

# EC Communication on the PSI re-use Directive: PSI re-use stakeholder reaction

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## Abstract

Four months have elapsed since the European Commission adopted and published the communication on the Directive 2003/98/EC. The European Union Parliamentary elections have taken place, the new European Parliament was formerly constituted during July 2009 and the Chairs of the European Parliament's committees have been announced. The formal process of appointing the new European Commission has commenced. The new Commission is expected to be in place by December 2009.

This paper briefly considers the:

- History of the European Union public sector information re-use Directive 2003/98/EC;
- Review process;
- Role of PSI re-use stakeholders during the 2008 review process and how this compares with earlier European Commission led consultations on public sector information;
- Role of the European Union institutions in responding to the European Commission's communication on the Directive 2003/98/EC;
- Reaction of PSI re-use stakeholders since the Commission published the communication.

## Key words

*Public Sector Information, Directive 2003/98/EC, European Commission, European Parliament, European Union Member States*

## About the Author:

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### Introduction

The European Union (EU) *Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information* (The Directive) provides a legal framework for the conditions governing the re-use of public sector information (PSI) in order to ensure fair, proportionate and non-discriminatory conditions for the re-use of such information. The Directive entered the EU statute book on the 31<sup>st</sup> December 2003<sup>1</sup> and came into force in all EU Member States on the 1<sup>st</sup> July 2005. The Directive includes an Article<sup>2</sup> that requires the European Commission (EC) to carry out a review of the application of the Directive and to communicate the results of the review, together with any proposals for modifications of the Directive, to the European Parliament and the Council. The Communication<sup>3</sup> was published in 22 European languages on the 7<sup>th</sup> May 2009. The publication of the Communication ended phase 1 of the implementation of the Directive.

The Communication reported that a further review of the application of the Directive will be undertaken during 2012 and as such defined the timeframe for Phase 2 of the implementation of the Directive as May 2009 through to July 2012. By 2012 Member States will have had seven years (1<sup>st</sup> July 2005 through to 1<sup>st</sup> July 2012) to implement the Directive effectively.

The publication of the Communication by the European Commission initiated a process that invites a response from the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The response to the Communication from these European Institutions is expected over the 2009/2010-winter period.

The European Union Parliamentary elections took place during the first part of June 2009. The newly elected European Parliament was formerly constituted in Strasbourg on the 14<sup>th</sup> to the 16<sup>th</sup> July 2009 and the first full plenary session of the seventh legislative term took place in Strasbourg 14<sup>th</sup> to 17<sup>th</sup> September 2009. The seventh legislative period spans 5 years from 2009 to 2014 and as such covers the whole of phase 2 of the implementation of the PSI re-use framework.

Within the European Parliament the responsibility<sup>4&5</sup> lies with the Industry, Research and Energy Committee<sup>6</sup> (ITRE) to consider the Communication and to make a proposal to the full Parliament. During the original co-decision process that resulted in Directive 2003/98/EC entering the European Union statute book on the 17<sup>th</sup> November 2003 the ITRE Committee actively worked for a stronger and fairer Directive under the stewardship of the rapporteur at that time Mr Wim van Velzen MEP (Netherlands)<sup>7</sup>.

The mandate of the current European Commission expires in principle at the end October 2009 and as such there maybe changes both at the political level – the Commissioners; but also within the structure of the Commission.

### Background - Timeline

Date	Event
2 January 1999	Commission publishes Green Paper titled: <i>Public sector information in the Information Society: a key resource for Europe</i>
25 May 1999	Commission holds public hearing in Brussels on the Green Paper <sup>8</sup>
1 June 1999	Commission closes the consultation on the Green paper

<sup>1</sup> Official Journal of the European Union, L 345/90, 31.12.2003

<sup>2</sup> Article 13

<sup>3</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009DC0212:EN:NOT>

<sup>4</sup> <http://www.europarl.europa.eu/oeil/file.jsp?id=9767473>

<sup>5</sup> <http://www.europarl.europa.eu/oeil/file.jsp?id=9767483>

<sup>6</sup> <http://www.europarl.europa.eu/activities/committees/homeCom.do?language=EN&body=ITRE>

<sup>7</sup> <http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=2&procnum=COD/2002/0123>

<sup>8</sup> <http://cordis.europa.eu/econtent/publicsector/greenpaper.html>

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Date	Event
20 September 2000	Commission publishes Pira Study Executive Summary titled: <i>Commercial exploitation of Europe's public sector information</i> – ISBN 92-828-9934-9
30 October 2000	Commission publishes Pira study final report titled: <i>Commercial Exploitation of Europe's Public Sector Information</i> <sup>9</sup>
23 October 2001	Commission publishes a Communication titled: <i>Communication from the Commission to the Council, the European Parliament, the Economic and Social committee and the Committee of the Regions. eEurope 2002: creating a EU framework for the exploitation of public sector information</i> COM(2001) 607 <sup>10</sup> together with a supporting Commission Staff document.
21 January 2002	Commission launches an online consultation on the proposed legal instrument. <i>Towards a European Union framework for the exploitation of public sector information</i>
21 February 2002	Commission closes the online consultation on the proposed legal instrument
5 March 2002	Commission publishes the submissions received.
5 June 2002	Commission publishes press release titled: <i>Commission proposes new Directive on exploitation of public sector information</i> <sup>11</sup> & <sup>12</sup>
17 November 2003	Directive adopted. The co-decision process completed and text of PSI re-use Directive agreed.
31 December 2003	Official Journal of the European Union publishes <i>Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information</i>
November 2004	Commission announces award of contract to the HELM Group of Companies to undertake a PSI measurement study – MEPSIR (Measuring European Public Sector Information Resources.)
1 July 2005	Directive 2003/98/EC came into force in all EU Member States
June 2006	Commission publishes the MEPSIR (Measuring European Public Sector Information Resources) report
10 January 2008	Commission announces award of contract to MICUS Management Consulting GmbH to undertake analysis of three PSI re-use markets
15 May 2008	Commission opens public consultation of PSI Stakeholders and a Member State consultation.
17 June 2008	MICUS online survey closed
15 September 2008	Commission closes consultations
29 November 2008	Commission publishes analysis report and the public submissions received where permission has been granted to publish <sup>13</sup>

