means of a delegated act in accordance with Article 14.*

#### *Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

### **Amendment 62**

#### **Proposal for a directive Article 6 – paragraph 1**

##### *Text proposed by the Commission*

1. *Re-use* of documents shall be free of charge *or limited to the marginal costs incurred for their reproduction, provision and dissemination, and – where applicable – anonymisation of personal data and measures taken to protect commercially confidential information.*

##### *Amendment*

1. *The re-use* of documents shall be free of charge.

### **Amendment 63**

#### **Proposal for a directive Article 6 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

2. *By way of exception, paragraph 1 shall not* apply to the following:

##### *Amendment*

2. *Member States may decide not to* apply *paragraphs 1 and 1a* to the following:

## Amendment 64

### Proposal for a directive

#### Article 6 – paragraph 2 – point a

*Text proposed by the Commission*

(a) public sector **bodies that are** required to generate revenue to cover **a substantial part** of their costs relating to **the performance of their public tasks;**

*Amendment*

(a) **documents for which the** public sector **body concerned is** required **by national law** to generate **sufficient** revenue to cover **at least 60%** of their costs relating to their **collection, production, reproduction, dissemination and data storage.**

## Amendment 65

### Proposal for a directive

#### Article 6 – paragraph 3

*Text proposed by the Commission*

3. In the cases referred to in points (a) and (c) of paragraph 2, the total charges shall be calculated according to objective, transparent and verifiable criteria to be laid down by the Member States. The total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction and dissemination, and – where applicable – anonymisation of personal data and measures taken to protect commercially confidential information, together with a reasonable return on investment. Charges shall be calculated in line with the applicable accounting principles.

*Amendment*

3. In the cases referred to in points (a) and (c) of paragraph 2, the total charges shall be calculated according to objective, transparent and verifiable criteria to be laid down by the Member States. The total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction and dissemination, **data storage** and – where applicable – anonymisation of personal data and measures taken to protect commercially confidential information, together with a reasonable return on investment. Charges shall be calculated in line with the applicable accounting principles.

## Amendment 66

### Proposal for a directive

#### Article 6 – paragraph 4

*Text proposed by the Commission*

4. Where charges are made by the public sector bodies referred to in point (b) of paragraph 2, the total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction, dissemination, preservation and rights clearance and – where applicable – anonymisation of personal data and measures taken to protect commercially confidential information, together with a reasonable return on investment. Charges shall be calculated in line with the accounting principles applicable to the public sector bodies involved.

*Amendment*

4. Where charges are made by the public sector bodies referred to in point (b) of paragraph 2, the total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction, dissemination, **data storage**, preservation and rights clearance and – where applicable – anonymisation of personal data and measures taken to protect commercially confidential information, together with a reasonable return on investment. Charges shall be calculated in line with the accounting principles applicable to the public sector bodies involved.

**Amendment 67**

**Proposal for a directive  
Article 6 – paragraph 5**

*Text proposed by the Commission*

5. The re-use of high value datasets, the list of which shall be defined in accordance with **Article 13**, and of research data referred to in point (c) of Article 1(1) shall be free of charge for the user.

*Amendment*

5. The re-use of high value datasets, the list of which shall be defined in accordance with **Article 13 and Annex IIa**, and of research data referred to in point (c) of Article 1(1) shall be free of charge for the user.

**Amendment 68**

**Proposal for a directive  
Article 6 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5 a. Member States shall publish, through electronic means where possible and appropriate, the list of documents**

*referred to in point (a) of paragraph 2.  
The prior inclusion of a document in the list shall be a prerequisite for invoking exceptions referred to in point (a) of paragraph 2.*

## **Amendment 69**

### **Proposal for a directive Article 7 – paragraph -1 (new)**

*Text proposed by the Commission*

*Amendment*

***-1. Member States may disclose the costs to be incurred for the reproduction, dissemination and data storage of documents, as well as, where applicable, costs for the anonymisation of personal data and costs for measures to protect confidentiality as referred to in point (d) of Article 1(2).***

