



FEDMA position paper on the Review of the Directive on the Re-Use of Public Sector Information (PSI Directive)

The Federation for European Direct and Interactive Marketing (FEDMA) takes the opportunity to contribute to the debate on the Review of the Directive on the Re-Use of Public Sector Information (PSI Directive) in order to reach the most efficient and up-to-date legislation in the field. FEDMA would like to share its expertise and the position of direct marketing industry in Europe for the review.

FEDMA stands for 22 national Direct Marketing Associations, directly representing more than 5000 organisations, and has over 40 industry members, representing all parts of the value chain in the data-driven marketing industry, including postal operators. Through its many activities, FEDMA is dedicated to building the business of cross-border data-driven marketing, both through its vast network of contacts and businesses within and beyond Europe and by representation within the institutions of the European Union.

FEDMA fully supports the objectives of the Public Sector Information Directive, namely to make more public data easily available and free of charge, or when necessary subject to a marginal cost of dissemination. However, it is important that the proposal will not impose a burden on public undertakings operating in competitive markets. We are confident that the European Union can strongly benefit from the development of the EU data economy, which is estimated to increase its value EUR 739 billion by 2020, representing 4% of the overall EU GDP¹, if right policy and legal framework conditions are put in place.

The Re-Use of Public Sector Information

FEDMA supports the European Commission in the creation and development of a framework for Open Data. We believe that making more data open will lead to higher innovation and more benefits for the users and re-users of information. The proposal for a Directive opens its scope to public undertakings, which are collectors of valuable data. The aim of the proposal is to make public sector data available, but it should be ensured that no undue burdens are imposed on public undertakings, such as when public undertakings operate on markets in competition with private undertakings. Under no circumstances should the proposal be extended to private undertakings, which are outside the initial scope of the proposal (the public sector).

For these reasons, FEDMA believes that more flexibility should be added in the text, in particular with regard to the 3 following issues:

- **FEDMA believes more flexibility should be allowed for charging rules.** Public undertakings don't necessarily earn enough compensation to cover the cost of their

¹ European Commission (<https://ec.europa.eu/digital-single-market/en/policies/building-european-data-economy>)



public service missions or service of general interest. Therefore, they often have to invest to create quality databases without public subsidies. These costs include collection, production, reproduction, and dissemination of the information. Thus, it is necessary for public undertakings to have more flexible rules for charging, and not be limited to charge marginal costs. Public undertakings should be in a position to generate revenues from the fulfilment of their tasks. This is a necessary step in order to ensure that these companies relying on revenues are not financially threatened and can improve their services and performances as well as invest in their development.

- **FEDMA believes that on EU level exemptions for public undertakings operating in a competitive context should be implemented.** The current definition of ‘public undertaking’ in the proposed text includes a very broad range of entities. Member states do not share the same definitions of Services of General Economic Interest and include in these categories various activities. Also, even when they do have the same SGEIs, they don’t have the same way of managing it. Privatisation of certain sectors, in the past decades, have led to a broad spectrum of state involvement in formerly state-owned organisation. Such involvement can rank from none, to state being the majority shareholders of organisations, to 100% private organisations operating in the same sector. All types of organisation have to have a business model enabling their sustainability, and commercialisation of data is often part of that model. FEDMA calls for more flexibility, specifying exemptions on EU level to the obligations of public undertakings in liberalized markets with private competition.
- **In Member States where licenses are used, FEDMA believes that public undertakings should be able to define conditions for the re-use of information outside of the scope of the license.** In Member States where licenses are used, a public undertaking will make data available for re-use using licenses which traditionally include some condition for reuse (such as the so called “share alike” licenses). Whenever there is a demand for re-use of data which goes in incompatible with the conditions laid down in the license, public undertakings should be free to offer such data under different conditions, tailored to their intended use in accordance with the nature of the re-user. Such flexibility would encourage re-use of public sector information, for all purpose, and ensure healthy competition among players.

In addition, FEDMA believes that each Member State should be able to determine its own list of “high value” datasets. Member States are the most qualified to define high value datasets taking into consideration divergent national situations. Each country has a different definition and legislation that apply to Services of General Economic Interest. Any common definition would be challenging and in-adapted to the market, creating potential competition issues. The European Commission could create added-value by providing general framework with categories of data to be considered as highly valuable.



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FEDMA also call for more support for innovation to ensure that the European market can grasp the potential that the open data enables. Making public data more easily accessible is beneficial for all players – those who gather and process the information in the first place, the users and the re-users of this data Member States should nurture innovation, not simply by ensuring that data is available for re-use, but first and foremost, by creating the necessary environment for the creation of innovation and the right support for its growth.