

PSI: State Control of Public freedom?

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The vision of having all Public Sector Information (PSI) easily available on terms which are acceptable to all re-users has proved an elusive goal in many parts of the world including the EU. It will remain an elusive goal until policy limitations are resolved.

Amongst PSI providers there is a wide discrepancy between best practice and worst practice. On the one hand governments can point to some very large and successful private-sector companies having been built from adding-value to PSI, such as in the legal publishing and business or statistical intelligence arenas (eg large divisions of Reed Elsevier, Bisnode or Thomsons or ICC), on the other hand re-users can point to the paucity of EU of companies dealing in geospatial data. For example, Meteo Consult is the only weather forecasting company of any size in the EU – compare that to the USA and then compare the PSI licensing regimes: the conclusions appear stark.

Inevitably my brief talk is concerned with the problems in the EU - and particularly the UK - and not the successes. I have four policy recommendations and a fifth fall-back position:

PSI is essentially non-confidential public “information”, potentially available for re-use by others outside the public sector.

1. The State should only be concerned with *defining* what *information* it requires for good government and *procuring* it. It should not seek to provide it itself.
2. “*What is PSI*” should be decided by an independent committee having regard to Statutory obligations, whether the information was self-evidently central to the purpose of government and whether the private sector had shown itself unable or unwilling to provide the information, for example because it is uneconomic to do so. The boundaries must be clear between what is PSI and what is not.
3. *The State should continue to own PSI*, particularly those which are Statutory in nature (such as land ownership, company or planning records) but this is not the same thing as developing and maintaining the PSI itself.

4. Whilst fee-based charging for a service and related material (eg a planning application) should continue, *PSI should be available at the marginal cost* of distribution. This has a number of immediate benign effects, probably the most important of which is that it encourages the State to ration PSI to what it really needs for good government and to fulfil its statutory duties – and at minimum cost. The second most important effect is that the terms of PSI licensing will be such that re-use by the private sector and individuals is genuinely encouraged creating innovation and enterprise. In addition, the current internal PSI licensing complexities that bedevil the public sector would largely be eradicated.

5. However, if government policy remains that the State should itself own, maintain and exploit its PSI then government will be obliged either to accept that re-use trading terms will be unfair or it must manage some complex consequences as follows:
 - a. It must completely separate all PSI providers exploiting data into upstream (basic provision/raw data) and downstream (commercial/added value) arms and ensure that the private sector can acquire upstream data on similar terms to the PSI provider's commercial arm;
 - b. It must still decide what PSI it needs for good government and clearly state what the boundaries are;
 - c. It must put in place proper accounting practices so that products can be genuinely costed on an individual basis and without the cross-subsidisation which occurs at present;
 - d. It must separate the advice to government received from PSI providers from their commercial interests. Currently advice to government, for example in the UK and France, is conflicted;
 - e. It must create a substantial Regulatory regime that works. Many of the difficulties that confront re-users of PSI relate to fair competition. Competition Regulators have shown themselves reluctant to take action against their own Governments (except Sweden) and, whilst in the UK we are fortunate to have OPSI, OPSI has limited sanctions to take against offenders and those which it has are unwieldy.

Policy “5” above is therefore an expensive and potentially cumbersome solution. All of these policies would be new to the UK. All have been considered and some recommended by separate independent government-sponsored reports over the past seven years.

Is it really the Public Task of government to be creating State monopolies and then allowing them to make profits at the public’s expense? Currently, the protectionist licensing terms sought by the PSI provider from the public sector itself can substantially impede the government’s own operations.

If the PSI licensing terms are such that they impede use of information in the private sector in order to protect IPR and revenue for the State, then they will limit innovation and enterprise from the private sector too.

The PSI Directive is often cited as the salvation to the EU’s problems. Unfortunately it excludes PSI which does not fall within Public Task. It also fails clearly to define Public Task as well as PSI (it refers to “Documents”). It allows charging for PSI at higher than marginal cost. Although it suggests that prices should be no more than the cost of documents plus a reasonable return, because “documents” are loosely defined, cross-subsidisation of costs between different PSI products appears to be lawful which distorts prices and markets.

