

Re-use of public sector information

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1. Introduction

Public service agencies gather a huge amount of information about people, the business community, objects, the country as a whole, events, etc. Once this intelligence has been processed, documented digitalised and duplicated, it is made available to other public service entities, citizens and companies. The types of informations that may currently be re-used include geographical, meteorological and transport management information and also socio-economic data (companies and consumers).

The European Union announced in 2003 its adoption of a [Directive](#) designed to "provide a framework" for the private sector's re-use of government information in the 27 Member States (nigh-on 500 million inhabitants and a market worth some Euro 27 billion).

Reflecting the need to ensure the transparency and flexibility of the internal market, the Directive seeks to:

- improve knowledge and harness information capacities,
- help to boost the level of economic growth and job creation.

As a service accountable to the Belgian Prime Minister, the Administrative Streamlining Agency has been tasked with transposing the Directive at federal level, while coordinating the transposition activities at other levels of governance.

2. Directive 2003/98/EC of 17 November 2003 on the re-use of public sector information (Official Journal L 345/90, of 31 –12-2003)

seeks to

- create a harmonised framework laying down the conditions for the re-use of public sector documents in accordance with the principles of fairness, proportionality and non-discrimination;
- limit anti-competitive practices on the Community market;
- facilitate and promote the re-use of public documents, while encouraging private businesses to create information products and services in order to ensure the provision of value-adding information on an EU-wide basis;
- develop state-of-the art systems for gaining access to information and knowledge.

[Directive 2003/98/EC of the European Parliament and the Council of 17 November 2003 on the re-use of public sector information](#)

3. Transposition of Directive 2003/98/EC

The process for placing the Directive on the Belgian statute books involves transposing the provisions at federal level and within the framework of the federated entities.

Federal enforcement

[The Law of 7 March 2007 on the transposition of Directive 2003/98/EC of the European Parliament and the Council of 17 November 2003 on the re-use of public sector information](#) (Belgian Official Gazette of 19 March 2007) incorporates the general principles governing the re-use of public sector information

[The Royal Decree of 29 October 2007 setting forth the procedure and the time limits for dealing with requests for the re-use of public sector information and monitoring the requirement to make administrative documents available](#) applies in practice to:

- the procedure and time limits for processing a request,
- the decision-making approaches towards a request for re-use,
- the times within which the standard licence is sent to the applicant,
- the setting up of a Transparency Committee tasked with helping the External Communication service to carry out its assignment. For example, the Committee may keep a register in order to provide potential users with information about the re-use of the administrative documents available and the re-use conditions. The Committee was convened twice in 2008.

Progress of the Transparency Committee's proceedings by late 2008 is reported in a [letter](#) forwarded to the Transparency Committee Members.

Attached to the letter you will find the [draft](#) of the questionnaire – version December 2008-which seeks to collect public sector documents that may be reused.

Federal Appeals Commission

[The Royal Decree of 29 April 2008 on the composition and activities of the Commission on Access to and Re-use of Administrative Documents](#)

[L' Arrêté royal du 21 janvier 2009 portant nomination des membres de la Commission de l'accès aux et de réutilisation des documents administratifs](#)

The Federal **Appeals** Commission, document re-use section, is empowered to vet and take decisions about appeals lodged by private individuals:

- when a public authority turns down their request to be able to re-use information available to the authority,

- or in the event of a failure to comply with one of the clauses in the licence issued for re-use purposes or with any other access condition.

The Commission is "multicultural" insofar its members are appointed as representatives of the public sector, private sector and the scientific community.

Standard licence

Under the terms of Directive 2003/98/EC the Member States are required to encourage public service bodies to use standard licences for the re-use of public documents and information in their dealings with private entities (article 8). This provision involves preparing a specimen licence as a template for establishing the re-use conditions. The conditions have to be fair without restricting the possibilities for re-use or being used to restrict competition.

A standard [licence](#) drafted by the ASA has been presented to a series of departments, chosen in the light of their present or future interest in deploying the document. This consultation process has helped to ensure the specimen licence can be deployed by key federal public service bodies in a variety of situations and according to a broad spectrum of needs. A [fact sheet](#) is available to clarify the provisions in the standard licence.

Charges

Pursuant to article 6 of the Directive, the government is entitled to set charges for the re-use of public service documents but the total income from supplying and allowing the re-use of documents must not exceed the cost of collection, production and dissemination, together with a reasonable return on investment.

As the charge has to be capable of being justified in order to meet the transparency conditions, a cost accounting system has to be considered in cooperation with the relevant institutions.

The **Federal Public Service for the Economy** is responsible for applying the Law of 16 January 2003 setting up a Crossroadsbank of Enterprises (CBE). Pursuant to the Law **solely** the CDE management service is **entitled** to provide companies with **information that can be re-used for commercial purposes**.

The outcome of a lengthy consultation procedure, the [Royal Decree of 18 July 2008](#) specifies

- the company-related information that could possibly be re-used for commercial purposes : public information concerning the basic identification of all the types of companies listed in the database, financial information, VAT status, the annual and consolidated accounts presented to Belgium's National Bank, the activities carried out by the authorised representatives for each type of company,
- the electronic access conditions, the clauses applying to the licence in terms of contracts and pricing.

