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THE EUROPEAN UNION**

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**NOTE**

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from: PRESIDENCY  
to : Delegations  
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Subject: Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/98/EC on re-use of public sector information  
*- Preparations for the informal triologue with the European Parliament*

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1. On 22 March, the Presidency will request a final mandate from the Coreper in order to conclude the negotiations with the European Parliament on the above mentioned file in a third triologue, which will take place on 25 March, on the basis of the positions set out in Annex to this document.
2. To recall, two dialogues have taken place so far: one on 17 December 2012, for which the Presidency was granted an initial mandate on the basis of doc. 17310/12, and a second one on 18 February 2013 on the basis of an updated mandate set out in doc. 6236/13. Also, preparatory work was carried out in a number of technical meetings. In the view of the Presidency, the European Parliament and the Council are close to reaching a first-reading agreement on the draft Regulation although several issues still remain open.

3. Delegations will find in the Annex a 4-column document, which sets out, in its 4th column, possible compromise solutions suggested by the Presidency in view of the third trialogue. Apart from the main issues outlined below, substantial work has been done during the technical meetings on other parts of the text and in particular on recitals, mainly to ensure coherence and logical order in the proposal.
4. For easier reference, changes in the compromise proposals set out in the 4th column, as compared to the preliminary Council position in the 3rd column, are indicated in **bold** and/or ~~**bold**~~.
5. The Presidency believes that the main issues to be addressed at the third trialogue will be Article 4 on the impartial review body and Article 6 on charging. Delegations will recall that, at the second informal trialogue, a strong link was made between these two articles. The Parliament and Commission were of the view that the impartial body should not be a judicial body in the first instance but an administrative body in order to make the redress procedure less costly and burdensome. With regard to charging, the Rapporteur mentioned that the marginal cost should be the rule and the exceptions limited and well defined.
6. During the technical meetings, the EP has stated that some flexibility could be expected on the impartial body issue in return for clarifying the provision in Article 6 on marginal cost and on the exceptions. In order to approximate the EP and Council's positions, the Presidency therefore suggests the following:
  - Art. 6(1) - marginal cost - the Presidency proposes to go back to the original text while including the word 'provision'. The Presidency believes that this would provide for more clarity on what constitutes marginal cost while the word 'provision' would maintain the necessary flexibility for public bodies to include all relevant costs.

- Art. 6(2) - exceptions - the EP asked the Council to delete or redraft the 2nd indent of Art. 6(2)(a) in order to keep the exceptions well defined. The Presidency suggests to delete the 2nd indent and to include a new point (b).
- Art. 6(4) - the EP has indicated that if there is an agreement on Art. 6(1) and 6(2), it could accept the text of this paragraph as it stands.
- Art. 6(4a) - the EP has indicated that if there is an agreement on Art. 6(1) and 6(2), it could accept the text of this paragraph if the reference to objective, transparent and verifiable criteria is included therein as in 6(4). The Presidency asks for certain flexibility from delegations in this respect.
- The impartial review body - in return for the above changes, the Presidency will seek to keep the judicial body as one of the options for the impartial review body and the functions of this body limited to the functions of a redress body.

7. Another important issue to be addressed at the triilogue is the issue of exclusive arrangements:

- With regard to the exclusive arrangements for digitisation of cultural resources (Art. 11(2a)), the EP is opposed to the fact that such arrangements would not be subject to any review. The Presidency therefore suggests to make the duration of such exclusive arrangements that exceeds the period indicated in Art. 11(2a) subject to review and suggests corresponding recital be provided stating that such exclusive arrangements should be subject to review taking into account technological, financial and administrative changes in environment since the arrangement was entered into.

The Presidency will also aim to exclude any role for the impartial review body with regard to the review of exclusive arrangements. The Presidency however believes that such review could be done by 'a third party' or 'a body other than the public sector body concerned' should the EP insist that it should not be done by the public sector body itself.

Furthermore, the Presidency suggests to retain the last sentence of EP's Art. 11(2a) on digital copies being made available for re-use after the period of exclusivity, subject to some redrafting. This sentence could for example read: *'Where not already available, that copy shall be available for re-use at the end of the period of exclusivity'*.

- With regard to Art. 11(3), the Commission supported by the EP is opposed to the deletion of the first sentence on existing exclusive arrangements since the deletion would remove the legal basis for appropriate actions in case the concerned exclusive arrangements have not been ended. Moreover, the EP is opposed to the Council text of Art. 11(3) for the reason that it would allow for open-ended exclusive arrangements, not compliant with the Directive, to persist. The text that the Presidency proposed in Art. 11 (3) and (4) is meant to address those concerns.
8. Regarding Art. 7 on transparency, the text now suggests to make a clearer distinction between standard charges (para 1) and other charges (para 2). Furthermore, the calculation basis for standard charges should be pre-established and published as any other applicable conditions for re-use. In case of other charges, as in the current Directives, factors that will be taken into account in the calculation should be indicated. Finally, upon request, the public sector body should indicate the way in which other charges have been calculated.
9. The EP and the Presidency will also seek to approximate positions on the content and periodicity of the Member States' reporting obligation (Art. 13(1) second subparagraph). The attached text suggests reporting every 30 months.

10. Moreover, the EP and the Presidency will have to reach an agreement with regard to the transposition period (Art. 2 of the amending Directive). The current text proposes 24 months which the EP and the Commission might wish to shorten to 18 months; some flexibility could therefore be useful in this respect in the context of an overall agreement.
  
11. In order to address the issue of "guidelines" for which, among others, the EP is suggesting to be mentioned among the consulted parties, it is suggested to refer to the guidelines only in recital 18, which, in the original proposal, refers to the "consultation of interested parties". This solution is acceptable both for the EP and Commission.
  
12. The Presidency seeks the agreement from the Coreper to the compromise solutions as outlined above and set out in the 4th column of the Annex to this document, which will be presented to the EP in view of the third informal trialogue on 25 March.

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## 4-COLUMN DOCUMENT

## Amendment of Directive 2003/98/EC on re-use of public sector information

N.B. Text in **bold** and ~~**bold**~~ in the 4th column indicates changes as compared to the preliminary Council position in the 3rd column

Art. 1

COMMISSION PROPOSAL	ITRE OPINION	PRELIMINARY COUNCIL POSITION	POSSIBLE COMPROMISE SOLUTION
<b>I. The current Directive – consolidated version</b>			
<b>Chapter I General provisions</b>	<b>Chapter I General provisions</b>	<b>Chapter I General provisions</b>	<b>Chapter I General provisions</b>
<i>Article 1</i> <b>Subject matter and scope</b>	<i>Article 1</i> <b>Subject matter and scope</b>	<i>Article 1</i> <b>Subject matter and scope</b>	<i>Article 1</i> <b>Subject matter and scope</b>
1. This Directive establishes a minimum set of rules governing the re-use and the practical means of facilitating re-use of existing documents held by public sector bodies of the Member States.	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>

<p>2. This Directive shall not apply to:</p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>
<p>(a) documents the supply of which is an activity falling outside the scope of the public task of the public sector bodies concerned as defined by law or by other binding rules in the Member State, <del>or in the absence of such rules as defined in line with common administrative practice in the Member State</del> in question;</p>	<p><i>[no change]</i></p>	<p>(a) documents the supply of which is an activity falling outside the scope of the public task of the public sector bodies concerned as defined by law or by other binding rules in the Member State, <del>or in the absence of such rules as defined in line with common administrative practice in the Member State</del>, <b>or in the absence of such rules as defined in line with common administrative practice in the Member State</b> in question;</p>	<p>(a) documents the supply of which is an activity falling outside the scope of the public task of the public sector bodies concerned as defined by law or by other binding rules in the Member State, <del>or in the absence of such rules</del> <b>as the public task shall be</b> defined in line with common administrative practice in the Member State <del>in question</del>, <b>provided that the scope of the public task is transparent and is subject to review</b>;</p>

