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Committee on Legal Affairs

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AMENDMENTS

16 - 28

Draft opinion
Marielle Gallo
(PE494.520v01-00)

Amendment of Directive 2003/98/EC on re-use of public sector information

Proposal for a directive
(COM(2011)0877 – C7-0502/2011 – 2011/0430(COD))

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Amendment 16
Sajjad Karim

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) Where charges are made for the re-use of documents, they should in principle be limited to the marginal costs *incurred for their reproduction and dissemination, unless exceptionally justified according to objective, transparent and verifiable criteria. The necessity of not hindering the normal running of public sector bodies covering a substantial part of the operating cost relating to the performance of their public task from the exploitation of their intellectual property rights should notably be taken into consideration.* The burden of proving that charges are cost-oriented and comply with relevant *limits* should lie with the public sector body charging for the re-use of documents.

Amendment

(12) Where charges are made for **supplying and allowing** the re-use of documents, they should in principle be limited to the marginal costs. **However, for public sector bodies that cover a substantial part of their costs relating to the performance of their public task or any particular activity falling within their public task as well as the normal running of libraries, museums and archives their ability to continue funding their operations in this manner should notably be taken into consideration. Those public sector bodies should be allowed to charge higher charges for re-use. 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.** The burden of proving that charges are cost-oriented and comply with relevant *criteria* should lie with the public sector body charging for the re-use of documents.

Or. en

Amendment 17
Christian Engström, Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) In relation to any re-use that is made of the document, public sector bodies may, where practicable, impose conditions on the re-user, such as acknowledgment of source. Any licences for the re-use of public sector information should in any case place as few restrictions on re-use as possible. Open licences available online, which grant wider re-use rights without technological, financial or geographical limitations and relying on open data formats, **may** also play an important role in this respect. Therefore, Member States should encourage the use of open government licences.

Amendment

(13) In relation to any re-use that is made of the document, public sector bodies may, where practicable, impose conditions on the re-user, such as acknowledgment of source. Any licences for the re-use of public sector information should in any case place as few restrictions on re-use as possible. Open licences available online, which grant wider re-use rights without technological, financial or geographical limitations and relying on open data formats, **should** also play an important role in this respect. Therefore, Member States should encourage the use of open government licences **and licensing of PSI metadata should follow licensing standards as established by e.g. Europeana.**

Or. en

Justification

In order to eliminate proliferation of licenses and persisting and emerging differences between Member States in the exploitation of public sector information, licensing of PSI metadata should follow licensing standards as established by e.g. Europeana, see 12 September Europeana Press Release at <http://goo.gl/inTkj>.

Amendment 18
Sajjad Karim

Proposal for a directive
Article 1 – point 1 – point 1 a (new)

Text proposed by the Commission

Amendment

(1a) In paragraph 2, point (b) is replaced by the following:

'(b) documents for which third parties hold intellectual property rights, including documents held by a university library in which the university holds intellectual

property rights;'

Or. en

Amendment 19

Sajjad Karim

Proposal for a directive

Article 1 – point 4 – point 2 – introductory wording

Text proposed by the Commission

(2) *At the end of paragraph 4, the following wording is added:*

Amendment

(2) *Paragraph 4 is replaced by the following:*

Or. en

Amendment 20

Sajjad Karim

Proposal for a directive

Article 1 – point 4 – point 2

Directive 2003/98/EC

Article 4 – paragraph 4

Text proposed by the Commission

'The means of redress shall include the possibility of review by an *independent* authority *that is vested with specific regulatory powers* regarding the re-use of public sector *information* and whose decisions *are binding upon* the public sector body concerned.'

Amendment

'4. Any decision on re-use shall contain a reference to the means of redress in case the applicant wishes to appeal the decision. The means of redress shall include the possibility of review by an *impartial review body, such as the national competition authority, the national access to documents authority or the national judicial authority, that has the authority to investigate complaints* regarding the re-use of public sector *documents* and whose decisions *must be considered by* the public sector body concerned.'

Or. en

Amendment 21
Sajjad Karim

Proposal for a directive
Article 1 – point 6 – point 1
Directive 2003/98/EC
Article 6 – paragraph 1

Text proposed by the Commission

'1. Where charges are made for the re-use of documents, the total amount charged by public sector bodies shall be limited to the marginal costs incurred for their reproduction and dissemination.'

Amendment

'1. Where charges are made for the re-use of documents, the total amount charged by public sector bodies shall be limited to the marginal costs incurred for their reproduction, **collection, production** and dissemination.'