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

## **Amendment 70**

### **Proposal for a directive Article 7 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. Member States shall publish a list of public sector bodies referred to in point (a) of Article 6(2).*** *deleted*

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

## Amendment 71

### Proposal for a directive Article 8 – paragraph 1

*Text proposed by the Commission*

1. Re-use of documents *may be allowed without or with* conditions, *where appropriate through* a licence. *Those conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition.*

*Amendment*

1. *Member States shall not make the re-use of documents subject to conditions or a licence, unless the need for such conditions or a licence is non-discriminatory, justified by a public interest objective and proportionate.*

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

## Amendment 72

### Proposal for a directive Article 8 – paragraph 2

*Text proposed by the Commission*

2. *In Member States where licences are used*, Member States shall ensure that standard licences for the re-use of public sector documents, *which can be adapted to meet particular licence applications*, are available in digital format and can *be processed* electronically. *Member States shall encourage the use of such standard licences.*

*Amendment*

2. Where *the re-use of documents is subjected to conditions or a licence*, Member States shall:

(a) ensure that *such conditions or licences do not unnecessarily restrict possibilities for re-use or competition and that data be released under the least restrictive conditions or licensing terms, including the possibility to dedicate documents to the public domain;*

(b) *evaluate whether commonly used,*

*open licences exist that meet those requirements. Member States shall then use the most commonly used and least restrictive compatible licence or licences;*

*(c) encourage the use of standard open licences for the re-use of public sector documents and ensure that such licences, are available in digital format and can be processed electronically.*

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

**Amendment 73**

**Proposal for a directive  
Article 8 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2 a. Without prejudice to liability requirements, laid down in Union law, where a public body or a public undertaking makes documents available for re-use without any conditions and restrictions, that public body or a public undertaking shall be allowed to waive all liability with regards to the documents made available for re-use.*

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

**Amendment 74**

**Proposal for a directive  
Article 9 – paragraph 1**

*Text proposed by the Commission*

Member States shall make practical arrangements facilitating the search for documents available for re-use, such as asset lists of main documents with relevant metadata, accessible where possible and appropriate online and in machine-readable format, and portal sites that are linked to the asset lists. Where possible Member States shall facilitate the cross-linguistic search for documents.

*Amendment*

**I.** Member States shall make practical arrangements facilitating the search for documents available for re-use, such as asset lists of main documents with relevant metadata, accessible where possible and appropriate online and in machine-readable format, and portal sites that are linked to the asset lists. Where possible Member States shall facilitate the cross-linguistic search for documents.

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*

**Amendment 75**

**Proposal for a directive  
Article 9 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall ensure that public sector bodies and public undertakings provide the Commission with necessary access to all data they make available for re-use to allow for an aggregation of datasets at Union level, in particular to provide full coverage datasets for the Union for a particular category of data as set out in Annex IIa. The Commission shall make practical arrangements to make available datasets at Union level through a single point of access.***

*Justification*

*This amendment is needed in view of the internal logic of the text and because the amendment is inextricably linked to other admissible amendments.*



## Amendment 76

### Proposal for a directive Article 10 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2 a.** *By [2 years after the date for transposition of this Directive], and every three years thereafter, Member States shall submit a report to the Commission about the national open access policies and relevant actions, which have been adopted.*

## Amendment 77

### Proposal for a directive Article 11 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. *If* documents are re-used by a public sector **body** as input for its commercial activities which fall outside the scope of *its* public tasks, the same charges and other conditions shall apply to the supply of the documents for those activities as apply to other users.

2. *Member States shall guarantee fair competition between public sector bodies and public undertakings, and other users in cases where* documents are re-used by *those* public sector **bodies or public undertakings** as input for its commercial activities which fall outside the scope of *their* public tasks, **by ensuring that** the same charges and other conditions shall apply to the supply of the documents for those activities as apply to other users.

3. *Member States shall ensure in the same way that re-use of documents and information of public undertakings does not lead to distortion of fair competition.*

## Amendment 78

### Proposal for a directive Article 12 – paragraph 1

*Text proposed by the Commission*

1. The re-use of documents shall be open to all potential **actors** in the market, even if one or more **market actors** already exploit added-value products based on these documents. Contracts or other arrangements between the public sector bodies or public undertakings holding the documents and third parties shall not grant exclusive rights.