(b) documents for which third parties hold intellectual property rights;	(b) documents in which third parties hold intellectual property rights, <b>including documents held by a university library in which the university holds intellectual property rights;</b>  <b>Amendment 29</b>  <b>Proposal for a directive</b> <b>Article 1 – point 1 – point 1 a (new)</b> Directive 2003/98/EC Article 1 – paragraph 2 – point b	<i>[no change]</i>	Maintain Council's preliminary position
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<p>(c) documents which are excluded from access by virtue of the access regimes in the Member States, including on the grounds of:</p> <ul style="list-style-type: none"> <li>- the protection of national security (i.e. State security), defence, or public security,</li> <li>- statistical or commercial confidentiality;</li> </ul>	<p>(c) documents which are excluded from access by virtue of the access regimes in the Member States, including on the grounds of:</p> <ul style="list-style-type: none"> <li>- the protection of national security (i.e. State security), defence, or public security,</li> <li>- statistical or commercial confidentiality;</li> <li>- <b>protection of privacy and personal data;</b></li> </ul> <p><b>Amendment 30</b>  <b>Proposal for a directive</b>  <b>Article 1 – point 1 – point 1 b (new)</b>          Directive 2003/98/EC          Article 1 - paragraph 2 - point c</p>	<p>(c) documents which are excluded from access by virtue of the access regimes in the Member States, including on the grounds of:</p> <ul style="list-style-type: none"> <li>- the protection of national security (i.e. State security), defence, or public security,</li> <li>- statistical <del>or commercial</del> confidentiality;</li> </ul> <p><b>- commercial confidentiality (e.g. business, professional or company secrets);</b></p>	<p>(c) documents which are excluded from access by virtue of the access regimes in the Member States, including on the grounds of:</p> <ul style="list-style-type: none"> <li>- the protection of national security (i.e. State security), defence, or public security,</li> <li>- statistical confidentiality;</li> <li>- commercial confidentiality (e.g. business, professional or company secrets);</li> </ul>
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		(ca) documents access to which is restricted by virtue of the access regimes in the Member States, including cases whereby citizens or companies have to prove a particular interest to obtain access to documents, situations whereby the access is restricted to ensure protection of personal data;	(ca) documents access to which is restricted by virtue of the access regimes in the Member States, including cases whereby citizens or companies have to prove a particular interest to obtain access to documents <del>situations whereby the access is restricted to ensure protection of personal data;</del>
		(caa) parts of documents containing logos, crests and insignia;	(caa) parts of documents containing only logos, crest and insignia
		(caaa) documents that are accessible by virtue of the access regimes in the Member State but that contain personal data the re-use of which is incompatible with the law concerning the protection of individuals with regards to the processing of personal data;	(caaa) documents <del>that are accessible by virtue of the access regimes in the Member State but that</del> access to which is excluded or restricted by virtue of the access regimes on the grounds of protection of personal data, and parts of documents accessible by virtue of those regimes which contain personal data the re-use of which <del>is has been defined by law as being</del> incompatible with <del>the</del> law concerning the protection of individuals with regard to the processing of personal data;

<p>(d) documents held by public service broadcasters and their subsidiaries, and by other bodies or their subsidiaries for the fulfilment of a public service broadcasting remit;</p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>
<p>(e) documents held by educational and research establishments, such as <del>schools, universities, archives, libraries and</del> research facilities including, where relevant, organisations established for the transfer of research results, <i>schools and universities (except university libraries) in respect of documents other than research documents protected by third party intellectual property rights) and;</i></p>	<p>(e) documents held by educational and research establishments, including organisations established for the transfer of research results, schools and universities (except university libraries in respect of documents other than research documents protected by third party intellectual property rights) and;</p> <p><b>Amendment 31</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 1 – point 2</b>          Directive 2003/98/EC          Article 1 – paragraph 2 – point e</p>	<p>(e) documents held by educational and research establishments, <del>such as schools, universities, archives, libraries and research facilities</del> including, <del>where relevant,</del> organisations established for the transfer of research results, <i>schools and universities (except university libraries)</i> <del>in respect of documents other than research documents protected by third party intellectual property rights) and;</del></p>	<p>(e) documents held by educational and research establishments, including organisations established for the transfer of research results, schools and universities (except university libraries) and;</p>

	<p><del>(ea) documents held by archives, museums or libraries (including university libraries) of a particularly sensitive religious nature or that involve traditional knowledge</del></p> <p><b>Amendment 32</b></p> <p><b>Proposal for a directive</b> <b>Article 1 – point 1 – point 2 a (new)</b> Directive 2003/98/EC <b>Article 1 – paragraph 2 – point e a (new)</b></p>		EP text withdrawn
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<p>(f) documents held by cultural establishments <del>other than, such as</del> museums, libraries, and archives, <del>orchestras, operas, ballets and theatres.</del></p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>
<p>3. This Directive builds on and is without prejudice to the existing access regimes in the Member States. This Directive shall not apply in cases in which citizens or companies have to prove a particular interest under the access regime to obtain access to the documents.</p>	<p>3. This Directive builds on and is without prejudice to access regimes in the Member States.</p> <p><b>Amendment 33</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 1 – point 3 a (new)</b>          Directive 2003/98/EC          Article 1– paragraph 3</p>	<p>3. This Directive builds on and is without prejudice to <del>the existing</del> access regimes in the Member States. <del>This Directive shall not apply in cases in which citizens or companies have to prove a particular interest under the access regime to obtain access to the documents.</del></p>	<p>3. This Directive builds on and is without prejudice to access regimes in the Member States.</p>

4. This Directive leaves intact and in no way affects the level of protection of individuals with regard to the processing of personal data under the provisions of <del>Community</del> <i>Union</i> and national law, and in particular does not alter the obligations and rights set out in Directive 95/46/EC.	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>
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<p>5. The obligations imposed by this Directive shall apply only insofar as they are compatible with the provisions of international agreements on the protection of intellectual property rights, in particular the Berne Convention and the TRIPS Agreement. <i>The provisions of this Directive are without prejudice to the economic or moral rights that employees of public sector bodies may enjoy under national rules.</i></p>	<p><i>[no change]</i></p>	<p>5. The obligations imposed by this Directive shall apply only insofar as they are compatible with the provisions of international agreements on the protection of intellectual property rights, in particular the Berne Convention and the TRIPS Agreement. <del>The provisions of this Directive are without prejudice to the economic or moral rights that employees of public sector bodies may enjoy under national rules.</del></p>	<p>5. The obligations imposed by this Directive shall apply only insofar as they are compatible with the provisions of international agreements on the protection of intellectual property rights, in particular the Berne Convention and the TRIPS Agreement.</p>
	<p><b>5a. Public bodies should ensure that access to and re-use of public sector information comply with Union data protection legislation.</b></p> <p><b>Amendment 34</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 1 – point 5 a (new)</b>          Directive 2003/98/EC          Article 1– paragraph 5 a (new)</p>		<p>EP text withdrawn</p>

<i>Article 2</i> <b>Definitions</b>	<i>Article 2</i> <b>Definitions</b>	<i>Article 2</i> <b>Definitions</b>	<i>Article 2</i> <b>Definitions</b>
For the purpose of this Directive the following definitions shall apply:	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>
(1) "public sector body" means the State, regional or local authorities, bodies governed by public law and associations formed by one or several such authorities or one or several such bodies governed by public law;	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>
(2) "body governed by public law" means any body:	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>
(a) established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character; and	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>
(b) having legal personality; and	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>



(c) financed, for the most part by the State, or regional or local authorities, or other bodies governed by public law; or subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law;	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>
(3) "document" means:	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>
(a) any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording);	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>
b) any part of such content;	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>

<p>(4) "re-use" means the use by persons or legal entities of documents held by public sector bodies, for commercial or non-commercial purposes other than the initial purpose within the public task for which the documents were produced. Exchange of documents between public sector bodies purely in pursuit of their public tasks does not constitute re-use;</p>	<p>[no change]</p>	<p>[no change]</p>	<p>[no change]</p>
<p>(5) "personal data" means data as defined in Article 2(a) of Directive 95/46/EC;</p>	<p>[no change]</p>	<p>[no change]</p>	<p>[no change]</p>
<p>(6) "machine-readable" means that digital documents are sufficiently structured for software applications to identify reliably individual statements of fact and their internal structure.</p>	<p>(6) 'machine-readable' means that digital documents are structured <i>so that</i> software applications <i>can, in a open format manner</i>, easily and reliably identify, recognize and extract individual statements of fact and their internal structure.'</p> <p><b>Amendment 35</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 2</b>          Directive 2003/98/EC          Article 2 – point 6</p>	<p>(6) "<b>document in machine-readable format</b>" means <del>that a digital documents are in a file format that is sufficiently structured in such a way that for</del> <b>software applications can easily identify, recognise and extract data of interest from that document to identify reliably individual statements of fact and their internal structure;</b></p>	<p>(6) 'document in machine-readable format' means a digital document in a file format <del>that is</del> structured <del>in such a way</del> so that software applications can easily identify, recognise and extract data of interest <del>from that document</del>, <b>including individual statements of fact, and their internal structure.</b></p>

	<p><i>6a. 'anonymisation' means carrying out the necessary procedures to delete, mask or to make illegible personal data.</i></p> <p><b>Amendment 36</b>  <b>Proposal for a directive</b>  <b>Article 1 – point 2 a (new)</b>          Directive 2003/98/EC          Article 2 – paragraph 6 a (new)</p>		EP text withdrawn
	<p><i>6b. "formal standard" means a standard which has been codified in written form, detailing specifications for the requirements on how to make interoperable software for the management of files.</i></p> <p><b>Amendment 37</b>  <b>Proposal for a directive</b>  <b>Article 1 – point 2 b (new)</b>          Directive 2003/98/EC          Article 2 – paragraph 6 b (new)</p>		(6b) "open formal standard" means a standard which has been laid down in written form, detailing specifications for the requirements on how to ensure software interoperability.