<sup>9</sup> <http://cordis.europa.eu/econtent/studies/studies.htm>

<sup>10</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0607:FIN:EN:PDF>

<sup>11</sup> <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/02/814&format=HTML&aged=1&language=EN&guiLanguage=en%29>

<sup>12</sup> [http://cordis.europa.eu/econtent/psi/psi\\_policy.htm](http://cordis.europa.eu/econtent/psi/psi_policy.htm)

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Date	Event
16 December 2008	Commission publishes the MICUS report titled: <i>Assessment of the Re-use of Public Sector Information (PSI) in the Geographical Information, Meteorological Information and Legal Information Sectors</i> <sup>14</sup>
18 December 2008	Commission publishes analysis report and the Member State submissions received where permission has been granted to publish <sup>15</sup>
7 May 2009	Commission publishes communication (two documents) titled: <i>Commission staff working document - Accompanying document to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Re-use of Public Sector Information – Review of Directive 2003/98/EC – [SEC(2009) 597]</i> <sup>16</sup>  <i>Commission staff working document - Accompanying document to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the re-use of Public Sector Information - Review of Directive 2003/98/EC – [COM(2009) 212 final]</i> <sup>17</sup>

Information on the processes and the players with respect to European Union law maybe found on the EUR-Lex information portal<sup>18</sup> that is available in 23 official languages of the European Union.

### Time analysis for the 1999 Consultation

The elapsed time for the process was 91 weeks as shown in TABLE 1.

Elapsed Time (Weeks)	Activity
19	Consultation
4	Commission publishes submissions on a rolling basis
68	Commission compiles, adopts the Communication and publishes

### Time analysis for the 2002 Consultation

The elapsed time for the process was 20 weeks as shown in TABLE 2.

Elapsed Time (Weeks)	Activity
5	Consultation
2	Commission publishes submissions
13	Commission compiles, adopts the proposal for a Directive, prepares translation (11 languages) and publishes

<sup>13</sup> [http://ec.europa.eu/information\\_society/policy/psi/background/index\\_en.htm](http://ec.europa.eu/information_society/policy/psi/background/index_en.htm)

<sup>14</sup> [http://www.epsplus.net/reports/assessment\\_of\\_the\\_re\\_use\\_of\\_public\\_sector\\_information\\_psi\\_in\\_the\\_geographical\\_information\\_meteorological\\_information\\_and\\_legal\\_information\\_sectors](http://www.epsplus.net/reports/assessment_of_the_re_use_of_public_sector_information_psi_in_the_geographical_information_meteorological_information_and_legal_information_sectors)

<sup>15</sup> [http://ec.europa.eu/information\\_society/policy/psi/background/index\\_en.htm](http://ec.europa.eu/information_society/policy/psi/background/index_en.htm)