*Amendment*

1. The re-use of documents shall be open to all potential **users** in the market, even if one or more **users** already exploit added-value products based on these documents. Contracts or other arrangements between the public sector bodies or public undertakings holding the documents and third parties shall not grant exclusive rights, **nor any preferential use of the data**.

**Amendment 79**

**Proposal for a directive  
Article 13 – paragraph 1**

*Text proposed by the Commission*

1. **With a view to achieving the objectives of this Directive**, the Commission shall adopt the list of high value datasets among the documents to which this Directive applies, together with the modalities of their publication and re-use.

*Amendment*

1. **Member States shall ensure that the high value datasets, listed in Annex IIa are available for free, machine-readable and accessible for download, and, where appropriate, via interoperable APIs. The conditions for re-use shall be compatible with open standard licences.** The Commission shall **be empowered to adopt delegated acts in accordance with Article 14 in order to extend the list of categories of high value datasets in Annex IIa and in particular to further specify the datasets from these categories**, among the documents to which this Directive applies, together with the **conditions and modalities of their publication and re-use**.

**Amendment 80**

**Proposal for a directive**  
**Article 13 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. These datasets shall be available for free, machine-readable and accessible via APIs. The conditions for re-use shall be compatible with open standard licences.**

**deleted**

**Amendment 81**

**Proposal for a directive**  
**Article 13 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. By way of exception, the free availability referred to in paragraph 2 shall not apply to high-value datasets of public undertakings if the impact assessment referred to in Article 13(7) shows that making the datasets available for free will lead to a considerable distortion of competition in the respective markets.**

**3. By way of exception, the free availability referred to in paragraph 1 shall not apply to high-value datasets of public undertakings if the impact assessment referred to in Article 13(7) shows that making the datasets available for free will lead to a considerable distortion of competition in the respective markets *and if no less restrictive approach to mitigating such distortion is available, charges shall be calculated without prejudice to Article 6.***

**Amendment 82**

**Proposal for a directive**  
**Article 13 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. In addition to the conditions set out in paragraph 2, the Commission may define other applicable modalities, in particular**

**deleted**

- a. *any conditions for re-use;*
- b. *formats of data and metadata and technical modalities of their publication and dissemination.*

### Amendment 83

#### Proposal for a directive Article 13 – paragraph 5

*Text proposed by the Commission*

5. The selection of datasets for the list referred to in paragraph 1 shall be based on the assessment of their potential to generate socio-economic benefits, the number of users *and* the revenues they may help generate, and their potential for being combined with other datasets.

*Amendment*

5. The selection of *additional categories and high value* datasets for the list referred to in paragraph 1 shall be based on the assessment of their potential to generate *significant civic or* socio-economic benefits, *innovation*, the number of users, *especially small and medium-sized enterprises*, the revenues they may help generate, and their potential for being combined with other datasets.

### Amendment 84

#### Proposal for a directive Article 13 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

***7 a. For the purposes of paragraph 7, the Commission shall carry out public consultations with all interested parties, including public sector bodies, public undertakings, data re-users, research organisations, civil society groups, and other representative organisations. All interested parties shall be given the***

*possibility to submit suggestions to the Commission for additional categories of high value datasets or concrete datasets. The Commission shall take these into account, or provide the interested party with reasons for not taking into account the suggestion.*

## **Amendment 85**

### **Proposal for a directive Article 14 – paragraph 2**

*Text proposed by the Commission*

2. The power to adopt delegated acts referred to in **Article 13** shall be conferred on the Commission for a period of five years from [date of entry into force of the Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

*Amendment*

2. The power to adopt delegated acts referred to in **Articles 5a and 13** shall be conferred on the Commission for a period of five years from [date of entry into force of the Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

## **Amendment 86**

### **Proposal for a directive Article 14 – paragraph 3**

*Text proposed by the Commission*

3. The delegation of power referred to in **Article 13** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of

*Amendment*

3. The delegation of power referred to in **Articles 5a and 13** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of

the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

## Amendment 87

### Proposal for a directive Article 14 – paragraph 6

#### *Text proposed by the Commission*

6. A delegated act adopted pursuant to **Article 13** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **two** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **two** months at the initiative of the European Parliament or of the Council.