	<p><i>6c. "open format" means a format that is platform independent, machine readable, and made available to the public without legal, technical or financial restrictions that would impede the re-use of that information</i></p> <p><b>Amendment 38</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 2 c (new)</b>          Directive 2003/98/EC  <b>Article 2 – paragraph 6 c (new)</b></p>		<p><b>(6c) "open format" means a format that is platform independent and made available to the public without any restriction that impedes the re-use of documents.</b></p>
		<p><b>(7) "university" means any public sector body that provides post-secondary higher education leading to academic degrees.</b></p>	<p>(7) "university" means any public sector body that provides post-secondary higher education leading to academic degrees.</p>

<i>Article 3</i> <b>General principle</b>	<i>Article 3</i> <b>General principle</b>	<i>Article 3</i> <b>General principle</b>	<i>Article 3</i> <b>General principle</b>
<del>Member States shall ensure that, where the re-use of documents held by public sector bodies is allowed, these documents shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV. Where possible, documents shall be made available through electronic means.</del>	[no change]	[no change]	[no change]

<p><i>1. Subject to paragraph (2) Member States shall ensure that documents referred to in Article 1 shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.</i></p>	<p>(1) Subject to paragraph (2) Member States shall ensure that documents of <b>public sector bodies</b> referred to in Article 1 shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV, <b>provided that the documents concerned are of types classified as accessible under the rules which exist in the Member States regarding access to public sector information. Where possible, those documents shall be disseminated in an open format, machine-readable form.</b></p> <p><b>Amendment 39</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 3</b>  Directive 2003/98/EC  Article 3 – paragraph 1</p>	<p><i>1. Subject to paragraph (2) Member States shall ensure that documents <b>to which this Directive applies in accordance with</b> <del>referred to in</del> Article 1 shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.</i></p>	<p>1. Subject to paragraph (2) Member States shall ensure that documents to which this Directive applies in accordance with Article 1 shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.</p>
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<p>2. For documents for which libraries (including university libraries), museums and archives have intellectual property rights, Member States shall ensure that, where the re-use of documents is allowed, these documents shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.</p>	<p>(2) For documents for which libraries (including university libraries), museums and archives have intellectual property rights, Member States shall ensure that, where the re-use of documents is allowed, these documents shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV, <b>provided that the documents concerned are of types classified as accessible under the rules which exist in the Member States regarding access to public-sector information. Where possible, those documents shall be disseminated in an open format.</b></p> <p><b>Amendment 40</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 3</b>          Directive 2003/98/EC          Article 3 – paragraph 2</p>	<p>2. For documents for which libraries (including university libraries), museums and archives have intellectual property rights, Member States shall ensure that, where the re-use of <b>such</b> documents is allowed, these documents shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.</p>	<p>2. For documents for which libraries (including university libraries), museums and archives have intellectual property rights, Member States shall ensure that, where the re-use of such documents is allowed, these documents shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.</p>
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Chapter II Requests for re-use	Chapter II Requests for re-use	Chapter II Requests for re-use	Chapter II Requests for re-use
<p><i>Article 4</i></p> <p><b>Requirements applicable to the processing of requests to re-use</b></p>	<p><i>Article 4</i></p> <p><b>Requirements applicable to the processing of requests to re-use</b></p>	<p><i>Article 4</i></p> <p><b>Requirements applicable to the processing of requests to re-use</b></p>	<p><i>Article 4</i></p> <p><b>Requirements applicable to the processing of requests to re-use</b></p>
<p>1. Public sector bodies shall, through electronic means where possible and appropriate, process requests for re-use and shall make the document available for re-use to the applicant or, if a licence is needed, finalise the licence offer to the applicant within a reasonable time that is consistent with the timeframes laid down for the processing of requests for access to documents.</p>	<p><i>1. Public sector bodies shall process requests for re-use by electronic means. They shall make, by electronic means where possible and appropriate, the document available for re-use to the applicant or, if a licence is needed, finalise the licence offer to the applicant within a period of reasonable time that is consistent with the time frames laid down for the processing of requests for access to documents.</i></p> <p><b>Amendment 41</b>  <b>Proposal for a directive</b>  <b>Article 1 – point 4 – point - 1 (new)</b>            Directive 2003/98/EC            Article 4 – paragraph 1</p>	<p>[no change]</p>	<p>1. Public sector bodies shall, through electronic means where possible and appropriate, process requests for re-use and shall make the document available for re-use to the applicant or, if a licence is needed, finalise the licence offer to the applicant within a reasonable time that is consistent with the timeframes laid down for the processing of requests for access to documents.</p>



<p>2. Where no time-limits or other rules regulating the timely provision of documents have been established, public sector bodies shall process the request and shall deliver the documents for re-use to the applicant or, if a licence is needed, finalise the licence offer to the applicant within a timeframe of not more than 20 working days after its receipt. This timeframe may be extended by another 20 working days for extensive or complex requests. In such cases the applicant shall be notified within three weeks after the initial request that more time is needed to process it.</p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>
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<p>3. In the event of a negative decision, the public sector bodies shall communicate the grounds for refusal to the applicant on the basis of the relevant provisions of the access regime in that Member State or of the national provisions adopted pursuant to this Directive, in particular Article 1(2)(a), (b) and (c), or Article 3. Where a negative decision is based on Article 1(2)(b), the public sector body shall include a reference to the natural or legal person who is the rightholder, where known, or alternatively to the licensor from which the public sector body has obtained the relevant material. <i>However, libraries (including university libraries), museums and archives shall not be required to include such a reference.</i></p>	<p><i>[no change]</i></p>	<p>3. In the event of a negative decision, the public sector bodies shall communicate the grounds for refusal to the applicant on the basis of the relevant provisions of the access regime in that Member State or of the national provisions adopted pursuant to this Directive, in particular Article 1(2)(a), (b), <del>and (c), (ca), (caa)</del> <b><u>and (caaa)</u></b> or Article 3. Where a negative decision is based on Article 1(2)(b), the public sector body shall include a reference to the natural or legal person who is the rightholder, where known, or alternatively to the licensor from which the public sector body has obtained the relevant material. <i>However, libraries (including university libraries), museums and archives shall not be required to include such a reference.</i></p>	<p>3. In the event of a negative decision, the public sector bodies shall communicate the grounds for refusal to the applicant on the basis of the relevant provisions of the access regime in that Member State or of the national provisions adopted pursuant to this Directive, in particular Article 1(2)(a), (b), (c), (ca), (caa) and (caaa) or Article 3. Where a negative decision is based on Article 1(2)(b), the public sector body shall include a reference to the natural or legal person who is the rightholder, where known, or alternatively to the licensor from which the public sector body has obtained the relevant material. <i>However, libraries (including university libraries), museums and archives shall not be required to include such a reference.</i></p>
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<p>4. Any negative decision shall contain a reference to the means of redress in case the applicant wishes to appeal the decision. <i>The means of redress shall include the possibility of review by an independent authority that is vested with specific regulatory powers regarding the re-use of public sector information and whose decisions are binding upon the public sector body concerned.</i></p>	<p>4. Any negative decision shall contain a reference to the means of redress in case the applicant wishes to appeal the decision. The means of redress shall include the possibility of review by <i>the respective impartial body in the Member State</i> that <i>rules on</i> the re-use of public sector information and whose decisions are binding upon the public sector body concerned.</p> <p><b>Amendment 42</b>  <b>Proposal for a directive</b>  <b>Article 1 – point 4 – point - 2</b>          Directive 2003/98/EC          Article 4 – paragraph 4</p>	<p>4. Any <del>negative</del> decision <del>on re-use</del> shall contain a reference to the means of redress in case the applicant wishes to appeal the decision. <i>The means of redress shall include the possibility of review by an impartial review body, such as the national competition authority, the national access to documents authority or the national judicial authority, independent authority that is vested with specific regulatory powers regarding the re-use of public sector information and whose decisions are binding upon the public sector body concerned.</i></p>	<p>Maintain Council's preliminary position</p>
<p>5. Public sector bodies covered under Article 1(2)(d), (e) and (f) shall not be required to comply with the requirements of this Article.</p>	<p>[no change]</p>	<p>[no change]</p>	<p>[no change]</p>