Or. en

Amendment 22
Sajjad Karim

Proposal for a directive
Article 1 – point 6 – point 1
Directive 2003/98/EC
Article 6 – paragraph 2

Text proposed by the Commission

'2. ***In exceptional cases, in particular where public sector bodies generate a substantial part of their operating costs relating to the performance of their public service tasks from the exploitation of their intellectual property rights, public sector bodies may be allowed to charge for the re-use of documents over and above the marginal costs, according to objective, transparent and verifiable criteria, provided this is in the public interest and subject to the approval of the independent authority referred to in Article 4(4), and without prejudice to paragraphs 3 and 4 of this Article.***

Amendment

'2. ***Paragraph 1 shall not apply to the following:***

(a) Public sector bodies **that** generate **revenue to cover** a substantial part of their costs relating to the performance of their public tasks **or any particular activity falling within their public tasks**.

(b) Libraries (including university libraries), museums and archives.'

Or. en

Amendment 23

Christian Engström, Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – point 6 – point 1

Directive 2003/98/EC

Article 6 – paragraph 2

Text proposed by the Commission

'2. ***In exceptional cases, in particular where*** public sector bodies generate a substantial part of their operating costs relating to the performance of their public service tasks from the exploitation of their intellectual property rights, public sector bodies may be allowed to charge for the re-use of documents over and above the marginal costs, according to objective, transparent and verifiable criteria, provided this is in the public interest and subject to the approval of the ***independent*** authority referred to in Article 4(4), and without prejudice to paragraphs 3 and 4 of this Article.'

Amendment

'2. ***Where*** public sector bodies generate a substantial part of their operating costs relating to the performance of their public service tasks from the exploitation of their intellectual property rights, public sector bodies may be allowed to charge for the re-use of documents over and above the marginal costs, according to objective, transparent and verifiable criteria ***for the exclusive purpose of covering their costs of digitising documents and making them available to the public***, provided this is in the public interest and subject to the approval of the authority referred to in Article 4(4), and without prejudice to paragraphs 3 and 4 of this Article.'

Or. en

Justification

Analogous to Article 6.2 in the Orphan Works Directive as adopted Thursday, 13 September 2012 (provisional edition P7_TA-PROV(2012)0349).

Amendment 24
Evelyn Regner

Proposal for a directive
Article 1 – point 6 – point 1
Directive 2003/98/EC
Article 6 – paragraph 3

Text proposed by the Commission

'(3) Notwithstanding paragraphs 1 and 2, libraries (including university libraries), museums **and** archives may charge over and above the marginal costs for the re-use of documents they hold.'

Amendment

'(3) Notwithstanding paragraphs 1 and 2, libraries (including university libraries), museums, archives **and public sector bodies serving similar purposes to the above** may charge over and above the marginal costs for the re-use of documents they hold.'

Or. de

Amendment 25
Sajjad Karim

Proposal for a directive
Article 1 – point 6 – point 1
Directive 2003/98/EC
Article 6 – paragraph 4 (new)

Text proposed by the Commission

Amendment

'4. Where charges are made under paragraph 2, the total income from supplying and allowing re-use of documents shall not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment. Charges should be cost-oriented over the appropriate accounting period and calculated in line with the accounting principles applicable to the public sector bodies involved.'

Or. en

Amendment 26
Sajjad Karim

Proposal for a directive
Article 1 – point 6 – point 2

Text proposed by the Commission

Amendment

(2) The existing text of Article 6 becomes paragraph 4.

deleted

Or. en

Amendment 27
Sajjad Karim

Proposal for a directive
Article 1 – point 10

Text proposed by the Commission

Amendment

10. ***In*** Article 11 (Prohibition of exclusive arrangements), ***the following sentence is added at the end of paragraph 3:***

10. Article 11 (Prohibition of exclusive arrangements) ***is amended as follows:***

'(1) The following paragraph is inserted :

2a. Notwithstanding paragraph 11(1), where an exclusive right is necessary for the provision of a service in the public interest such as digitisation, the validity of the reason for granting such an exclusive right shall be subject to regular review, and shall, in any event, be reviewed every three years. The exclusive arrangements established after the entry into force of this Directive shall be transparent and made public. Where an exclusive right relating to the preferential commercial exploitation necessary to digitise cultural resources exists, the public sector body shall be provided with a copy of the digitised cultural resources as part of that agreement.'

Amendment 28
Sajjad Karim

Proposal for a directive
Article 1 – point 10 – point 2 (new)
Directive 2003/98/EC
Article 11 – paragraph 3

Text proposed by the Commission

However, such arrangements involving ***cultural establishments and*** university libraries shall be terminated at the end of the contract or in any case not later than 31 December 20XX [***6 years*** after entry into force of the Directive].

Amendment

(2) The following sentence is added at the end of paragraph 3:

However, such arrangements involving ***archives, museums and libraries*** (***including*** university libraries) shall be terminated at the end of the contract or in any case not later than 31 December 20XX [***10 years*** after entry into force of the Directive].