#### *Amendment*

6. A delegated act adopted pursuant to **Articles 5a and 13** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **three** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **three** months at the initiative of the European Parliament or of the Council.

## Amendment 88

### Proposal for a directive Article 16 – paragraph 1

#### *Text proposed by the Commission*

1. **No sooner than four years** after the date **of** transposition of this Directive, the Commission shall carry out an evaluation of this Directive and present a Report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall be conducted according to the Commission's better regulation Guidelines<sup>47</sup>. Member States shall provide the Commission with the information

#### *Amendment*

1. **By [36 months** after the date **for** transposition of this Directive] **and at the latest every five years thereafter**, the Commission shall carry out an evaluation of this Directive and present a Report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall be conducted according to the Commission's better regulation Guidelines<sup>47</sup>. Member States shall provide

necessary for the preparation of that Report.

the Commission with the information necessary for the preparation of that Report.

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<sup>47</sup> SWD (2017)0350

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<sup>47</sup> SWD (2017)0350

## Amendment 89

### Proposal for a directive Article 16 – paragraph 2

#### *Text proposed by the Commission*

2. The evaluation shall in particular address the scope **and** impact of this Directive, including the extent of the increase in re-use of public sector documents to which this Directive applies, the effects of the principles applied to charging and the re-use of official texts of a legislative and administrative nature, the re-use of documents held by other entities than public sector bodies, the interaction between data protection rules and re-use possibilities, as well as further possibilities of improving the proper functioning of the internal market and the development of the European data economy.

#### *Amendment*

2. The evaluation shall in particular address the scope, ***civic and socio-economic*** impact of this Directive, including the extent of the increase in re-use of public sector documents to which this Directive applies, ***the impact of high value datasets, the relevance for specific stakeholders such as consumers and enterprises, particularly for small and medium-sized enterprises***, the effects of the principles applied to charging and the re-use of official texts of a legislative and administrative nature, the re-use of documents held by other entities than public sector bodies, ***the availability and the use of APIs*** the interaction between data protection rules and re-use possibilities, as well as further possibilities of improving the proper functioning of the internal market and the development of the European data economy.

## Amendment 90

### Proposal for a directive Article 16 – paragraph 2 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***2 a. Where appropriate, the report referred to in paragraph 1 shall be***

*accompanied by relevant proposals.*

## **Amendment 91**

### **Proposal for a directive Annex II a (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Annex IIa***

##### ***List of High value datasets***

<b><i>Category</i></b>	<b><i>Examples of Datasets</i></b>
<b><i>Budget and Spending</i></b>	<b><i>Planned and ongoing expenditure and subsidies, detailed records of spending on all levels of government</i></b>
<b><i>Companies</i></b>	<b><i>Company and business registers (lists of registered companies, ownership and management data, registration identifiers, balance sheets).</i></b>
<b><i>Earth observation and environment</i></b>	<b><i>Space and in situ data (monitoring of weather, land and water quality, energy consumption, emission levels)</i></b>
<b><i>Geospatial data</i></b>	<b><i>Spatial data subject to Directive 2007/2/EC (INSPIRE), including postcodes, national and local maps (cadastral, topographic, marine, administrative boundaries, at a scale of at least 1:20.000 (1cm ~ 200m))</i></b>
<b><i>National Law</i></b>	<b><i>Legislative, regulatory and administrative measures; Draft measures, including procedural information related to their adoption; Measures which have been amended, repealed or are no longer in force; Accompanying documents, such as explanatory statements, impact assessments, opinions of advisory bodies and voting records; Case law.</i></b>
<b><i>Public procurement</i></b>	<b><i>Past and current tenders and awards on all levels of administration, aggregated by office, in all states (e.g. open, closed, cancelled)</i></b>
<b><i>Statistics</i></b>	<b><i>National, regional and local statistical data with main demographic and economic indicators (GDP, age, unemployment, income, education)</i></b>