<sup>16</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009DC0212:EN:NOT>

<sup>17</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009SC0597:EN:NOT>

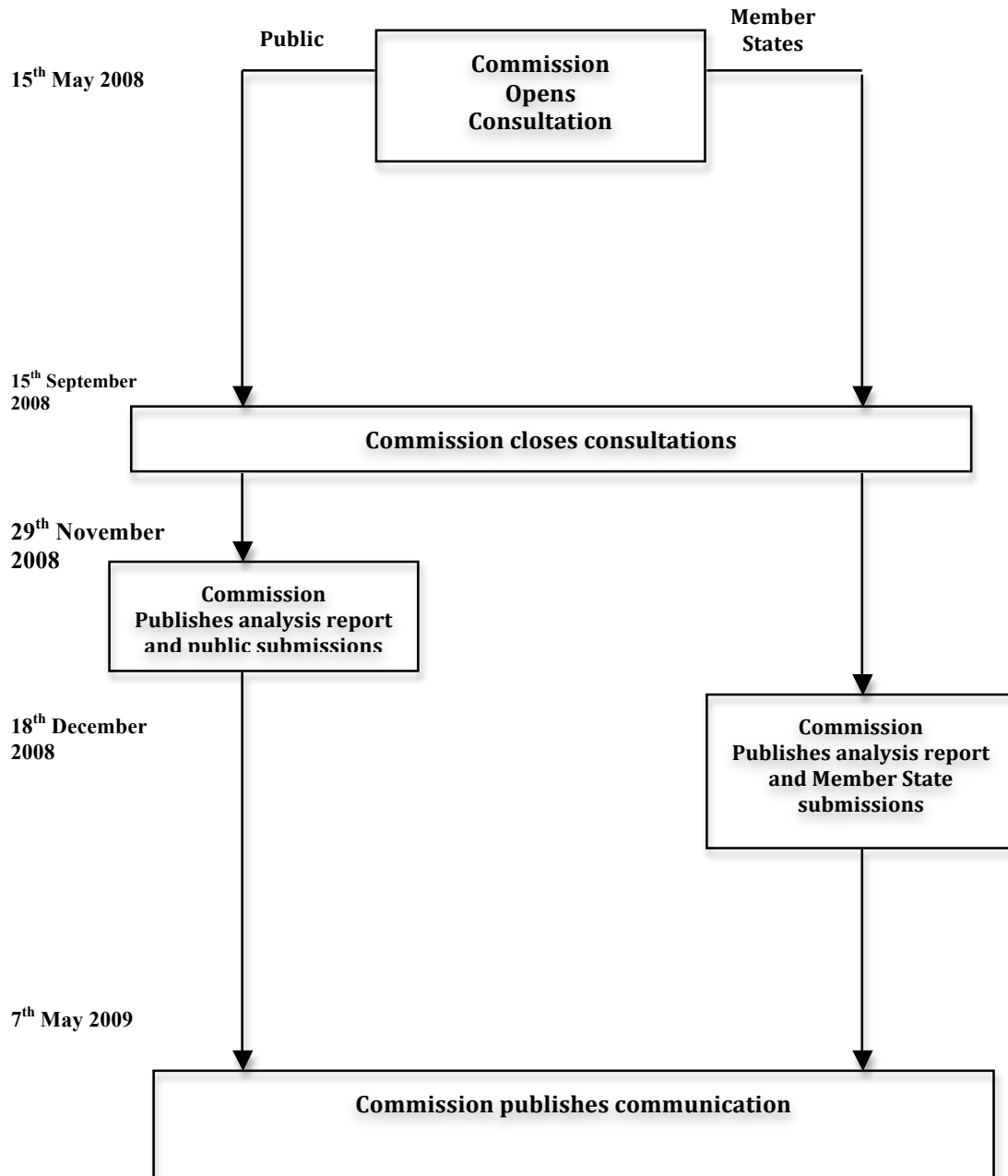
<sup>18</sup> [http://eur-lex.europa.eu/en/droit\\_communaire/droit\\_communaire.htm](http://eur-lex.europa.eu/en/droit_communaire/droit_communaire.htm)

**The 2008 review process**

The formal review process adopted by the European Commission is shown diagrammatically in DIAGRAM 1. The European Commission commissioned two studies that supported the formal review:

- The MEPSIR study (November 2004 to June 2006)
- The MICUS study (January to November 2008)

**DIAGRAM 1**  
**European Commission Consultation Phase**



### Role of European Union Institutions

The communication is addressed (transmitted) to the following bodies for consideration and possible reaction as it is not mandatory to respond as it is non legislative.

- The European Parliament<sup>19</sup>
- The Council<sup>20</sup>
- The European Economic and Social Committee<sup>21</sup>
- The Committee of the Regions<sup>22</sup>

The communication is also sent to the Permanent Representatives of the European Union – the Member State Ambassadors, for forwarding to the responsible bodies within each European Union Member State including Member State Parliaments.

The progress of the Communication through the EU institutions maybe monitored at:

- European Commission Monitoring of the decision-making process between institutions (PreLex)<sup>23</sup>
- European Parliament Legislative Observatory (OEIL)<sup>24</sup>

Within the European Parliament the Industry, Research and Energy (ITRE)<sup>25</sup> standing committee has responsibility for the communication as the Committee is responsible for – amongst others; *the information society and information technology, including the establishment and development of trans-European networks in the telecommunication infrastructure sector*. The Civil Liberties, Justice and Home Affairs standing committee<sup>26</sup> will also provide an opinion to the ITRE committee.

The European Commission Bulletin of the European Union – Bulletin EU 5-2009 provisional version under the hearing Information Society and Media (4/7)<sup>27</sup> reports:

*1.15.4. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - "Re-use of public sector information - Review of Directive 2003/98/EC".*

*Reference: Directive 2003/98/EC of the European Parliament and of the Council: [OJ L 345, 31.12.2003](#); Bull. 10-2003, point [1.3.85](#)*

*Adopted by the Commission on 7 May. Public authorities produce, collect and hold vast amounts of public sector information (PSI). This communication highlights that the re-use of PSI in the digital age in Europe is growing and is a driver of innovation and growth. The Commission asks Member States to take measures to maximise the economic potential of PSI re-use. Legislative changes are not foreseen at this stage. The full impact of the directive has not been achieved yet, since in many Member States the directive was implemented subsequent to long delays. The Commission will carry out a further review in 2012 when more evidence on the impact, effects and application of the directive will be available and will consider legislative amendments at that stage, taking into consideration the progress that has been made in Member States in the meantime. [ COM(2009) [212](#) ]*

By the 18<sup>th</sup> September 2009 the President of the European Parliament, the standing committee chairs, and the President of the European Commission had all been appointed.