	<p><i>( new para) This Directive is fully compliant with applicable data protection law. If public data made available for re-use concern personal data, it should be specified under what conditions and subject to which specific data protection safeguards reuse is permissible, if practicable under a licence. That assessment shall ensure that there is an adequate legal basis for the transfer and reuse of data under national law, that the reuse is available only for a compatible purpose and that applicants and subsequent users are required to comply with all other provisions of applicable data protection law. The Commission shall monitor closely the implementation of this Directive closely so that it does not infringe Union data protection legislation.</i></p> <p><b>Amendment 43</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – paragraph 1 – point 4 – point 2 (new</b>  2003/98/EC  <b>Article 4 – new paragraph</b></p>		EP text withdrawn
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Chapter III Conditions for re-use	Chapter III Conditions for re-use	Chapter III Conditions for re-use	Chapter III Conditions for re-use
Article 5 Available formats	Article 5 Available formats	Article 5 Available formats	Article 5 Available formats
<p>1. Public sector bodies shall make their documents available in any pre-existing format or language, <i>in machine-readable format and together with their metadata through electronic means</i> where possible and appropriate. This shall not imply an obligation for public sector bodies to create or adapt documents in order to comply with the request, nor shall it imply an obligation to provide extracts from documents where this would involve disproportionate effort, going beyond a simple operation.</p>	<p><b>New EP compromise proposal replacing Amendment 44:</b></p> <p><b>1. Public sector bodies shall make their documents created before the entry into force of this Directive available in any pre existing format or language and where possible and appropriate, in open and machine-readable format together with their metadata both of which in so far as possible should comply with open, formal standards.</b></p> <p><b>1a. Public sector bodies shall preferably make their documents created after the entry into force of this Directive available in formats referred to in paragraph 1.</b></p> <p><b>1b. Paragraphs 1 and 1a shall not imply an obligation for public sector bodies to create or adapt documents or provide extracts in order to comply with these paragraphs where this would involve disproportionate effort, going beyond a simple operation.</b></p>	<p>1. Public sector bodies shall make their documents available in any pre-existing format or language, <del>and, where possible and appropriate, in machine-readable format and together with their metadata through electronic means.</del> This shall not imply an obligation for public sector bodies to create or adapt documents in order to comply with the <del>request</del> <b>requirement set out in the previous sentence</b>, nor shall it imply an obligation to provide extracts from documents where this would involve disproportionate effort, going beyond a simple operation.</p>	<p>1. Public sector bodies shall make their documents available in any pre existing format or language and where possible and appropriate, <b>in open and machine-readable format together with their metadata both of which in so far as possible should comply with open, formal standards.</b></p> <p><b>1a. Paragraph 1 shall not imply an obligation for public sector bodies to create or adapt documents or provide extracts in order to comply with that paragraph where this would involve disproportionate effort, going beyond a simple operation.</b></p>

2. On the basis of this Directive, public sector bodies cannot be required to continue the production of a certain type of documents with a view to the re-use of such documents by a private or public sector organisation.	<i>[no change]</i>	2. On the basis of this Directive, public sector bodies cannot be required to continue the production <b>and storage</b> of a certain type of documents with a view to the re-use of such documents by a private or public sector organisation.	2. On the basis of this Directive, public sector bodies cannot be required to continue the production and storage of a certain type of documents with a view to the re-use of such documents by a private or public sector organisation.
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<p><i>Article 6</i> Principles governing charging</p>	<p><i>Article 6</i> Principles governing charging</p>	<p><i>Article 6</i> Principles governing charging</p>	<p><i>Article 6</i> Principles governing charging</p>
<p><i>1. Where charges are made for the re-use of documents, the total amount charged by public sector bodies shall be limited to the marginal costs incurred for their reproduction and dissemination.</i></p>	<p>1. <b>Where</b> charges are made for the re-use of documents, the total amount charged by public sector bodies shall be limited to the marginal costs incurred for their reproduction, <b>provision</b> and dissemination.</p> <p><b>Amendment 45</b>  <b>Proposal for a directive</b>  <b>Article 1 – point 6 – point 1</b>                      Directive 2003/98/EC                      Article 6 – paragraph 1</p>	<p><del>1. Where charges are made for the re-use of documents, the total amount charged by public sector bodies, those charges shall be limited to the marginal costs incurred for supplying and allowing the re-use of documents their reproduction and dissemination.</del></p>	<p>1. Where charges are made by public sector bodies <b>for the re-use of documents</b>, those charges shall be limited to the marginal costs incurred for <b>their reproduction, provision and dissemination for supplying and allowing the re-use of documents</b></p>

<p>2. In exceptional cases, in particular where public sector bodies generate a substantial part of their operating costs relating to the performance of their public service tasks from the exploitation of their intellectual property rights, public sector bodies may be allowed to charge for the re-use of documents over and above the marginal costs, according to objective, transparent and verifiable criteria, provided this is in the public interest and subject to the approval of the independent authority referred to in Article 4(4), and without prejudice to paragraphs 3 and 4 of this Article.</p>	deleted	<p><b>2. In exceptional cases, in particular where public sector bodies generate a substantial part of their operating costs relating to the performance of their public service tasks from the exploitation of their intellectual property rights, public sector bodies may be allowed to charge for the re-use of documents over and above the marginal costs, according to objective, transparent and verifiable criteria, provided this is in the public interest and subject to the approval of the independent authority referred to in Article 4(4), and without prejudice to paragraphs 3 and 4 of this Article.</b></p>	deleted
	<p><b>2. Paragraph 1 shall not apply to the following:</b></p>	<p><b>2. Paragraph 1 shall not apply to the following:</b></p>	<p>2. Paragraph 1 shall not apply to the following:</p>



	<i>(a) public sector bodies that are required to generate revenue to cover a substantial part of the cost of production, reproduction and dissemination of documents;</i>	<b>(a) Public sector bodies that are required to generate revenue to cover a substantial part of their costs relating to the following:</b>  - the performance of their public task or  - the performance of specific activities which form part of the public task and which give rise to the documents for which charges are made,	<b>(a) P</b> ublic sector bodies that are required to generate revenue to cover a substantial part of their costs relating to the <b>following</b> : - the performance of their public task <del>or</del> ;  <del>- the performance of specific activities which form part of the public task and which give rise to the documents for which charges are made</del>
			<b>(b) documents for which the public sector body is required to generate sufficient revenue to cover a substantial part of the costs relating to their collection, production, reproduction and dissemination;</b>
	<i>(b) libraries (including university libraries), museums and archives.</i>	<b>(b) Libraries (including university libraries), museums and archives.</b>	<b>(c) L</b> ibraries (including university libraries), museums and archives.
	<i>Those exceptions maybe granted provided it is in the public interest and in accordance with objective, transparent and verifiable criteria, and without prejudice to paragraph 4 of this Article.</i>		Not acceptable

<p>3. Notwithstanding paragraphs 1 and 2, libraries (including university libraries), museums and archives may charge over and above the marginal costs for the re-use of documents they hold.</p>	<p><i>3. Charges made over and above the marginal costs by bodies referred to in points (a) and (b) of paragraph 2 are subject to review by an impartial body as referred to in Article 4 (4).</i></p> <p><b>Amendment 46</b>  <b>Proposal for a directive</b>  <b>Article 1 – point 6 – point 1</b>  Directive 2003/98/EC  Article 6 – paragraph 2 and 3</p>	<p><del>3. Notwithstanding paragraphs 1 and 2, libraries (including university libraries), museums and archives may charge over and above the marginal costs for the re-use of documents they hold.</del></p>	<p>Maintain the Council's preliminary position</p>
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<p>4. Where charges are made, the total income from supplying and allowing re-use of documents shall not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment. Charges should be cost-oriented over the appropriate accounting period and calculated in line with the accounting principles applicable to the public sector bodies involved.</p>	<p><i>[no change]</i></p>	<p><del>4. Where charges are made, Public sector bodies referred to in paragraph 2a, shall calculate the total charges according to objective, transparent and verifiable criteria to be laid down by the Member States. and t</del>  <b>4. Where charges are made, Public sector bodies referred to in paragraph 2a, shall calculate the total charges according to objective, transparent and verifiable criteria to be laid down by the Member States. and t</b>          The total income from supplying and allowing re-use of documents <b>over the appropriate accounting period</b> shall not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment. Charges should be <del>cost-oriented over the appropriate accounting period and</del> calculated in line with the accounting principles applicable to the public sector bodies involved.</p>	<p>4. Public sector bodies referred to in paragraph 2(a) <b>and 2(b)</b>, shall calculate the total charges according to objective, transparent and verifiable criteria to be laid down by the Member States. The total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment. Charges should be calculated in line with the accounting principles applicable to the public sector bodies involved.</p>
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	<p><i>4a. Member States shall designate the appropriate body or appropriate bodies, other than the public sector body itself, competent to lay down the criteria for charging above marginal costs as laid out in paragraph 4.</i></p> <p><b>Amendment 47</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 6 – point 2 a (new)</b>          Directive 2003/98/EC  <b>Article 6 – paragraph 4 a (new)</b></p>	<p><b>4a. Where charges are made by public sector bodies referred to in paragraph 2b, the total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction, dissemination, preservation and rights clearance, together with a reasonable return on investment. Charges should be calculated in line with the accounting principles applicable to the public sector bodies involved.</b></p>	<p>4a. Where charges are made by public sector bodies referred to in paragraph <del>2b</del>(c), the total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction, dissemination, preservation and rights clearance, together with a reasonable return on investment. Charges should be calculated in line with the accounting principles applicable to the public sector bodies involved.</p>
<p><i>5. The burden of proving that charges comply with this Article shall lie with the public sector body charging for re-use.</i></p>	<p><i>deleted</i></p> <p><b>Amendment 48</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 6 – point 3</b>          Directive 2003/98/EC  <b>Article 6 – paragraph 5</b></p>	<p><del><b>5. The burden of proving that charges comply with this Article shall lie with the public sector body charging for re-use.</b></del></p>	<p>Deleted</p>

