



European Open Data Policies and Re-use of Public Sector Information



Structure

I. The Potential of Data

II. The 2003 PSI Directive

III. The 2019 Reform of the PSI Directive

IV. PSI and Copyright



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I. The Potential of Data

The potential of data


Societal benefits

- Easier and better lives for individuals
- Addressing societal challenges

Economic growth


- Potential to double the size of the data economy (4% of EU GDP by 2020)
- Data can improve efficiency of all economic sectors

Indicator 5: Value of the Data Economy

 The Data Economy measures the overall impacts of the data market on the economy as a whole.




Indicator 1: Data Professionals

 Workers who collect, store, manage, analyse, interpret, and visualise data as their primary or as a relevant part of their activity.




Indicator 2: Data Companies

Data suppliers

 Data suppliers have as their main activity the production and delivery of digital data-related products, services, and technologies.



Data users

 Data users are organisations that generate, exploit collect and analyse digital data intensively and use what they learn to improve their business.

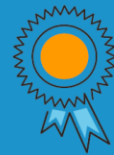




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Benefits of Open Data

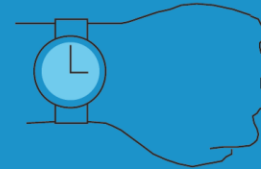
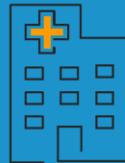
more Open Data can help make
better decisions



2,549 hours
wasted
finding parking



7,000 lives
saved due to
quicker response



629 million
hours saved is
equivalent to
€ 27.9 bn

5.5% less
road fatalities



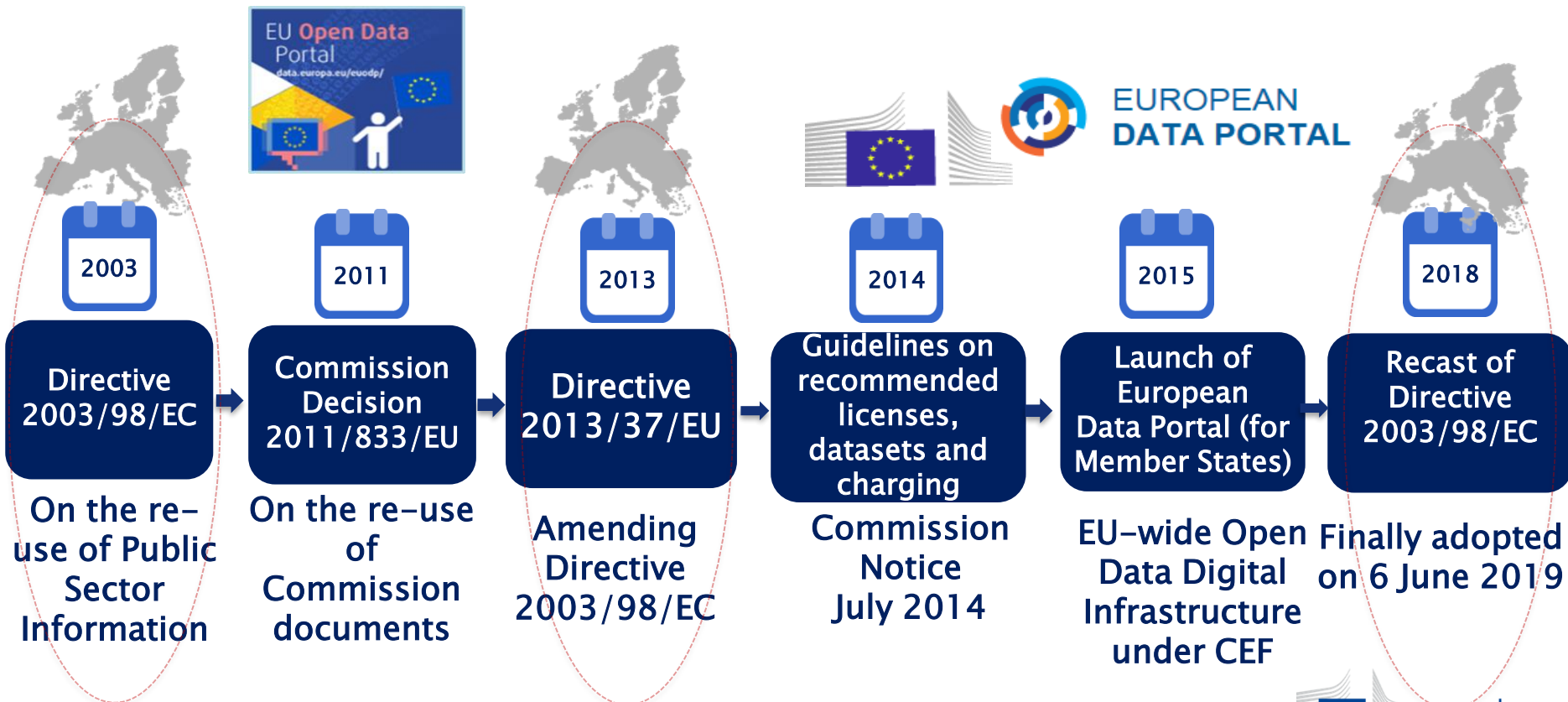
Congestion
costs are
1% of GDP



16% less
less energy used



Milestones of EU PSI policy





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II. The 2003 PSI Directive

Public Sector Information (PSI) Directive 2003/98/EC (I)

Background

- The original PSI Directive dates from 2003
- It was first revised in 2013 (via Directive 2013/37/EU)
- Latest revision launched in April 2018 – finally adopted on 6 June 2019

Content

- Minimal set of rules governing the re-use and the practical arrangements for facilitating re-use of existing documents held by public sector bodies and some public undertakings
- Rules on **fair competition, transparency and practical requirements** to ensure that public sector information can be used outside of that sector (i.e. re-used) for commercial or non-commercial purposes.