## **ANNEX: LIST OF ENTITIES OR PERSONS**



## FROM WHOM THE RAPPOREUR HAS RECEIVED INPUT

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the opinion, until the adoption thereof in committee:

<b>Person</b>	<b>Entity</b>
Henning Twickler	EDSO for Smart Grids
Camille Alleguede	ENEDIS
	European Federation of Local Energy Companies (CEDEC)
Audrey Gourraud	Fédération des Entreprises Publiques Locales (epl)
Robbie Morrison, Tom Brown, Ingmar Schlecht, Walter Palmeshofen	Open Knowledge International / Open Knowledge Foundation
Oliver Kaye	PSI Alliance
Jean-Gabriel Audebert-Lasrochas	Trainline.com
Lucie Petersen	Verband Deutscher Verkehrsunternehmen (VDV)
Janine Prantl, Konstantin Schöfmann	Verband öffentlicher Wirtschaft (vöwg)
Dr. Elisa Schenner	Wiener Stadtwerke

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Re-use of public sector information (recast)	
<b>References</b>	COM(2018)0234 – C8-0169/2018 – 2018/0111(COD)	
<b>Committee responsible</b> Date announced in plenary	ITRE 28.5.2018	
<b>Opinion by</b> Date announced in plenary	IMCO 28.5.2018	
<b>Associated committees - date announced in plenary</b>	13.9.2018	
<b>Rapporteur</b> Date appointed	Julia Reda 16.5.2018	
<b>Discussed in committee</b>	19.6.2018	3.9.2018
<b>Date adopted</b>	11.10.2018	
<b>Result of final vote</b>	+: 30	–: 1
	0: 5	
<b>Members present for the final vote</b>	John Stuart Agnew, Pascal Arimont, Dita Charanzová, Carlos Coelho, Anna Maria Corazza Bildt, Daniel Dalton, Pascal Durand, Evelyne Gebhardt, Maria Grapini, Robert Jarosław Iwaszkiewicz, Liisa Jaakonsaari, Philippe Juvin, Antonio López-Istúriz White, Morten Løkkegaard, Eva Maydell, Marlene Mizzi, Christel Schaldemose, Andreas Schwab, Olga Sehnalová, Jasenko Selimovic, Richard Sulík, Róza Gräfin von Thun und Hohenstein, Mylène Troszczynski, Marco Zullo	
<b>Substitutes present for the final vote</b>	Lucy Anderson, Biljana Borzan, Edward Czesak, Arndt Kohn, Julia Reda, Martin Schirdewan, Lambert van Nistelrooij, Sabine Verheyen	
<b>Substitutes under Rule 200(2) present for the final vote</b>	Ramón Jáuregui Atondo, Stanislav Polčák, Flavio Zanonato, Tomáš Zdechovský	

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

<b>30</b>	<b>+</b>
ALDE	Dita Charanzová, Morten Løkkegaard, Jasenko Selimovic
EFDD	Robert Jarosław Iwaszkiewicz
GUE/NGL	Martin Schirdewan
PPE	Pascal Arimont, Carlos Coelho, Anna Maria Corazza Bildt, Philippe Juvin, Antonio López-Istúriz White, Eva Maydell, Lambert van Nistelrooij, Stanislav Polčák, Andreas Schwab, Róza Gräfin von Thun und Hohenstein, Sabine Verheyen, Tomáš Zdechovský
S&D	Lucy Anderson, Biljana Borzan, Evelyne Gebhardt, Maria Grapini, Liisa Jaakonsaari, Ramón Jáuregui Atondo, Arndt Kohn, Marlene Mizzi, Christel Schaldemose, Olga Sehnalová, Flavio Zanonato
VERTS/ALE	Pascal Durand, Julia Reda

<b>1</b>	<b>-</b>
EFDD	John Stuart Agnew

<b>5</b>	<b>0</b>
ECR	Edward Czesak, Daniel Dalton, Richard Sulík
EFDD	Marco Zullo
ENF	Mylène Troszczynski

Key to symbols:

+ : in favour

- : against

0 : abstention