		<b>6. In order to contribute to a consistent implementation of this Article and after consulting the Member States, the Commission may adopt non-binding guidelines providing guidance for the implementation of the principles governing charging set out in the previous paragraphs.</b>	<b>See the introductory note - guidelines: proposal to refer to guidelines in recital 18 only</b>
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<p>Article 7 Transparency</p>	<p>Article 7 Transparency</p>	<p>Article 7 Transparency</p>	<p>Article 7 Transparency</p>
<p>Any applicable conditions and standard charges for the re-use of documents held by public sector bodies shall be pre-established and published, through electronic means where possible and appropriate. On request, the public sector body shall indicate the calculation basis for the published charge. The public sector body in question shall also indicate which factors will be taken into account in the calculation of charges <i>over and above the marginal costs</i> or for atypical cases. Public sector bodies shall ensure that applicants for re-use of documents are informed of available means of redress relating to decisions or practices affecting them.</p>	<p>Any applicable conditions and standard charges for the re-use of documents held by public sector bodies shall be pre-established and published, through electronic means where possible and appropriate. On request, the public sector body shall indicate the calculation basis for the published charge. <b><i>The public sector body in question shall also indicate which factors will be taken into account in the calculation of charges as referred to in Article 6.</i></b> Public sector bodies shall ensure that applicants for re-use of documents are informed of available means of redress relating to decisions or practices affecting them.</p> <p><b>Amendment 49</b></p> <p><b>Proposal for a directive</b> <b>Article 1 – point 7</b> Directive 2003/98/EC Article 7</p>	<p>Any applicable conditions and standard charges for the re-use of documents held by public sector bodies shall be pre-established and published, through electronic means where possible and appropriate. On request, the public sector body shall indicate the calculation basis for the published charge. The public sector body in question shall also indicate which <del>factors</del> <b>criteria will be</b> are taken into account in the calculation of charges <del>over and above the marginal costs</del> <b>or for atypical cases</b>. Public sector bodies shall ensure that applicants for re-use of documents are informed of available means of redress relating to decisions or practices affecting them.</p>	<p><b>1. In case of standard charges, <del>any</del> applicable conditions and <del>the actual amount of those standard</del> charges for the re-use of documents held by public sector bodies, <b>including the calculation basis for such charges</b>, shall be pre-established and published, through electronic means where possible and appropriate.</b></p> <p><b>2. In case of charges other than those referred to in the previous paragraph, <del>On request,</del> the public sector body in question shall <del>also</del> indicate upfront which <del>factors</del> <b>criteria</b> are taken into account in the calculation of <del>those</del> charges <del>above marginal cost</del>. <b>Upon request, the public sector body in question shall also indicate the way in which such charges have been calculated in relation to the specific re-use request.</b></b></p> <p><b>3</b> Public sector bodies shall ensure that applicants for re-use of documents are informed of available means of redress relating to decisions or practices affecting them.</p>

Article 8 Licences	Article 8 Licences	Article 8 Licences	Article 8 Licences
<p><del>1. Public sector bodies may allow for re-use of documents without conditions or may impose conditions, where appropriate through a licence, dealing with relevant issues. These conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition.</del></p> <p>1. Public sector bodies may allow re-use without conditions or may impose conditions, such as indication of source, where appropriate through a licence. These conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition.</p>	<p>1. Public sector bodies may allow re-use <b>of documents</b> without conditions or may impose conditions, where appropriate through a licence <b>dealing with relevant issues</b>. These conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition.</p> <p><b>Amendment 50</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 8 – point 1</b>  <b>Directive 2003/98/EC</b>  <b>Article 8 – paragraph 1</b></p>	<p><del>1. Public sector bodies may allow for re-use of documents without conditions or may impose conditions, where appropriate through a licence, dealing with relevant issues. These conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition.</del></p> <p><b>Public sector bodies may allow re-use without conditions or may impose conditions, such as indication of source, where appropriate through a licence. These conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition.</b></p> <p>1. Public sector bodies may allow for re-use of documents without conditions or may impose conditions, where appropriate through a licence, dealing with relevant issues. These conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition.</p>	<p>1. Public sector bodies may allow for re-use of documents without conditions or may impose conditions, where appropriate through a licence, <b>dealing with relevant issues</b>. These conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition.</p>

<p>2. In Member States where licences are used, Member States shall ensure that standard licences for the re-use of public sector documents, which can be adapted to meet particular licence applications, are available in digital format and can be processed electronically. Member States shall encourage all public sector bodies to use the standard licences.</p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>
		<p><b>3. In order to contribute to a consistent implementation of this Article and after consulting the Member States, the Commission may adopt non-binding guidelines on recommended standard licenses for the re-use of public sector information.</b></p>	<p><b>See the introductory note - guidelines: proposal to refer to guidelines in recital 18 only</b></p>



Article 9 Practical arrangements	Article 9 Practical arrangements	Article 9 Practical arrangements	Article 9 Practical arrangements
<p>Member States shall ensure that practical arrangements <i>facilitating that facilitate the cross-lingual search for documents available for re-use</i> are in place, such as asset lists of main documents with relevant metadata, accessible preferably online and in machine-readable format, and portal sites that are linked to decentralised assets lists</p>	<p><b>New EP compromise proposal replacing Amendment 51:</b></p> <p>Member States shall <i>make</i> practical arrangements facilitating the search for documents available for re-use, such as asset lists of main documents with relevant metadata, accessible <i>where possible and appropriate</i> online and <i>preferably in open and</i> machine-readable format, and portal sites linked to <del>decentralised the</del> assets lists. <i>Where possible Member States shall facilitate the cross- language search.</i></p>	<p>1. Member States shall <del>ensure that make</del> practical arrangements <i>facilitating that facilitate the cross-lingual search for documents available for re-use</i> <del>are in place</del>, such as asset lists of main documents with relevant metadata, <del>accessible preferably</del> <b>accessible online and in machine-readable format</b>, and portal sites <del>that are</del> linked to <del>decentralised the</del> assets lists.</p>	<p>1. Member States shall make practical arrangements facilitating the search for documents available for re-use, such as asset lists of main documents with relevant metadata, <del>preferably</del> <b>accessible where possible and appropriate online and</b> in machine-readable format, and portal sites linked to the assets lists. <b>Where possible Member States shall facilitate the cross- lingual search for documents.</b></p>

		<b>2. In order to contribute to a consistent implementation of this Article and after consulting the Member States, the Commission may adopt non-binding guidelines with a list of recommended datasets available for re-use.</b>	See the introductory note - guidelines: proposal to refer to guidelines in recital 18 only
	<i>Article 9a</i>		
	<b>Rapporteur's compromise amendment replacing amendment 52</b>  <b>Art. 9a (new): In order to contribute to a consistent implementation of this Article and after consulting the Member States and the Parliament, the Commission may adopt non-binding guidelines with a list of recommended datasets and standard licences available for re-use.</b>		See the introductory note - guidelines: proposal to refer to guidelines in recital 18 only