Public Sector Information (PSI) Directive 2003/98/EC (II)

Main objectives:

- to stimulate the further development of a European market for services based on Public Sector Information
- to enhance the cross-border use and application of PSI in business processes, including publishing
- to strengthen competition in the internal market
- to address divergence as to reuse rules between Member States

The Directive allows Member States to implement measures going beyond its minimum standards, thus allowing for more extensive reuse.

Public Sector Information (PSI) Directive 2003/98/EC (III)

Obligations

Public sector bodies have to:

- Make information re-usable for commercial or non-commercial purposes under nondiscriminatory conditions
- Process requests and provide access within 20 days (or 40 if request is complex); justify negative decision and inform about how to appeal.
- Charge no more than cost of reproduction, provision and dissemination; publicise charges and indicate calculation basis on request
- Publish licences in digital format
- Facilitate search for information preferably online (e.g. portal)

Public Sector Information (PSI) Directive 2003/98/EC (IV)

Public sector bodies may not:

- Unnecessarily restrict reuse
- Grant exclusive rights, unless necessary in public interest, subject to regular review



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III. The 2019 reform of the PSI Directive

Key features of the 2019 reform of the PSI Directive (I)

The new Directive is a recast: it brings together the original Directive 2003/98/EC and all the amendments made to it in a single legal act. It introduces the following key changes:

- **List of High Value Datasets** (free of charge, disseminated in machine readable formats through APIs) to be laid down in an implementing act, within a thematic range indicated in an Annex (which can be extended via delegated act)
- **New rules on charging:** free re-use becomes a principle, with narrowly defined exceptions (and stronger transparency, e.g.: list of all public bodies that charge above marginal costs of dissemination to be made public)
- **Extension of scope:**
 - a) Re-use of data held by public undertakings in utilities and transport sector will now comply with the principles of transparency, non-discrimination and non-exclusivity set out in the Directive (unless exempted from public procurement rules under article 34 of the Procurement Directive)
 - a) Re-use of publicly-funded research data will also be governed by the rules of the Directive (if data already accessible via repositories). MS under obligation to adopt open access policies to support availability of research data.

Key features of the 2019 reform of the PSI Directive (II)

- **Prevention of data lock-in:** Directive imposes new transparency and review requirements to public-private agreements which may lead to a situation in which the range of potential re-users would be severely restricted
- **Real-time data and APIs:** obligation on public sector bodies and public undertakings to make dynamic data available for re-use immediately after collection, via suitable Application Programming Interfaces (APIs) and where relevant as a bulk download
- **Licensing:** to promote openness, the re-use of documents shall not be subject to any conditions, unless justified by public interest (more on the Commission policy in this regard at the end of this presentation)
- **Practical arrangements to facilitate re-use:** Member States shall encourage the availability of documents according to the principle of 'open by design and by default', facilitate metadata aggregation at Union level, promote data preservation and simplify access to documents
- **New title:** The Directive will now be entitled 'Directive on Open Data and the re-use of public sector information' to reflect the shift towards a fully free/open re-use.

List of HVDs – Implementing Act

An **Implementing Regulation** will define the list of specific high-value data sets within the 6 thematic categories (below) and held by public sector bodies and public undertakings **among the documents to which the Directive applies**

- Geospatial
- Earth observation and environment
- Meteorological
- Statistics
- Companies and company ownership
- Mobility



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IV. PSI and Copyright

PSI and third party copyright

- The Directive does not apply to content that is protected by third party copyright and / or related rights (Article 1 paragraph 2 letter c and Recital 54)
- This includes content held by libraries, including university libraries, museums and archives – if the term of protection has not yet expired
- Necessary to comply with EU legal framework and international obligations, in particular under Berne Convention and TRIPS Agreement.

Research data

- **The Directive applies to research data, insofar as the data are publicly funded** and whenever researchers, research performing or funding organisations **have already made them publicly available via repositories.**
- In addition, **the Member States are under an obligation to support the availability of research data by adopting policies** and relevant actions that aim at making research data openly available (**open access policies**) in line with FAIR principles.

PSI and copyright of public entities

General rules

- Directive does not affect EU copyright framework
- But provides for conditions within which public sector bodies can exercise their intellectual property rights when allowing re-use of documents.

In particular: EU *sui generis* right for database makers

- The recast Open Data Directive clarifies that public sector bodies should not exercise their *sui generis* right in order to prevent the reuse of documents or to restrict re-use beyond the limits set by this Directive

Rules for the reuse of Commission information

Key features:

- As a default rule, reuse is allowed for non-commercial and commercial purposes
 - **without the need for an individual application,**
 - **without charging the reuser;**
 - **without putting conditions on the reuse and**
 - **without discriminating between reusers.**
- Certain restrictions apply (third party IPRs, industrial property)
- In order to make reuse of its documents as easy as possible, in February 2019 the Commission also adopted a [Decision](#) that defines two [Creative Commons](#) licences as default licences for Commission content (CC BY 4.0 and CC0 1.0)

What's next?

- Approval by the Council – just took place on 6 June 2019
- Publication in the Official Journal of the EU in June/July 2019
- 2 years of transposition in Member States

- Work towards the definition of the List of HVDs (2019-21)
 - **Existing: MS Expert Group (PSI Group)**
 - **New: Open Data Committee (comitology procedure)**
 - **Consultations, workshops, meetings with stakeholders**

More info:

<https://ec.europa.eu/digital-single-market/en/open-data>

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