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Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development

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English - Or. English

COUNCIL

Council

**DRAFT RECOMMENDATION OF THE COUNCIL FOR ENHANCED ACCESS AND MORE
EFFECTIVE USE OF PUBLIC SECTOR INFORMATION**

(Note by the Secretary-General)

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Introduction

1. Public organisations produce and hold a large amount of information to fulfil their core public tasks. An increasing amount of public sector information is digitised or produced in digital form and is increasingly accessible and available as information products and services for potential users to find, access, re-use, and further develop for both individual and commercial purposes.

2. The growing interest of governments in facilitating access to and promoting further use of public sector information by other public sector organisations, businesses and individuals is based on the expectation that enhanced flows and re-use of information, greater competition, and the increased economic and social activity associated with both commercial and non-commercial use contribute to improving government efficiency, economic growth, and citizen welfare.

3. The public sector develops and holds information over which it controls access and re-use, and it also holds information where the copyright and other intellectual property rights rest with third parties (e.g. films in film archives and information provided by the public). Greater access and use of public sector held information can bring significant economic and social benefits when such information is reused, for example in the production of innovative value-added services and to increase knowledge, education and understanding of cultural heritage.

4. Examples of the large potential of public sector digital information and content produced or held by the public sector when put to wider use could include the variety of new private sector services based on meteorological and cartographic data, on-demand online access to video archives of national public broadcasters, and new more specialised applications that show virtual guided tours through a national art gallery or the detailed geology and physiology of a rare fossil in a natural history museum.

5. While access, further development and commercial and non-commercial re-use of public sector information and content is generally becoming more open, a number of obstacles impede its efficient and effective use. Difficulties faced by potential users include restrictive or unclear rules governing access and conditions of re-use; discouraging, unclear and inconsistent pricing of information when re-use of information is chargeable; complex and lengthy licensing procedures; inefficient distribution to final users; and barriers to development of international markets. The role of public sector organisations as collectors, producers and disseminators of public sector information is not always clear, particularly in competitive market areas.

6. OECD Member countries have established a variety of laws, policies and practices concerning access to and re-use of public sector information at both the national and international level. The Working Party on the Information Economy (WPIE) considered that an OECD-wide Recommendation would contribute to the global exchange and use of such information, and provide a broader more compatible framework for development and implementation of national and regional approaches and guidelines to facilitate access and re-use. With this in view, the WPIE developed a number of principles embodied in a draft Council Recommendation. At its March 2008 meeting the Committee for Information, Computer and Communications Policy reviewed and endorsed the draft Council Recommendation set out in the Annex and recommended its adoption by the Council in time for the OECD Ministerial meeting on *The Future of the Internet Economy* in June 2008.

Proposed Action

7. In the light of the preceding, the Secretary-General invites the Council to adopt the following draft conclusions:

THE COUNCIL

- a) noted document C(2008)36;
- b) adopted the draft Recommendation of the Council for Enhanced Access and More Effective Use of Public Sector Information as set out in the Annex of document C(2008)36, and agreed to its declassification.

ANNEX

DRAFT RECOMMENDATION OF THE COUNCIL FOR ENHANCED ACCESS AND MORE EFFECTIVE USE OF PUBLIC SECTOR INFORMATION

THE COUNCIL

Having regard to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Recommendation of the Council concerning Access to Research Data from Public Funding [C(2006)184] and the Recommendation of the Council on Broadband Development [C(2003)259];

Having regard to the aim to increase returns on public investments in public sector information¹ and increase economic and social benefits from better access and wider use and re-use,² in particular through more efficient distribution, enhanced innovation and development of new uses;

Having regard to the aim to promote more efficient distribution of information and content as well as the development of new information products and services particularly through market-based competition among re-users of information;

Considering the usefulness of collectively agreed principles for enhanced access and more effective use and re-use of public sector information for both the public and the private sector;

Recognising that efforts to improve the access and use of public sector information need to take into account legal requirements and restrictions, including intellectual property rights and trade secrets, effective and secure management of personal information, confidentiality and national security concerns, and fundamental principles including democracy, human rights and freedom of information and that, consequently, certain principles contained in this Recommendation regarding in particular openness and re-use, can be applied to a different extent to different categories of public sector information;

On the proposal of the Committee for Information, Computer and Communications Policy;

RECOMMENDS that, in establishing or reviewing their policies regarding access and use of public sector information, Member countries take due account of and implement the following principles, which provide a general framework for the wider and more effective use of public sector information and content and the generation of new uses from it:

¹ “Public sector information” is broadly defined for purposes of this Recommendation as “information, including information products and services, generated, created, collected, processed, preserved, maintained, disseminated, or funded by or for the Government or public institution”, taking into account the legal requirements and restrictions referred to in the last paragraph of the preamble of this Recommendation.

² This includes use by the original public sector generator or holder or other public sector bodies and further re-use by business or individuals for commercial or non-commercial purposes. In general, the term “use” implies this broad spectrum of use and re-use.

