

New Regulations on Public Sector Information – Are you prepared?

New regulations will be introduced in July 2005 on the re-use of public sector information. The main objective of the Directive is to promote the re-use of information held by public sector organisations. The regulations will, therefore, have an impact on most public sector organisations. It is important that as a public sector body you are aware of the requirements under the regulations and that you have processes in place to meet your obligations.

The regulations will implement a European Directive on Public Sector Information that became European law at the end of 2003. Regulations were published in draft form on 22 December 2004 and are currently under consultation. Details of the consultation are provided at the end of this article.

Why are Regulations necessary?

The size of the European information industry has been estimated at €68 billion (£48 billion). However, by contrast, in the United States the information industry is approximately five times that size. The European Commission and other commentators attribute this to the fact that in the US there is no crown copyright on Federal Government information and it can therefore be re-used with virtually no restrictions. The European Commission judged, therefore that there is enormous scope for growth in this area, particularly in terms of developing pan-European products and services. This was the basis of the European Directive on the Re-use of Public Sector Information (PSI).

What issues need to be addressed?

The new Regulations will establish a framework for making re-use easier and more transparent. The main elements will be:

- **Licence terms:** Public sector bodies will have an obligation to publish licence terms whether in the form of a standard licence or a copyright notice on the material;
- **Details of charges:** where applicable these must be published and must be fair and consistent;
- **Responses to be within set time limits:** this will be 20 working days in line with Freedom of Information (FOI);
- **Asset lists:** an obligation to produce a list of material, both published and unpublished, which is available for re-use;
- **Robust complaints procedures:** Public sector bodies will be required to publish details of their complaints process. In addition, a Disputes Resolution process is being implemented.

Which UK Public Sector Bodies will be covered by the Regulations?

In the UK, the new Regulations will cover most of the public sector. This includes:

- central government, including government trading funds and executive agencies;
- local government;
- the health service;
- Parliament.

There are, however, some notable exemptions. These are: public sector broadcasters such as the BBC; educational establishments such as universities and certain cultural organisations such as museums and libraries.

Links with Freedom of Information

FOI is all about access to information. The PSI Regulations go beyond access by dealing with the re-use of that information, for example, by publishing and making the information available to a wider audience. A key point to note is that any information that is exempt under FOI is not available for re-use.

Challenge for the UK

The policy responsibility for implementing the Directive is shared by Mike O'Brien, Minister of State for Energy and E-Commerce at the Department of Trade and Industry (DTI) and David Miliband, Minister for the Cabinet Office.

In the UK we are in the fortunate position of having introduced practical measures which have made the re-use of information easier. Much of this results from initiatives launched by Her Majesty's Stationery Office (HMSO), part of the Cabinet Office. These initiatives are:

- the Click-Use Licence, which is an online licensing system;
- the Information Asset Register (IAR) which provides detailed information on what material is available for re-use.
- the Information Fair Trader Scheme (IFTS) which sets out a framework of verification of public sector bodies' licensing and information trading activities;

HMSO's information policy role will be extended with responsibility for the public sector and not just central government. HMSO will also have a key role to play in the handling of disputes and complaints. Given this wider remit, HMSO will be renamed the Office of Public Sector Information (OPSI).

What happens next?

The public consultation on the implementation of the PSI Regulations was launched by the DTI and the Cabinet Office on 22 December 2004, closing on 18 March 2005. The consultation details can be found on the DTI and HMSOnline websites:

www.dti.gov.uk/consultations/consultation-1422.html

and

www.hmso.gov.uk/psi/eudpsi-consultations.htm

Responses received will be taken into account in the final version of the Regulations to be produced ahead of the implementation date of 1 July 2005.

A series of seminars and workshops are being arranged in the run-up to publication of the regulations. Details can be obtained on HMSOnline or by contacting Jane Coulter at DCF jane.coulter@dcf.org.uk. Please do respond to the Consultation or contact us if you have any queries: jim.wretham@cabinet-office.x.gsi.gov.uk or adrian.brazier@dti.gsi.gov.uk

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