<p><b>Chapter IV</b> <b>Non-discrimination and fair trading</b></p>	<p><b>Chapter IV</b> <b>Non-discrimination and fair trading</b></p>	<p><b>Chapter IV</b> <b>Non-discrimination and fair trading</b></p>	<p><b>Chapter IV</b> <b>Non-discrimination and fair trading</b></p>
<p><i>Article 10</i> <b>Non-discrimination</b></p>	<p><i>Article 10</i> <b>Non-discrimination</b></p>	<p><i>Article 10</i> <b>Non-discrimination</b></p>	<p><i>Article 10</i> <b>Non-discrimination</b></p>
<p>1. Any applicable conditions for the re-use of documents shall be non-discriminatory for comparable categories of re-use.</p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>
<p>2. If documents are re-used by a public sector body as input for its commercial activities which fall outside the scope of its public tasks, the same charges and other conditions shall apply to the supply of the documents for those activities as apply to other users.</p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>

<i>Article 11</i> <b>Prohibition of exclusive arrangements</b>	<i>Article 11</i> <b>Prohibition of exclusive arrangements</b>	<i>Article 11</i> <b>Prohibition of exclusive arrangements</b>	<i>Article 11</i> <b>Prohibition of exclusive arrangements</b>
<p>1. The re-use of documents shall be open to all potential actors in the market, even if one or more market players already exploit added-value products based on these documents. Contracts or other arrangements between the public sector bodies holding the documents and third parties shall not grant exclusive rights.</p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>

<p>2. However, where an exclusive right is necessary for the provision of a service in the public interest, the validity of the reason for granting such an exclusive right shall be subject to regular review, and shall, in any event, be reviewed every three years. The exclusive arrangements established after the entry into force of this Directive shall be transparent and made public.</p>	<p>2. However, where an exclusive right is necessary for the provision of a service in the public interest, the validity of the <i>exclusive rights arrangement</i> shall be subject to regular review <i>by the authority</i> referred to in Article 4(4), and shall, in any event, be reviewed every three years. The exclusive arrangements established after the entry into force of this Directive shall be <i>transparent and</i> made public <i>by the public sector bodies concerned</i>.</p> <p><b>Amendment 53</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 9 a (new)</b>          Directive 2003/98/EC          Article 11 – paragraph 2</p>	<p><del>2. However</del> <b>Notwithstanding paragraph 1</b>, where an exclusive right is necessary for the provision of a service in the public interest, the validity of the reason for granting such an exclusive right shall be subject to regular review, and shall, in any event, be reviewed every three years. The exclusive arrangements established after the entry into force of this Directive shall be transparent and made public.</p> <p><b>This paragraph shall not apply to digitisation of cultural resources.</b></p>	<p>Maintain the Council's preliminary position</p>
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	<p><i>2a. Where an exclusive right granting preferential commercial exploitation terms is necessary to digitise cultural resources, such preferential exploitation shall not exceed seven years in general.. Such exclusive arrangements, established after the entry into force of this Directive, shall be transparent and made public. Where an exclusive right granting the preferential commercial exploitation is necessary to digitise cultural resources exists, the public sector body concerned shall be provided with a free copy of the digitised cultural resources as part of those arrangements. Regardless of any contractual terms to the contrary, every digital copy shall be made available by the cultural institution for public re- use at the end of the period of exclusivity.</i></p> <p><b>Amendment 54</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 9 b (new)</b>          Directive 2003/98/EC          Article 11 – paragraph 2 a (new)</p>	<p><b>2a. Notwithstanding paragraph 1, where an exclusive right relates to digitisation of cultural resources, the period of such exclusive right shall not exceed in general 7 10 years. The validity of the reason for granting such an exclusive right shall not be subject to review.</b></p> <p><b>The exclusive arrangements under this paragraph shall be transparent and made public. Where an exclusive right relating to digitisation of cultural resources exists, the public sector body shall be provided with a copy of the digitised cultural resources as part of that agreement.</b></p>	<p>2a. Notwithstanding paragraph 1, where an exclusive right relates to digitisation of cultural resources, the period of such exclusive right shall not exceed in general 10 years. <del>The validity of the reason for granting such an exclusive right shall not be subject to review.</del> <b>In case where that period exceeds 10 years, its duration shall be subject to review during the 11th year and, if applicable, every 10 years thereafter. *</b></p> <p>The exclusive arrangements under this paragraph shall be transparent and made public. Where an exclusive right relating to digitisation of cultural resources exists, the public sector body shall be provided with a copy of the digitised cultural resources as part of that agreement. <b>Where not already available, that copy shall be available for re-use at the end of the period of exclusivity.</b></p> <p><b>* N.B. The sentence on review could be complemented by a corresponding recital that could read: 'Exclusive arrangements longer than 10 years should be subject to review taking into account technological, financial and administrative changes in environment since the arrangement was entered into.'</b></p>
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<p>3. Existing exclusive arrangements that do not qualify for the exception under paragraph 2 shall be terminated at the end of the contract or in any case not later than 31 December 2008. <i>However, such arrangements involving cultural establishments and university libraries shall be terminated at the end of the contract or in any case not later than 31 December 20XX [6 years after entry into force of the Directive].</i></p>	<p><b>Rapporteur's compromise amendment replacing amendment 55:</b></p> <p>3. Existing exclusive arrangements that do not qualify for the exception under paragraph 2 shall be terminated at the end of the contract or in any case not later than 31 December 2008. <b><i>This Article shall not apply to exclusive arrangements, existing before 1st of January 2012. Arrangements concluded before that date shall be terminated at the end of the contract.</i></b></p>	<p><del>3. Existing exclusive arrangements that do not qualify for the exceptions under paragraphs 2 shall be terminated at the end of the contract or in any case not later than 31 December 2008. This Article shall not apply to exclusive arrangements existing before [24 month from the day of entry into force of this Directive].</del>  <del>However, such arrangements involving cultural establishments and university libraries shall be terminated at the end of the contract or in any case not later than 31 December 20XX [6 years after entry into force of the Directive].</del></p>	<p><b>3. Article shall not apply to exclusive arrangements existing before [24 month from the day of entry into force of this Directive].</b>  <b>Exclusive arrangements existing on the date of application of national measures referred to in Article 12 that do not qualify for the exceptions under Article 11(2) shall be terminated at the end of the contract or in any case not later than 31 December 2008.</b></p>
			<p><b>4. Without prejudice to paragraph 3, exclusive arrangements existing on [date of application of national measures transposing this amending Directive] that do not qualify for the exceptions under paragraphs 2 and 2a shall be terminated at the end of the contract or in any case not later than [30 years from the date of application of national measures transposing this amending Directive].</b></p>

Chapter V Final provisions	Chapter V Final provisions	Chapter V Final provisions	Chapter V Final provisions
Article 12 Implementation	Article 12 Implementation	Article 12 Implementation	Article 12 Implementation
<p><i>Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 2005. They shall forthwith inform the Commission thereof. When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</i></p> <p>Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>	<p>[no change]</p>	<p><i>Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 2005. They shall forthwith inform the Commission thereof.</i></p> <p><i>When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</i></p> <p><b>Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</b></p> <p>Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 2005. They shall forthwith inform the Commission thereof.</p> <p>When Member States adopt those measures, they shall contain a reference to</p>	<p>Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 2005. They shall forthwith inform the Commission thereof.</p> <p>When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</p>



		<p>this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</p>	
<p><i>Article 13</i> <b>Review</b></p>	<p><i>Article 13</i> <b>Review</b></p>	<p><i>Article 13</i> <b>Review</b></p>	<p><i>Article 13</i> <b>Review</b></p>
<p>1. The Commission shall carry out a review of the application of this Directive before <del>1 July 2008</del> [3 years after the transposition date] and shall communicate the results of this review, together with any proposals for modifications of the Directive, to the European Parliament and the Council.</p>	<p>1. The Commission shall carry out a review of the application of this Directive before <del>1 July 2008</del> [five years after the entry into force of this Directive] and shall communicate the results of this review, together with any proposals for modifications of the Directive, to the European Parliament and the Council.</p>	<p>1. The Commission shall carry out a review of the application of this Directive before <del>1 July 2008</del> [3 5 years after the <del>transposition date</del> entry into force of this Directive] and shall communicate the results of this review, together with any proposals for modifications of the Directive, to the European Parliament and the Council.</p>	<p>1. The Commission shall carry out a review of the application of this Directive before [five years after the entry into force of this Directive] and shall communicate the results of this review, together with any proposals for modifications of the Directive, to the European Parliament and the Council.</p>

