



Europeana Space has received funding from the European Union's ICT Policy Support Programme as part of the Competitiveness and Innovation Framework Programme, under GA n° 621037

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Content Space

New Rules on Public Sector Information

The purpose of the rules on public sector information is to encourage the re-use of information generated by public institutions during the course of their public sector tasks¹. The first European Directive was enacted in 2003. The second in 2013, the latest date for transposition into national laws is 18 July 2015. The purpose of the 2003 Directive was to remove barriers to the re-use of public sector information. A review in 2010 suggested that while progress had been made, barriers remained, hence the updating of the Directive. The purpose of this factsheet is to provide an overview of the new rules and how they might help pilots and hackathon attendees obtain content.

Q: Which institutions /organisations do the new rules cover?

A: Libraries, including university libraries, museums and archives – none of which were covered in the original Directive, and broadcasters.

Q: Why have the rules been extended to these institutions/organisations?

A: As stated in the Directive: These cultural heritage collections and related metadata are a potential base for digital content products and services and have a huge potential for innovative re-use in sectors such as learning and tourism. Wider possibilities for re-using public cultural material should, inter alia, allow Union companies to exploit its potential and contribute to economic growth and job creation.

1. See <http://ec.europa.eu/digital-agenda/overview-2003-psi-directive> and <http://www.epsiplatform.eu/category/keywords/psi-directive>

Q: Which institutions/organisations do the new rules not cover?

A: Institutions/organisations such as orchestras, operas, ballets and theatres including the archives that are part of those establishments

Q: Why are these institutions/organisations not covered?

A: Because of their 'performing arts' specificity and since almost all of their material is covered by third-party intellectual property rights².

Q: What does re-use mean?

A: Re-use means a use of public sector information for any reason other than that for which it was originally produced. A request for re-use can be refused where the information has not already been re-used either by the institution/organisation or by a third party. For example, where digitised images are made available to a commercial body for re-use, then they must be made available to other commercial bodies for a similar purpose on equal terms. Exclusive licensing is not permitted except under exceptional circumstances. Exceptional circumstances would cover those instances where without any form of exclusivity the institution would not be able to carry out a digitisation project. Where a third party makes a substantial investment in a digitisation project then an exclusive arrangement is permitted for up to a maximum of 10 years.

Q: What does accessible information mean?

A: The re-use rules provide that all information that is accessible should be available for re-use. The presumption is that information will be accessible. Information will not however be accessible where there are other rules under national laws that would preclude its re-use. This would include copyright; data protection rules; confidentiality; national security among other national regimes.

Q: What are the rules on charging?

A: Charges should in principle be limited to marginal costs. However it is recognised that public sector bodies are often required to generate revenue to cover a substantial part of their costs relating to their public sector task or the costs of their collections. In which case above marginal cost can be charged but the level needs to be set according to objective, transparent and verifiable criteria and the total income from supplying and allowing re-use of documents

2. This is the formal rationale. However, third party rights are already outside the scope of the directive so there is still a question as to why these organisations should be exempt.

should not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment.

Q: What types of licences should be used by the public sector body?

A: The Directive exhorts public sector bodies to place as few restrictions on re-use as possible and encourages the use of open licences while at the same time recognising that some conditions might be appropriate such as attribution and notification of modification of the information³.

3. A public sector body may choose not to impose a licence at all but rather place the work in the Public Domain by default (see e.g. Greece or Poland).