<sup>19</sup> [http://www.europarl.europa.eu/news/public/default\\_en.htm](http://www.europarl.europa.eu/news/public/default_en.htm)

<sup>20</sup> <http://www.consilium.europa.eu/showPage.aspx?id=1&lang=en>

<sup>21</sup> [http://www.eesc.europa.eu/organisation/how/index\\_en.asp](http://www.eesc.europa.eu/organisation/how/index_en.asp)

<sup>22</sup> <http://www.cor.europa.eu/pages/HomeTemplate.aspx>

<sup>23</sup> [http://ec.europa.eu/prelex/detail\\_dossier\\_real.cfm?CL=en&DosId=198259](http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=198259)

<sup>24</sup> <http://www.europarl.europa.eu/oeil/file.jsp?id=9767473>

<sup>25</sup>

<http://www.europarl.europa.eu/activities/committees/homeCom.do;jsessionid=27494545F833A1E4686B57B9AFBD80CE.node2?language=EN&body=ITRE>

<sup>26</sup>

<http://www.europarl.europa.eu/activities/committees/homeCom.do;jsessionid=F3A1DDA89537525875E5EFF0A3DED6D0.nod e2?language=EN&body=LIBE>

<sup>27</sup> <http://europa.eu/bulletin/en/200905/p115004.htm>

### Review of Consultation Submissions

Over the past ten years the European Commission has undertaken three public consultations regarding the re-use of public sector information - in 1999, 2002 and 2008. On each occasion the Commission published the submissions received where the submitter agreed to publication. TABLE 3 and FIGURE 1 show the total number of submissions received for each consultation. The number of submissions over the three consultations has fallen. An analysis of the submissions received would indicate that the number of submissions has fallen over time due in part to:

- The 1999 green paper included a number of sectors that were eventually excluded in the Directive 2003/98/EC. For example Cultural, Broadcasting, Research and Archives.
- The arrival of the INSPIRE Directive 2007/2/EC<sup>28</sup>.

Over the ten-year period the number of European Union Member States has grown from 15 in 1999 to 27 in 2008. FIGURE 2 shows the number of Member States that participated in 1999 and 2008.

FIGURES 3 and 4 provide an analysis of the submissions, which show that approximately a third of the 2008 organisations or people had participated in more than one consultation.

**TABLE 3**  
**Number of Submissions per consultation**

Year	Number of Submissions	Number of submissions not published	Information Source
1999 – Green Paper	185		ANNEX I Working document from the services of the Commission. Summary of comments on the green paper on Public Sector Information in the Information Society [COM(1998)585]  Comments on the Green Paper on Public Sector Information in the Information Society <sup>29</sup>
2002 – draft Directive	79		Comments received by 5 March 2002. It should be noted that a number of replies are not published on the request of the author. <sup>30</sup>
2008 Directive review - Member States	12	2	Results of the Member State Consultation on the review of the application of Directive 2003/98/EEC on the re-use of public sector information
2008 Directive review: Stakeholders – Online	37	1	Results of the online consultation of stakeholders "Review of the PSI Directive" <sup>31</sup>
2008 Directive review total	49	3	Total response for 2008 = 52 Source Communication staff support document pages 14 and 15

<sup>28</sup> Official Journal of the European Union L 108/1 25.4.2007

<sup>29</sup> [http://cordis.europa.eu/econtent/publicsector/gp\\_comments.html](http://cordis.europa.eu/econtent/publicsector/gp_comments.html)

<sup>30</sup> [http://cordis.europa.eu/econtent/psi/psi\\_reuse\\_consultation\\_replies.htm](http://cordis.europa.eu/econtent/psi/psi_reuse_consultation_replies.htm)

<sup>31</sup> [http://ec.europa.eu/information\\_society/policy/psi/background/index\\_en.htm](http://ec.europa.eu/information_society/policy/psi/background/index_en.htm)

