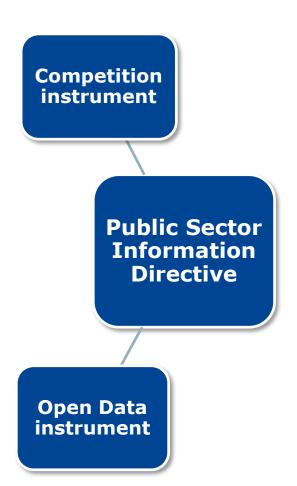# From PSI to Open Data Directive: Main changes and next steps

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

Competition instrument

Public Sector Information Directive

Open Data instrument

- Introduces a <u>minimal set of rules</u> 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.

- The Directive does not apply to:
  - **data not publicly accessible under access to information regimes**
  - **information protected by third party intellectual property rights**

- Application of the Directive must fully respect the Union and the national data protection rules

- PSI Directive was first revised in 2013 (via amending Directive 2013/37/EU)

- Latest revision launched in April 2018 – trilogue discussions concluded on 22 January 2019

European Commission

Innovation and Networks Executive Agency

The new directive on 'Open Data and the re-use of public sector information' (I)

The new Directive is a <u>recast</u>: 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) <u>to be laid down in an implementing act</u>, within a thematic range indicated in an Annex (which can be extended via delegated act)

- **New rules on charging:** <u>free re-use becomes a principle</u>, 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) <u>Re-use of data held by public undertakings</u> 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) <u>Re-use of publicly-funded research data</u> 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.

The new directive on 'Open Data and the re-use of public sector information' (II)

- **Prevention of data lock-in:** Directive imposes new <u>transparency and review requirements</u> 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 <u>dynamic data available for re-use immediately after collection</u>, 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

- **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 '**<u>Directive on Open Data and the re-use of public sector information</u>**' to reflect the shift towards a fully free/open re-use. It will be adopted on April 2019.

The new directive on 'Open Data and the re-use of public sector information' (III)

List of thematic underline categories underline of high value datasets:

1. Geospatial
2. Earth observation and environment
3. Meteorological
4. Statistics
5. Companies and company ownership
6. Mobility

Examples in recitals:

"the thematic categories listed in the Annex could inter alia cover **postcodes**, **national and local maps** (Geospatial), **energy consumption** and **satellite images** (Earth observation and environment), **in situ data from instruments and weather forecasts** (Meteorological), **demographic and economic indicators** (Statistics), **business registers and registration identifiers** (Companies and company ownership), **road signs and inland waterways** (Mobility)."

List of HVDs – Implementing Act

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

- The Commission will be assisted by the *Committee on open data and the re-use of public sector information* (comitology procedure)

- The initial list of thematic categories can be extended (e.g. to legal and administrative data) by a delegated act.

What's next?

➢ Approval by the Council – early 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)

  ➢ **MS Expert Group (PSI Group)**

  ➢ **Open Data Committee**

  ➢ **Consultations, workshops, meetings with stakeholders**

Supporting activities

- **Connected Europe Facility (CEF)**: actions funded from the 2019-2020 Work Programme will improve the availability for re-use of existing open data falling into the high-value datasets categories, paving the way to more targeted actions funded under the Digital Europe Programme as of 2021, focusing on the actual datasets

- **Digital Europe Programme (DEP)**: Specific Objective 2 'Data for Artificial Intelligence (AI)' will strengthen core AI capacities in Europe, including data resources. Calls will focus on, inter alia, making specific datasets interoperable and fit for AI applications. Activities could cover, for example:
  - **curation;**
  - **semantic annotation;**
  - **harmonisation of metadata;**
  - **facilitating publication in machine-readable formats and accessibility through APIs.**

More information:

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