<p><i>Member States shall submit a yearly report to the Commission on the extent of the re-use of public sector information, the conditions under which it is made available and the work of the independent authority referred to in Article 4(4).</i></p>	<p>Member States shall submit <b>every two years a</b> report to the Commission on the extent of the re-use of public sector information, the conditions under which it is made available and the work of the <b>impartial</b> body <b>in the Member States</b> referred to in Article 4(4).<b>The Commission shall publish every two years a relevant scoreboard including performance indicators for the re-use of public sector information.</b></p> <p><b>Amendment 56</b></p> <p><b>Proposal for a directive</b>  <b>Article 1 – point 12 – introductory part</b>          Directive 2003/98/EC          Article 13 – paragraph 1 and 2 a (new)</p>	<p><i>Member States shall submit a <del>yearly</del> report <b>every 4 2 years</b> to the Commission on <del>the extent of</del> the <b>availability re-use</b> of public sector information <b>for re-use and</b> the conditions under which it is made available <del>and the work of the independent authority referred to in Article 4(4).</del></i></p>	<p>Member States shall submit a report every <b>30 months</b> to the Commission on the availability of public sector information for re-use and the conditions under which it is made <b>available and the redress practices.</b></p> <p><b>N.B. The last EP sentence on the scoreboard to be replaced by the following recital (location tbd):</b></p> <p><b>"The European Commission has supported the development of an online Public Sector Information scoreboard with relevant performance indicators for the re-use of public sector information in all the Member States. A regular update of this scoreboard will contribute to the exchange of information between the Member States and the availability of information on policies and practices across the Union".</b></p>
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<p>2. The review shall in particular address the scope and impact of this Directive, including the extent of the increase in re-use of public sector documents, the effects of the principles applied to charging and the re-use of official texts of a legislative and administrative nature, as well as further possibilities of improving the proper functioning of the internal market and the development of the European content industry.</p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>	<p>2. The review shall in particular address the scope and impact of this Directive, including the extent of the increase in re-use of public sector documents, the effects of the principles applied to charging and the re-use of official texts of a legislative and administrative nature, <b>the interaction between data protection rules and re-use possibilities</b>, as well as further possibilities of improving the proper functioning of the internal market and the development of the European content industry.</p>
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<b>II. The amending Directive – transposition and entry into force</b>			
<i>Article 2</i>	<i>Article 2</i>	<i>Article 2</i>	<i>Article 2</i>
(1) Member States shall adopt and publish, by 18 months at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.	<i>[no change]</i>	(1) <b>By (24 months from the day of entry into force of this Directive)</b> Member States shall adopt and publish, <del>by 18 months at the latest,</del> the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions <del>and a correlation table between those provisions and this Directive.</del> <b>The Member States shall apply those provisions from [24 month from the day of entry into force of this Directive].</b>	(1) By (24 months from the day of entry into force of this Directive) Member States shall adopt and publish, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions The Member States shall apply those provisions from [24 month from the day of entry into force of this Directive].
2. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>
<i>Article 3</i>	<i>Article 3</i>	<i>Article 3</i>	<i>Article 3</i>
This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union.	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>

**III. The amending Directive – Recitals**

	<p><i>(1a) Data and information produced by Member States' governments, the public sector and Union institutions and bodies constitute a vast, diverse and valuable pool of resources that can benefit the knowledge economy.</i></p> <p align="center"><b>Amendment 2 Proposal for a directive Recital 1 a (new)</b></p>		<p><b>(1a) Documents produced by the public sector bodies constitute a vast, diverse and valuable pool of resources that can benefit the knowledge economy.</b></p>
<p>(1) Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information<sup>21</sup> establishes a minimum set of rules governing the re-use and the practical means of facilitating re-use of existing documents held by public sector bodies of the Member States.</p>	<p><i>[no change]</i></p>	<p>(1) Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information<sup>7</sup> establishes a minimum set of rules governing the re-use and the practical means of facilitating re-use of existing documents held by public sector bodies of the Member States.</p> <p><sup>7</sup> OJ L 345, 31.12.2003, p. 90.</p>	<p>(1) Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information<sup>7</sup> establishes a minimum set of rules governing the re-use and the practical means of facilitating re-use of existing documents held by public sector bodies of the Member States.</p> <p><sup>7</sup> OJ L 345, 31.12.2003, p. 90.</p>

<p>(2) Open data policies which encourage the wide availability and re-use of public sector information for private or commercial purposes, with minimal or no legal, technical or financial constraints, can play an important role in kick-starting the development of new services based on novel ways to combine and make use of such information. However, this requires a level playing field at Union level in terms of whether or not the re-use of documents is authorised, which cannot be achieved by leaving it up to the different rules and practices of the Member States or the public bodies concerned.</p>	<p><b>Rapporteur's compromise amendment replacing amendment 3:</b>  (2) Open data policies which encourage the wide availability and re-use of public sector information for private or commercial purposes, with minimal or no legal, technical or financial constraints, <i>and which promote the circulation of information not only for economic operators but also for members of the public and the free movement of persons within the Union, with due regard to fundamental rights in every case</i>, can play an important role in kick-starting the development of new services based on novel ways to combine and make use of such information, <i>stimulate economic growth and promote social engagement</i>. However, this requires a level playing field at Union level in terms of whether or not the re-use of documents is authorised, which cannot be achieved by leaving it up to the different rules and practices of the Member States or the public <i>sector</i> bodies concerned.</p>	<p>(2) Open data policies which encourage the wide availability and re-use of public sector information for private or commercial purposes, with minimal or no legal, technical or financial constraints, can play an important role in kick-starting the development of new services based on novel ways to combine and make use of such information. However, this requires a level playing field at Union level in terms of whether or not the re-use of documents is authorised, which cannot be achieved by leaving it up to the different rules and practices of the Member States or the public <b>sector</b> bodies concerned.</p>	<p>(2) Open data policies which encourage the wide availability and re-use of public sector information for private or commercial purposes, with minimal or no legal, technical or financial constraints, <b>and which promote the circulation of information not only for economic operators but also for the public</b>, can play an important role in kick-starting the development of new services based on novel ways to combine and make use of such information, <b>stimulate economic growth and promote social engagement</b>. However, this requires a level playing field at Union level in terms of whether or not the re-use of documents is authorised, which cannot be achieved by leaving it up to the different rules and practices of the Member States or the public sector bodies concerned.</p>
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<p>(3) Allowing re-use of documents held by a public sector body adds value for the re-users, for the end users and for the society in general and in many cases for the public body itself, by providing feedback from re-users and end users which allows the holder to improve the quality of the information collected.</p>	<p><b>Rapporteur's compromise amendment replacing amendment 4:</b>  (3) Allowing re-use of <i>data and</i> documents held by a public sector body adds value for the re-users, for the end users, for the society in general and for the public body itself, by <i>promoting transparency and</i> providing feedback from re-users and end users which allows the holder to improve the quality of the information collected.</p>	<p>(3) Allowing re-use of documents held by a public sector body adds value for the re-users, for the end users and for the society in general and in many cases for the public <b>sector</b> body itself, by providing feedback from re-users and end users which allows the holder to improve the quality of the information collected.</p>	<p>(3) Allowing re-use of documents held by a public sector body adds value for re-users, for end users and for society in general and in many cases for the public sector body itself, by <b>promoting transparency and accountability and</b> providing feedback from re-users and end users which allows the holder to improve the quality of the information collected.</p>
<p>(4) Since the first set of rules on re-use of public sector information was adopted in 2003, the amount of data in the world, including public data, has exploded and new types of data are being generated and collected. In parallel, we are witnessing continuous revolution in technologies for analysis, exploitation and processing of data. This rapid technological evolution makes it possible to create new services and new applications, which are built upon the use, aggregation or combination of data. The rules adopted in 2003 no longer keep pace with these rapid changes and as a result the economic and social opportunities offered by re-use of public data risk to be missed.</p>	<p>[no change]</p>	<p>(4) Since the first set of rules on re-use of public sector information was adopted in 2003, the amount of data in the world, including public data, has <del>exploded</del> <b>increased exponentially</b> and new types of data are being generated and collected. In parallel, we are witnessing continuous <del>revolution</del> <b>evolution</b> in technologies for analysis, exploitation and processing of data. This rapid technological evolution makes it possible to create new services and new applications, which are built upon the use, aggregation or combination of data. The rules adopted in 2003 no longer keep pace with these rapid changes and as a result the economic and social opportunities offered by re-use of public data risk to be missed.</p>	<p>(4) Since the first set of rules on re-use of public sector information was adopted in 2003, the amount of data in the world, including public data, has increased exponentially and new types of data are being generated and collected. In parallel, we are witnessing continuous evolution in technologies for analysis, exploitation and processing of data. This rapid technological evolution makes it possible to create new services and new applications, which are built upon the use, aggregation or combination of data. The rules adopted in 2003 no longer keep pace with these rapid changes and as a result the economic and social opportunities offered by re-use of public data risk to be missed.</p>