FIGURE 1

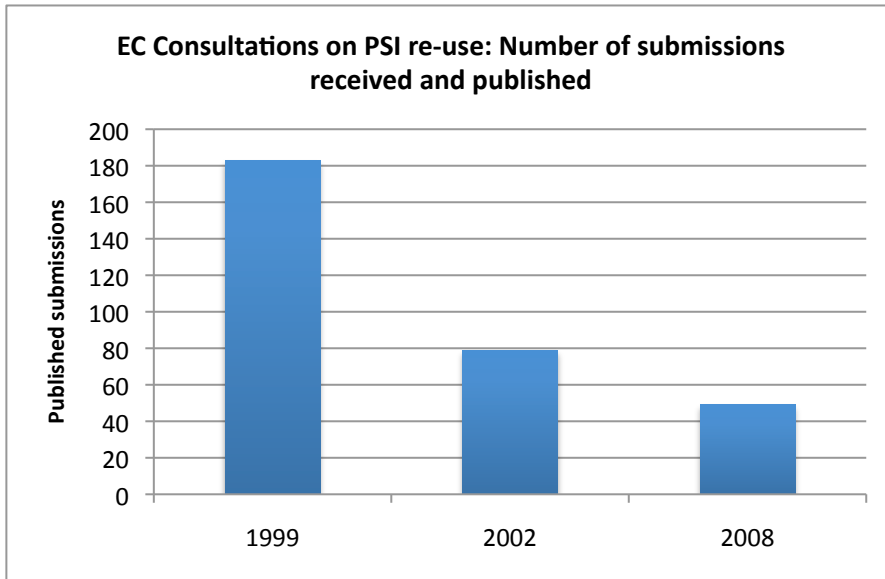


FIGURE 2

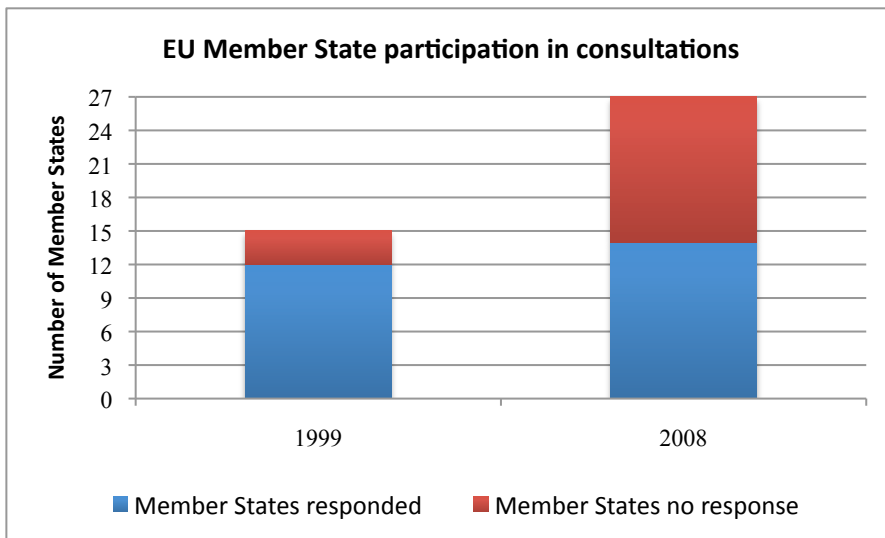


FIGURE 3

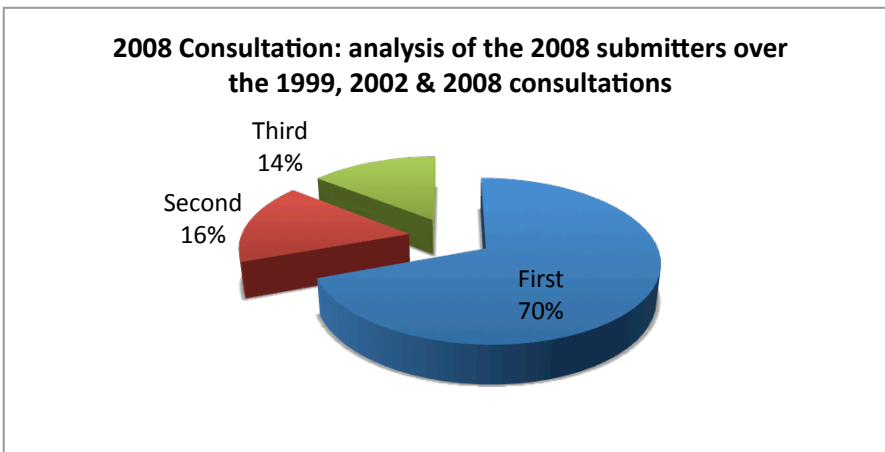
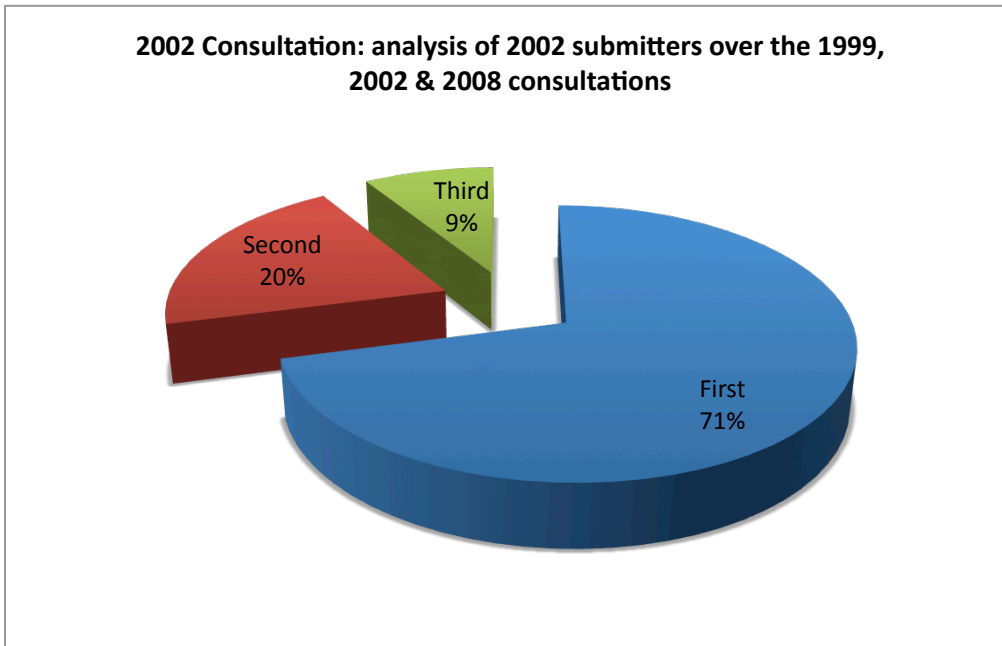


FIGURE 4



**Community reaction to the Communication**

An analysis four months after the publication of the Communication of the 47 stakeholders and Member States that participated in the consultation shows that so far:

- Only 7 have publicly acknowledged and reflected the communication.
- Only 1 has publicly responded to the Communication – that is compared the Communication with their submission. (The PSI Alliance)
- Only 1 has formulated and agreed an action plan to meet the Commissions 2012 review. (The PSI Alliance – published but for Members only)
- Only 2 Member State Parliaments have considered and responded to the Communication. (Member State Parliament European Union scrutiny processes)

An analysis of other organisations and individuals that can be considered to be PSI stakeholders shows that so far:

- Only 7 have publicly reflected the communication.
- Only 1 has publicly responded to the Communication – that is compared the Communication with their submission. (PRIMET)
- Only 1 has formulated and agreed an action plan to meet the Commissions 2012 review. (PRIMET – published but for Members only)

The European Commission report titled: *Results of the online consultation of stakeholders - "Review of the PSI Directive"* contains in Section 2 a categorisation of the 37 stakeholders that participated in the consultation as shown in TABLE 4.