- **Openness.** Maximising the availability of public sector information for use and re-use based upon presumption of openness as the default rule to facilitate access and re-use. Developing a regime of access principles or assuming openness in public sector information as a default rule wherever possible no matter what the model of funding is for the development and maintenance of the information. Defining grounds of refusal or limitations, such as for protection of national security interests, personal privacy, preservation of private interests for example where protected by copyright, or the application of national access legislation and rules.
- **Access and transparent conditions for re-use.** Encouraging broad non-discriminatory competitive access and conditions for re-use of public sector information, eliminating exclusive arrangements, and removing unnecessary restrictions on the ways in which it can be accessed, used, re-used, combined or shared, so that in principle all accessible information would be open to re-use by all. Improving access to information over the Internet and in electronic form. Making available and developing automated on-line licensing systems covering re-use in those cases where licensing is applied, taking into account the copyright principle below.
- **Asset lists.** Strengthening awareness of what public sector information is available for access and re-use. This could take the form of information asset lists and inventories, preferably published on-line, as well as clear presentation of conditions to access and re-use at access points to the information.
- **Quality.** Ensuring methodical data collection and curation practices to enhance quality and reliability including through cooperation of various government bodies involved in the creation, collection, processing, storing and distribution of public sector information.
- **Integrity.** Maximising the integrity and availability of information through the use of best practices in information management. Developing and implementing appropriate safeguards to protect information from unauthorised modification or from intentional or unintentional denial of authorised access to information.
- **New technologies and long-term preservation.** Improving interoperable archiving, search and retrieval technologies and related research including research on improving access and availability of public sector information in multiple languages, and ensuring development of the necessary related skills. Addressing technological obsolescence and challenges of long term preservation and access. Finding new ways for the digitisation of existing public sector information and content, the development of born-digital public sector information products and data, and the implementation of cultural digitisation projects (public broadcasters, digital libraries, museums, etc.) where market mechanisms do not foster effective digitisation.
- **Copyright.** Intellectual property rights should be respected. There is a wide range of ways to deal with copyrights on public sector information, ranging from governments or private entities holding copyrights, to public sector information being copyright-free. Exercising copyright in ways that facilitate re-use (including waiving copyright and creating mechanisms that facilitate waiving of copyright where copyright owners are willing and able to do so, and developing mechanisms to deal with orphan works), and where copyright holders are in agreement, developing simple mechanisms to encourage wider access and use (including simple and effective licensing arrangements), and encouraging institutions and government agencies that fund works from outside sources to find ways to make these works widely accessible to the public.

- **Pricing.** When public sector information is not provided free of charge, pricing public sector information transparently and consistently within and, as far as possible, across different public sector organisations so that it facilitates access and re-use and ensures competition. Where possible, costs charged to any user should not exceed marginal costs of maintenance and distribution, and in special cases extra costs for example of digitisation. Basing any higher pricing on clearly expressed policy grounds.
- **Competition.** Ensuring that pricing strategies take into account considerations of unfair competition in situations where both public and business users provide value added services. Pursuing competitive neutrality, equality and timeliness of access where there is potential for cross-subsidisation from other government monopoly activities or reduced charges on government activities. Requiring public bodies to treat their own downstream/value-added activities on the same basis as their competitors for comparable purposes, including pricing. Particular attention should be paid to single sources of information resources. Promoting non-exclusive arrangements for disseminating information so that public sector information is open to all possible users and re-users on non-exclusive terms.
- **Redress mechanisms:** Providing appropriate transparent complaints and appeals processes.
- **Public private partnerships.** Facilitating public-private partnerships where appropriate and feasible in making public sector information available, for example by finding creative ways to finance the costs of digitisation, while increasing access and re-use rights of third parties.
- **International access and use.** Seeking greater consistency in access regimes and administration to facilitate cross-border use and implementing other measures to improve cross-border interoperability, including in situations where there have been restrictions on non-public users. Supporting international co-operation and co-ordination for commercial re-use and non-commercial use. Avoiding fragmentation and promote greater interoperability and facilitate sharing and comparisons of national and international datasets. Striving for interoperability and compatible and widely used common formats.
- **Best practices.** Encouraging the wide sharing of best practices and exchange of information on enhanced implementation, educating users and re-users, building institutional capacity and practical measures for promoting re-use, cost and pricing models, copyright handling, monitoring performance and compliance, and their wider impacts on innovation, entrepreneurship, economic growth and social effects.

INVITES:

Member countries to disseminate this Recommendation throughout the public and private sectors, including governments, businesses and other international organisations to encourage all relevant participants to take the necessary steps to enhance access and promote more effective use of public sector information;

Non-Member economies to take account of this Recommendation and collaborate with Member countries in its implementation.

INSTRUCTS the OECD Committee for Information, Computer and Communications Policy to promote the implementation of this Recommendation and review it every three years to foster enhanced access and more effective use of public sector information.