Another [Ministerial Decree, dated 6 November 2008](#), sets a flat-rate amount.

A users' guide and data catalogue are available on the [CBE site](#).

Regional enforcement

The regions and communities have also been required to transpose this Directive for the public services that fall within their jurisdiction. The preliminary draft and draft decrees or orders formulated towards this end are broadly based on the draft federal law. The ASA provides the underpinning framework for the consultations between the regional, community and federal authorities with a view to improving the level of consistency between the various legal and regulatory texts, while promoting exchanges of any relevant information about the enforcement of the Directive.

Flemish Community

- [Decree of 27 April 2007 on the re-use of public sector information](#)
- [Government of Flanders Decree of 19 July 2007 on the re-use of public sector information in the context of the various departments within the Flemish Ministries and in the context of internally autonomous agencies without legal personality](#)
- [Government of Flanders Decree of 19 July 2007 on the creation of a professional body for the public conduct of the administration and re-use of public sector information](#)

Walloon Region

- [Walloon Decree of 14 December 2006 transposing Directive 2003/98/EC of the European Parliament and the Council of 17 November 2003 on the re-use of public sector information](#)
- [Walloon Decree of 14 December 2006 transposing Directive 2003/98/EC of the European Parliament and the Council of 17 November 2003 on the re-use of public sector information and relating to the public conduct of the administration for matters where the Region exercises the powers of the French-speaking Community.](#)

French-speaking Community

- [French-speaking Community Decree of 25 January 2007 transposing Directive 2003/98/EC of the European Parliament and the Council of 17 November 2003 on the re-use of public sector information](#)

German-speaking Community

- [Decree of 18 December 2006 on the re-use of public sector information](#)

Brussels-Capital Region

- [Order of 6 March 2008 transposing Directive 2003/98/EC of the European Parliament and the Council of 17 November 2003 on the re-use of public sector information.](#)

4. Revision of European Directive 2003/98/EC of 17 November 2003 on the re-use of public sector information.

The directive was scheduled to undergo a revision three years after coming into effect. The European Commission has opened consultations with the Member States and the various "stakeholders". [Public Sector Information - Online consultation - Stakeholders | Europa - Information Society](#)

The ASA has opened consultations with federal and regional public service bodies and representatives of the business community so as to refine its position on interpreting and enforcing the Directive. A [coordinated Belgian reply](#) was forwarded to the Commission at the end of the summer in 2008. Belgium, represented by Dominique De Vos, Assistant Director of the Administrative Streamlining Agency, was asked to make a statement on its position during a seminar organised by the EU and ePSIplus, on 13 June 2008.

Dominique De Vos' presentation is available in [French](#) and [English](#)

We may not share all the conclusions, but a [summary report](#) issued by the European Commission refers to

- the need to clarify the Directive's confusing terms and phrases, failing a revision,
- the need to make public service bodies aware of their responsibilities,
- the need to facilitate the search for information due to be re-used,
- the lack of enough perspective to be able to assess how the Directive affects the actual release of public information.

The compilation of stakeholders' replies, [Results of the online consultation of stakeholders](#), (37 divergent replies) does not truly reflect the general view, particularly as the replies include individual positions.

Nonetheless, note may be taken of the common ground with the Member States' opinions:

- the lack of clarity in the case of the Directive's wording.
- from the better perspective of the applicant for transparent information, the Member States point to the importance of a list of information, portal, register, ...

5. Regulation and documentation

Union Européenne

[Directive 2003/98/EC of the European Parliament and the Council of 17 November 2003 on the re-use of public sector information](#)

[Commission Decision of 7 April 2006 on the re-use of Commission information \(2006/291/EC, Euratom\)](#)

Gouvernement fédéral

[Projet de loi - Document parlementaire](#)

[Projet de loi](#)

[Exposé des motifs](#)

[Avis de la Commission de la protection de la vie privée](#)

[Avis du Conseil d'Etat](#)

[Loi du 7 mars 2007 transposant la directive 2003/98/CE du Parlement européen et du Conseil du 17 novembre 2003 concernant la réutilisation des informations du secteur public](#)

[Arrêté royal du 29 octobre 2007 fixant la procédure et les délais de traitement des demandes de réutilisation d'informations du secteur public ainsi que la surveillance de l'obligation de mise à disposition des documents administratifs](#)

[Arrêté royal du 29 avril 2008 relatif à la composition et au fonctionnement de la Commission d'accès aux et de réutilisation des documents administratifs](#)

[L' Arrêté royal du 21 janvier 2009 portant nomination des membres de la Commission de l'accès aux et de réutilisation des documents administratifs](#)

[Licence standard](#)

[Notice explicative](#)

[Arrêté royal du 18 juillet 2008 relatif à la réutilisation commerciale de données publiques de la Banque-Carrefour des Entreprises](#)

[Arrêté ministériel du 6 novembre 2008 fixant la redevance relative à la réutilisation commerciale des données de la Banque-Carrefour des Entreprises](#)

6. Contact

<p>Dominique De Vos Directrice-générale adjointe</p> <p>Tel : 00.32.(0)2/289.00.68 Gsm : 00.32.474.987.500 e-address : dominique.devos@premier.fed.be</p>