Problems will not be fixed without political engagement. Politicians seek simple fixes and short-term gains. The solutions to PSI are not simple, involve short-term pain and the long-term gain cannot be empirically proven. Solutions will take an act of faith and determination to see it through.

The internet has irreversibly changed the scope of demand for PSI and the opportunities for its constructive re-use. How PSI is managed and made available by governments now impacts on a country’s growth prospects.

My company is working with local government on a dataset called the National Land & Property Gazetteer (NLPG). Simplistically, the NLPG is a comprehensive collation of up-to-date addresses provided by local authorities across the whole of England and Wales with added postcodes from Royal Mail and some map co-ordinates (about 50%) from Ordnance Survey. Commentators believe the dataset is a substantial improvement on what has existed before in terms of completeness and currency.

However, all three bodies claim IPR and want to protect their commercial interests in their data (it is additionally debateable as to whether Royal Mail’s data is PSI). The result is “stacked” licensing and pricing with all participants asking for their particular

brand of terms. More damagingly, commercial interests prevent the parties working together effectively.

For a user this is bewildering. A user wants a low cost but accurate and comprehensive address list for use on the Web or for internal systems but has to pay potentially £150,000 pa and sign a complex and restrictive licence in order to obtain one. The Ordnance Survey, Royal Mail and Local Government all seem to be producing different and potentially competing addressing products and using, in part at least, public funds to do so. For a tax-payer this is bewildering too.

The situation is not much better across Europe. EURADIN is an eContent funded project aiming to create a harmonised interface for address datasets from across the EU. The quality of national address datasets varies but probably the greatest constraint is licensing. The problem is particularly extreme in the UK where licensing restrictions prevent the NLPG from participating in the EURADIN prototype.

EURADIN has carried out some fairly elementary market research across the EU into the importance of addresses, seen by most participants as one of the more basic forms of PSI.

The research confirmed that the use of addressing appears universal but the applications also appear to be very wide, including for official processes, point to point navigation, emergency response, market analysis and so forth. Mailing services were mentioned by a minority of respondents, although perhaps because this use was self-evident.

Addresses were generally seen as a key to better information management and service delivery. 94% of all respondents stated that addresses were important or business critical and 92% agreed that they were a vital part of the information infrastructure. About 80% of those who expressed an opinion, believed addresses should be maintained and provided by the public sector or postal services.

Although there was widespread uncertainty about the cost of creating and maintaining address datasets, 80% of respondents believed their business prospects or service efficiency were directly affected by their quality and 72% believed that poor addressing cost their business money, half of these assessing the cost at 1% or more of their turnover. Public Sector organizations pointed to potential legal liabilities, risk to life, and procedural failure which can arise from inadequate address information or inability to access address data on reasonable terms. Approximately half the respondents believed that a better source of addresses would open new business opportunities or improve services.

If the EURADIN research findings were representative of views in the UK (and the small sample suggests that they may be), then better addressing, available on acceptable licensing terms, would benefit about a third of all organisations by 1% of their turnover or more - the net GDP benefit being worth about £5,000,000,000 per annum. However, the potential improvement is being restrained by public sector commercial monopolies (primarily Royal Mail and Ordnance Survey) although they earn less than £25,000,000 per annum from their combined addressing activities.

Is this plausible? To take a specific example, the Office of National Statistics which is preparing for the May 2011 Census; in 2005 it put a budget aside of £10 million to collate an integrated dataset of all address datasets. The cost of this work has now risen to £12 million and there are indications of further rises to come. I believe ONS would say one of the largest elements of cost has been incurred because of restrictive licensing and the information suppliers trying to protect their IPR which has prevented them working together.

To summarize: PSI can be either an enormously important enabler or a damaging barrier to public sector operational efficiency, innovation and economic growth.

There is no effective regulation in this space across the EU. The Courts are not a realistic option. The real solutions tend to offer indeterminate benefits which are outside the time-horizons of most politicians but it is eventually politicians which will fix the problems – not the lawyers, and probably not the Civil Servants, for whom change or real exposure to the commercial market might be uncomfortable.

Unfortunately the economic and technological landscape is changing very fast and momentum and opportunities are being lost to other countries with more benign PSI regimes than those which exist in much of the EU.