**TABLE 4**

Number	Category
16	Commercial Associations
5	Non-profit associations
5	PSI re-users
4	PSI content holders
5	Private individuals
2	Other

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Based on the Commissions categorisation 57% of the participants were Associations - that is representative bodies. This rises to 62% if the “Other” category is included which may have included networks and advisory bodies.

One of the key activities of representative bodies such as an Association is that of communications with:

- Their members – the inward flow of information;
- The outside world – the outward flow to those that they wish to influence and or attract to join the body.

In the Information Society of today the communication medium is normally the Associations web site and as such is potentially electronically visible. With this medium in mind if an Association participated in the consultation then one would expect the Association to initially react to the Commissions communication by informing their members, not on the closed side of the Associations web site but on the open side as the latter signals to the world and in particular the Commission in this example that the Association is aware and has informed. If the representative body wishes to influence then the openness of this first reaction sends an important signal to those that they wish to influence that they are interested and likely to take action. As part of informing and assessing what should action be taken if any, the second reaction is to compare the submission with the Communication and to publish this comparison again on the open side of the web side. The final step in this particular example where the Communication declares a review in 2012 is for the representative body to develop an action plan to intercept with the 2012 event. If the representative body is a Commercial Association then the publication of this plan will most likely be on the closed side of the web site. If the representative body is not commercial but wishes to demonstrate their intentions to those that they influence or advice then the plan will most likely be on the open side of the web site. Good examples of this process are for:

- The commercial Associations – The PSI Alliance, LOCUS, and PRIMET;
- Not commercial and or advisory bodies – the UK APPSI.

One would not normally expect the other categories to react in public to the Commissions Communication.

Based on the above organisation behavioural description then the reaction to the communication by the Associations that participated in the consultation is approximately 34% (7 out of 21). Even if one was to make an adjustment in case some Associations have chosen to communicate with their members on the member’s only side of the web site the estimate is likely to be less than 40%.

The reaction by others including Associations that did not participate in the consultation has been greater than those that did participate. The Associations that fall into this category include: AGORIA-ICT, Geoforum Denmark, LISA (Iceland), and PRIMET.

A further measure is the number of hits for a phrase on search engines. The following sample of statistics gathered from Google using specific parts of the Communication title in the 22 languages also indicates that there has been little dissemination of the Communication.

Search Criteria	Hits
"COM 2009 212 Final"	119
"COM 2009 212 Final" .eu	6
"SEC(2009) 597"	37
“Преразглеждане на Директива 2003/98/ЕО”	7
“Revisión de la Directiva 2003/98/CE” 2009 .es	9
“Přezkum směrnice 2003/98/ES”	7
“Revision af direktiv 2003/98/EF”	12
“Überprüfung der Richtlinie 2003/98/EG”	9
“Direktiivi 2003/98/EÜ läbivaatamine”	6
“Επανεξέταση της οδηγίας 2003/98/ΕΚ”	9
"Review of Directive 2003/98/EC"	44

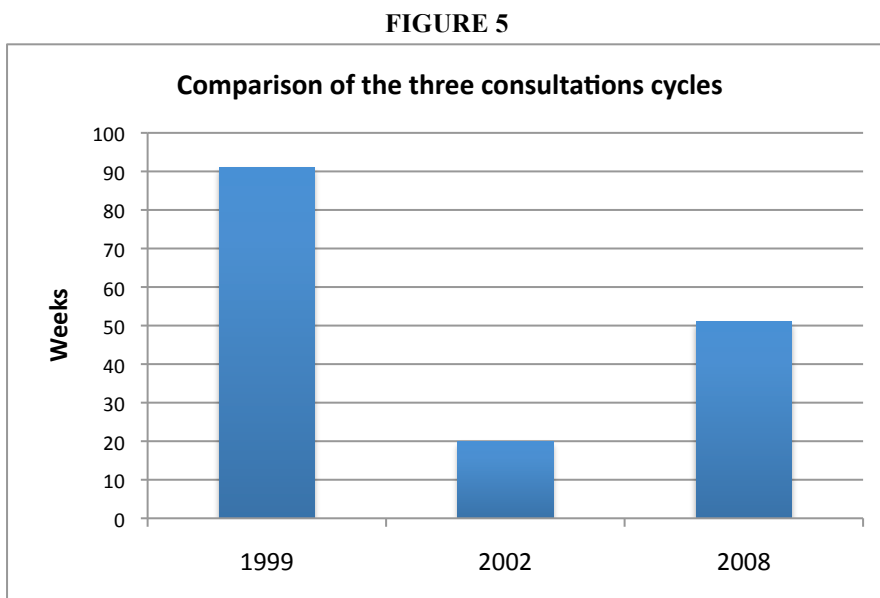
Search Criteria	Hits
“Réexamen de la directive 2003/98/CE”	10
“Riesame della direttiva 2003/98/CE”	17
“pārskats par Direktīvu 2003/98/EK”	13
“Direktyvos 2003/98/EB peržiūra”	8
“a 2003/98/EK irányelv felülvizsgálata”	9
“Revizjoni tad-Direttiva 2003/98/KE”	5
“Evaluatie van Richtlijn 2003/98/EG”	18
“Przeгляд dyrektywy 2003/98/WE”	7
“Avaliação da Directiva 2003/98/CE”	6
“Reexaminarea Directivei 2003/98/CE”	7
“Preskúmanie smernice 2003/98/ES”	6
“Pregled Direktive 2003/98/ES”	6
“direktiivin 2003/98/EY uudelleentarkastelu”	5
“Översyn av direktiv 2003/98/EG”	7

