The EC-Directive on the commercial reuse of public sector information (PSI)
by the private content, publishing and multimedia industry

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The unknown and unfinished Directive:

- Most countries and associations overlooked the Directive
- Most politicans and ministers believe that the Freedom of Information Act (FOI) includes also the PSI-subject. This is not true.
- Private distribution agents (mostly IT-companies) fight against content-publishers who reuse PSI: who is the target group of PSI?
- Misunderstanding: public institutions put (publish?) tons of data and documents on the internet. They do not understand why content-publishers shall establish FURTHER products

Terminology problem: how to translate **re-use**

a) Weiter-Verwendung = sale only?

B) Weiter-Verarbeitung: a **new** private product emerges with own copyright or sui-generis right

Importance to differentiate 4 subjects:

- A. access of a qualified „party" to files in a running administrative case"):
  - See legislation in most EU-countries (Akteneinsichts-Gesetze)

- B. FOI: General access of all citizen to public information):
  - FOI (Freedom of Information Act) in Sweden of 1777 and US.
  - „New FOI on federal level in Germany from 1.1.2006 on
  - EU-Directive on free access to environmental information

- **C. Private sales agents (mostly IT-companies) distribute public databases**
  - E.g. Austria: Ministry of justice establishes the official company register
  - 6 private agents sell and market this product to any private customer.
  - The agents are not allowed to change or adapt the content
  - Modell: public concession fee

- D. NEW: **PSI-Directive:** unlimited commercial re-use of public information by the content, publishing and mobile service industry
  - Private agents Diese privaten Endprodukte sind folglich auch nicht authentisch.
  - erfüllen aber die Anforderungen zusätzlicher Zielgruppen, die durch das uniforme öffentliche Produkt nicht abgedeckt werden können.
  - Diese privaten Mehrwertprodukte komplettieren somit öffentliche Produkte bzw. greifen nur selektiv auf solche Datenbestände zu. In der Praxis bilden Sie keine Konkurrenzprodukte zu öffentlichen Produkten.

Why did the EU boost that Directive?

- Broadband initiatives without content are useless
- Public content is as much important as private content
- ISPs and Telcos do not create any new jobs. New jobs shall come from the content sector (and Games)
- The EU strives for Pan-European Services: e.g. a database on congestion information (Stauinformation) in all 25 countries

eContent-programme and eContent-plus:

d) Develop pan-european services (for 25 states)

e) PSI-reuse:

–   Next deadline for submission: 24th of November

–   http://europa.eu.int/information_society/activities/econtentplus/index_en.htm

–   **Main PSI-Sectors**

  •   Geographical information

  •   Commercial and business registers, tender information

  •   Traffic, environmental and weather information

  •   Project information, statistical data

Potential of PSI for the Content- and Creative Industries

- SME do not require only national products, but one central service or at least gateway for all 25 EU-countries

- Public institutions are the largest content- and data owners. In the past they often refused to licence the content to the private industry.

- PSI is not only an end-product, but raw material for new added-value services

- EU goes for a quick and easy licence process

- Content and creative industries are seen as the main driver for the next years

Misunderstanding by public institutions

–   Simply upload (publish?) tons of public information on public websites (withoug catalogues, metadata and ftp-download)

–   No transparency on the information quality, update, authenticity and liability

Summary: it seems that PSI is a waste product of the administrative work.

EU-project EPSINET and EPSINET-plus

- Documentation of PSI-studies and PSI-cases in all EU-countries

- Project in the new EU-countries still running

- Organisation of national roundtables in all EU-countries: Austria, Portugal, France, Czech Republic

- Free newsletter: www.epsigate.org

- Final conference in January 2005 in Athens

EU-project MEPSIR: www.mepsir.org

- EU-Directive of 2003 has to be implemented by 31st of June 2005 in all EU-countries

- EU-project monitors the transposition of the EU-Directive in all 25 countries

- First report on status quo will be published in summer 2006

- Official report will be published after 3 years in 2008

- Major barriers concerning reuse:
    - Missing common standards: mobile telcos would licence opening hours of the „pharmacies" but in Austria the data sets of all Länder have a different format
    - Conflict of competences within the public institutions
    - How to define a public product and where shall private add-ons start

Steps to transpose the PSI-Directive in all EU-countries

- National PSI-study is discussed in Austria; Slowakia could use the same methüdology
  - Basic idea: Study shall evaluate the potential to establish the national PSI-directory on a PPP-basis (no public funding required)
- Draw up model licences for all public institutions: basic elements and sector-specific add-ons
- National directory of all PSI-contents
  - Going beyond the PSI-Directive: shall include also cultural and audiovisual content (e.g. of museums, archives and national broadcaster)
  - Including also local level
  - Includes a rights management database
  - Commercial add-ons: translation in foreign languages

National PSI-Register for Austria

- At least 300 Databases on federal level and more than 500.000 documents
- Number of katalogues, register and studies not clarified
- Mininum costs for one national directory: EUR 250.000
- Alternative model: private sector company gets a concession to run this PSI-Directory on a half-commercial basis
    - Basic data entry: free of charge
    - Added value services for licencing: commercial

European PSI-Portal: PSI-Navigator

- Implemented 2004 by an EU-consortium

- Available in 11 languages

- 20 categories of PSI-data

- Includes thesaurus and classification

- The search machine will be licenced to the EU-member states

- Mix of free and charged services

- Austria will first feed the database with Austrian content, and will establish later on a national PSI-Portal

- **http://www.psinavigator.org/psi/index.html**

Implementation of the PSI-Directive in Austria:

- Based on the competence of public procurement (Wagner not in line with that legal opinion)

- Therefore one federal Law and 9 Acts on Länder-Level

- Conflict between distribution agents (IT-companies) and re-use-companies (publishers, multimedia agents)

- **Pending questions:**
    - Advisory board and national PSI-roundtable
    - Exclusive licences for DISTRIBUTION still allowed?
    - Relationsship of PSI-Directive to Environmental Information Directive?

Further legal framework going beyond the PSI-Directive

- General competition law
- Essential Facility Doctrine
- ECJ-Decisions on the sui-generis-protection of PSI

Call for Speakers:

- EU-presidency of Austria in 2006

- 2-3nd of March 2006: EU-conference on cross-content and cross-media topics

- Including topics as PSI

- Deadline for application: 27th of November

- Send 1 page outline (English or German) to Mr Wagner: gkwagner@via.at

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