**Summary**

The European Commission has completed the review of the Directive and published the Communication. The elapsed time for the process was 51 weeks as shown in TABLE 5. FIGURE 5 shows the comparison with the earlier consultation cycles.

**TABLE 5**

Elapsed Time (Weeks)	Activity
17	Consultation
10	Commission reviews submissions and publishes
24	Commission compiles, adopts the Communication, prepares translations (22 languages) and publishes.



The consultation elapsed times are of interest as they are the first part of the three stage process should a legislative change be proposed and enacted.

- Stage 1: The consultation period (estimate 1 year)
- Stage 2: The legislative period – in the European Union – a co-decision process. (Estimate 1.5 to 2 years)
- Stage 3: Member State implementation period (estimate 1.5 to 2 years)

The estimate based on historical records indicates that the minimum period for bringing forward a legislative change and implementing that legislation is in the region of 4 to 5 years.

The European Commission has set out in the Communication a series of recommendations and actions that cover the time frame from May 2009 through to July 2012. The Communication makes it clear as to the actions the Commission will or may take over the three-year period as well as the actions Member States are expected to take with the PSI stakeholders and the European Commission supporting. The evidence currently in the public domain demonstrates that the Commission has already commenced work on the actions the Commission would take for example – exclusive arrangements. The Commission led PSI Group met in June 2009 and has agreed to form sub groups to consider for example Member State PSI information platforms and economic indicators amongst other topics.

The communication coincided with the end of a European Union legislative cycle, which impacts the reaction of the European Union institutions; that is a delay of up to six months.

- The European elections have taken place and the new Parliament has been established and is now active covering the seventh legislative period.
- The mandate of the current Commission expires in principle at the end October 2009. The President of the Commission has been appointed for the seventh legislative period. The President of the Commission has commenced the process of nominating the Commissioners.

As a result of the above the response to the Communication by the European Institutions – if there is one; is expected over the winter of 2009/2010.

The information available in the public domain shows that only 14 Member States participated in the 2008 consultation. Of the Member State submissions made public seven were from the older EU15 Member States and 5 from the younger EU12 Member States. Two Member State responses were not made public but if it is assumed one is from the EU15 group and one from the EU12 group of Member States then the percentage of EU15 Member States that participated is 53% and of the EU12 Member States 50%. The participation of the EU15 group has fallen away since the 2002 consultation.

The level of reaction by European PSI stakeholders and Member States to the Communication has been low so far.

The publicity about the Communication has also been low.

At the time the Communication was published:

- The Commission had three infringement actions in process against Italy, Poland and Sweden;
- The Commission had put in place the European Public Sector Information Platform that enabled the seamless continuity of the information portal previously provided by the *ePSIplus* Thematic Network that was funded under the *eContentplus* programme.
- The INSPIRE Directive was about to come into force in all Member States – 15<sup>th</sup> May 2009. By June 2009 less than 5 Member States had completed the transposition.
- Europe was in an economic down turn as a result of the global financial crisis and one outcome of this situation is that Member State Governments were planning to take austerity measures that are likely to impact the public sector.

### Conclusions

As a result of the Communication the European Commission will continue to monitor the implementation of the PSI Re-use Directive for a further 3 years. The Commission will also be taking actions to support Member States with some aspects of implementing the Directive 2003/98/EC and as a result improve the harmonisation of the implementation across Europe. These actions through the sharing of good practice will help stimulate those Member States that have to date adopted a minimalist approach to implementing the Directive. The Commission will also take actions that will help stimulate the PSI re-use market.

The Commission has made it clear that it will take further infringement actions against Member States if they do not take the appropriate actions to implement and enforce the PSI re-use framework as set out in the Directive correctly.

The level of engagement by Member States in the 2008 consultation was low. Of those Member States that participated in the 2008 consultation many reported that the awareness within the public sector of the PSI re-use framework and the benefits it brought were low. It is clear from the level of Member State participation in the 2008 consultation that there is also a lack of awareness at Member State level as to the potential economic benefits to be gained from implementing and applying the PSI re-use framework fully and correctly.

The action plan outlined in the Commissions Communication indicates that the Commission has adopted a *carrot and stick* approach to improve the situation at the Member State level. For example the Commission has announced that the Commission will undertake a survey of exclusive arrangements within those Member States that have not taken action on this aspect of the PSI re-use framework – *the carrot*. If the surveys identify that exclusive arrangements do exist within a Member State then the Member State will be expected to take prompt action to resolve and eliminate the exclusive arrangement(s) identified. Failure to do so could lead to an infringement action being opened by the Commission - *the stick!*

The Communication indicates the possibility of legislative change post the 2012 review of the Directive – *a carrot* to those PSI stakeholders that asked the Commission to tighten the current Directive during the 2008 consultation. It is now down to the PSI stakeholders on both the supply and demand sides of the PSI re-use value chain to take action to support the Member States improve the implementation of the PSI re-use framework within each Member State. The objective being to demonstrate that effort has been applied to improving the current position. Such action will help re-confirm the weaknesses of the framework that have been identified during the 2008 consultation. The demand side also has a particular role with respect to reporting on the degree of harmonisation across Europe – that is beyond the Member State's jurisdiction. Where the role is a mixture of support to the Commission and closing off any of the perceived information gaps where feasible and practical to do so that might provide a reason for the Commission not to take action in 2012. The timeframe leading up to the next European Commission review of the Directive is short and as such all PSI stakeholders must engage now, which might be difficult when Europe is passing through an economic down turn. If the reaction to the Commissions communication so far is used as a measure of interest and engagement then it is clear that PSI Stakeholders have yet to engage and as such could be considered to not have recognised their respective roles and as such the Commission may not take any action to strengthen the Directive in 2012 – *the stick!*

It is also clear from the progress made to date with the 3 current infringement processes that are underway that these actions are unlikely to improve implementation within the Member States concerned until the end of 2012 at the earliest! Should the Commission initiate further infringement actions against Member States then the improvements may not come through until after 2012. One consequence of this maybe that the Commission review in 2012 may conclude that a further three years of monitoring and persuasion is needed before considering legislative changes which have a long time-frame and are expensive to bring through to fruition especially if the European economy has not recovered following the global financial crisis.

Complementary actions at the European Union level that may support the implementation of the PSI re-use framework such as the implementation of the INSPIRE Directive for example remain an unknown quantity at the current time as to whether such complementary measures will assist to improve the PSI re-use framework by 2012.

The Commission funded European Public Sector Information Platform continues to support the processes of informing and building up the PSI re-use knowledge bank. The four pan European Conferences that the Platform will hold will provide an opportunity for PSI Stakeholders to meet and share good practices as well as monitor the progress made from the actions initiated by the Commission and Member States.

PSI Stakeholders including Associations and other representative bodies will have to be far more proactive than they have been to date to assist the Member States and the European Commission deliver the change required.

## Related European Public Sector Information Platform references

### European Commission

Commission publishes Communication

[http://www.epsiplatform.eu/news/commission\\_publishes\\_communication](http://www.epsiplatform.eu/news/commission_publishes_communication)

PSI Communication: March 2009?

[http://www.epsiplatform.eu/news/psi\\_communication\\_march\\_2009](http://www.epsiplatform.eu/news/psi_communication_march_2009)

Commission publishes research report on PSI

[http://www.epsiplatform.eu/news/commission\\_publishes\\_research\\_report\\_on\\_psi](http://www.epsiplatform.eu/news/commission_publishes_research_report_on_psi)

European PSI Survey underway

[http://www.epsiplatform.eu/news/european\\_psi\\_survey\\_underway](http://www.epsiplatform.eu/news/european_psi_survey_underway)

PSI assessment underway

[http://www.epsiplatform.eu/news/psi\\_assessment\\_underway](http://www.epsiplatform.eu/news/psi_assessment_underway)

### European Parliament

EP ITRE Committee: Elects Chair!

[http://www.epsiplatform.eu/news/ep\\_itre\\_committee\\_elects\\_chair](http://www.epsiplatform.eu/news/ep_itre_committee_elects_chair)

### Member States

Netherlands position on PSI Communication

[http://www.epsiplatform.eu/news/netherlands\\_position\\_on\\_psi\\_communication](http://www.epsiplatform.eu/news/netherlands_position_on_psi_communication)

UK Parliament clears Communication

[http://www.epsiplatform.eu/news/uk\\_parliament\\_clears\\_communication](http://www.epsiplatform.eu/news/uk_parliament_clears_communication)

### Associations

PSI Alliance responds

[http://www.epsiplatform.eu/news/psi\\_alliance\\_responds](http://www.epsiplatform.eu/news/psi_alliance_responds)

PSI Communication disseminated! (Geoforum Denmark)

[http://www.epsiplatform.eu/news/psi\\_communication\\_disseminated](http://www.epsiplatform.eu/news/psi_communication_disseminated)

IWG-Netzwerk promotes PSI Communication

[http://www.epsiplatform.eu/news/iwg\\_netzwerk\\_promotes\\_psi\\_communication](http://www.epsiplatform.eu/news/iwg_netzwerk_promotes_psi_communication)

FEP reports!

[http://www.epsiplatform.eu/news/fep\\_reports](http://www.epsiplatform.eu/news/fep_reports)

### PSI Stakeholders

PSI Communication + 6 weeks!

[http://www.epsiplatform.eu/news/psi\\_communication\\_6\\_weeks](http://www.epsiplatform.eu/news/psi_communication_6_weeks)

Marginal Cost charges welcomed!

[http://www.epsiplatform.eu/news/marginal\\_cost\\_charges\\_welcomed](http://www.epsiplatform.eu/news/marginal_cost_charges_welcomed)