<p>(5) At the same time, Member states have now established re-use policies under the 2003/98/EC Directive and some of them have been adopting ambitious open data approaches to make re-use of accessible public data easier for citizens and businesses beyond the minimum level set up by the Directive. To prevent different rules in different Member States acting as a barrier for the cross-border offer of products and services, and to enable comparable public data sets to be re-usable for pan-European applications based on them, a minimum harmonisation is also required as to what public data is available for re-use in the internal information market, consistent with the relevant access regime.</p>	<p><i>[no change]</i></p>	<p>(5) At the same time, Member sStates have now established re-use policies under the 2003/98/EC Directive and some of them have been adopting ambitious open data approaches to make re-use of accessible public data easier for citizens and businesses beyond the minimum level set up by the Directive. To prevent different rules in different Member States acting as a barrier for the cross-border offer of products and services, and to enable comparable public data sets to be re-usable for pan-European applications based on them, a minimum harmonisation is also required as to what public data is available for re-use in the internal information market, consistent with the relevant access regime.</p>	<p>(5) At the same time, Member States have now established re-use policies under the 2003/98/EC Directive and some of them have been adopting ambitious open data approaches to make re-use of accessible public data easier for citizens and businesses beyond the minimum level set up by the Directive. To prevent different rules in different Member States acting as a barrier for the cross-border offer of products and services, and to enable comparable public data sets to be re-usable for pan-European applications based on them, a minimum harmonisation is also required as to what public data is available for re-use in the internal information market, consistent with the relevant access regime.</p>
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<p>(6) Directive 2003/98/EC does not contain an obligation to allow re-use of documents. The decision whether or not to authorise re-use remains with the Member States or the public sector body concerned. At the same time, the Directive builds on national rules on access to documents. Some Member States have expressly linked the right of re-use to this right of access, so that all generally accessible documents are re-usable. In other Member States, the link between the two sets of rules is less clear and this is a source of legal uncertainty.</p>	<p><b>Rapporteur's compromise amendment replacing amendment 5:</b></p> <p>(6) Directive 2003/98/EC does not <i>containing</i> an obligation <i>for Member States</i> to allow <i>access to, and</i> re-use of, <i>public-sector</i> documents. The decision whether or not to authorise re-use remains with the Member States or the public sector body concerned. At the same time, the Directive builds on national rules on access to documents <i>and so allowing re-use of documents is not required under the Directive where access is restricted or excluded</i>, Some Member States have expressly linked the right of re-use to this right of access, <i>whereas</i> other Member States <i>have legally separated the right of re-use from national rules on access to information and freedom of information</i>.</p>	<p>(6) Directive 2003/98/EC does not contain an obligation on access to documents or an obligation to allow re-use of documents. The decision whether or not to authorise re-use remains with the Member States or the public sector body concerned. At the same time, the Directive builds on national rules on access to documents <b>and so allowing re-use of documents is not required under the Directive where access is restricted (for example, national rules restrict access to citizens or companies who prove a particular interest to obtain access to documents) or excluded (for example, national rules exclude access because of the sensitive nature of the documents based, inter alia, on the grounds of national security, defence, public security)</b>. Some Member States have expressly linked the right of re-use to this right of access, so that all generally accessible documents are re-usable. In other Member States, the link between the two sets of rules is less clear and this is a source of legal uncertainty.</p>	<p>(6) Directive 2003/98/EC does not contain an obligation on access to documents or an obligation to allow re-use of documents. The decision whether or not to authorise re-use remains with the Member States or the public sector body concerned. At the same time, the Directive builds on national rules on access to documents and so allowing re-use of documents is not required under the Directive where access is restricted (for example, national rules restrict access to citizens or companies who prove a particular interest to obtain access to documents) or excluded (for example, national rules exclude access because of the sensitive nature of the documents based, inter alia, on the grounds of national security, defence, public security). Some Member States have expressly linked the right of re-use to this right of access, so that all generally accessible documents are re-usable. In other Member States, the link between the two sets of rules is less clear and this is a source of legal uncertainty.</p>
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	<p><i>(6a) The obligation to make all generally available documents re-usable and to grant permission to re-use documents access to which is not restricted by virtue of access regimes in the Member States should be ensured while respecting the subsidiarity principle and guaranteeing the protection of privacy and personal data at Union level with respect for and in full compliance with Union data protection legislation, including in cross-border data re-use.</i></p> <p style="text-align: center;"><b>Amendment 6</b> <b>Proposal for a directive</b> <b>Recital 6a (new)</b></p>		<p><b>EP text withdrawn</b></p>
	<p><i>(6b) National rules on access to public documents are based on transparency and freedom of information. In some cases, however, that right is restricted, for example to those who have a particular interest in the documents in question or to cases in which the documents contain sensitive information relating, for example, to national or public security.</i></p> <p style="text-align: center;"><b>Amendment 7</b> <b>Proposal for a directive</b> <b>Recital 6b (new)</b></p>		<p><b>EP text withdrawn - covered in recital 6</b></p>

	<p><i>(6c) Directive 2003/98/EC does not contain an obligation for Member States to digitise analogue material which they have available, or to make it accessible in an open format. Public sector bodies may themselves decide when and under what conditions data are to be digitised .</i></p> <p style="text-align: center;"><b>Amendment 8 Proposal for a directive Recital 6c (new)</b></p>		<b>EP text withdrawn</b>
	<p><i>(6d) Directive 2003/98/EC applies to documents the supply of which forms part of the public task of the public-sector bodies concerned, as defined by law or by other binding rules in the Member State in question. It should be possible for that public task to be defined for the bodies concerned either in general or from case to case.</i></p> <p style="text-align: center;"><b>Amendment 9 Proposal for a directive Recital 6d (new)</b></p>		<b>Merged with Council recital 7b</b>
<p>(7) Directive 2003/98/EC should therefore lay down a clear obligation for Member States to make all generally available documents re-usable. As it constitutes a limitation to the intellectual property rights hold by the authors of the documents, the scope of such a link between the right of access and the right of use should be narrowed to what is strictly necessary to reach the objectives pursued by its introduction. In this respect,</p>	<p><b>Rapporteur's compromise amendment replacing amendment 10:</b></p> <p>(7) Directive 2003/98/EC should <i>be</i> therefore <b>amended to</b> lay down a clear obligation for Member States to make all documents re-usable <b>unless access is restricted or excluded under national rules on access to documents and subject to the other exceptions laid down in the Directive and to generate all such future</b></p>	<p>(7)Directive 2003/98/EC should <b>be</b> therefore <b>amended to</b> lay down a clear obligation for Member States to make all documents re-usable <b>unless access is restricted or excluded under national rules on access to documents and subject to the other exceptions laid down in the Directive. These amendments do not seek to define or change access regimes within Member States, which remain under the</b></p>	<p>(7) Directive 2003/98/EC should be therefore amended to lay down a clear obligation for Member States to make all documents re-usable unless access is restricted or excluded under national rules on access to documents and subject to the other exceptions laid down in the. These amendments do not seek to define or change access regimes within Member States, which remain under the responsibility of the Member States.</p>

<p>taking into account the Union legislation and Member States' and Union's international obligations, notably under the Berne Convention for the Protection of Literary and Artistic Works and the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), documents on which third parties hold intellectual property rights should be excluded from the scope of Directive 2003/98/EC. If a third party was the initial owner of a document held by libraries (including university libraries), museums and archives that is still protected by intellectual property rights, that document should, for the purpose of this Directive, be considered as a document for which third parties hold intellectual property rights.</p>	<p><i>documents with a view of their being reusable. These amendments do not seek to define or change access regimes within Member States, which remain under the responsibility of the Member States.</i></p>	<p>responsibility of the Member States. As it constitutes a limitation to the intellectual property rights held by the authors of the documents, the scope of such a link between the right of access and the right of use should be narrowed to what is strictly necessary to reach the objectives pursued by its introduction. In this respect, taking into account the Union legislation and Member States' and Union's international obligations, notably under the Berne Convention for the Protection of Literary and Artistic Works and the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), documents on which third parties hold intellectual property rights should be excluded from the scope of Directive 2003/98/EC. If a third party was the initial owner of a document held by libraries (including university libraries), museums and archives that is still protected by intellectual property rights, that document should, for the purpose of this Directive, be considered as a document for which third parties hold intellectual property rights.</p>	
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		<p><b>(7a) Taking into account the Union legislation and Member States' and Union's international obligations, notably under the Berne Convention for the Protection of Literary and Artistic Works and the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), documents on which third parties hold intellectual property rights should be excluded from the scope of Directive 2003/98/EC. If a third party was the initial owner of a document held by libraries (including university libraries), museums and archives that is still protected by intellectual property rights, that document should, for the purpose of this Directive, be considered as a document for which third parties hold intellectual property rights.</b></p>	<p>(7a) Taking into account the Union legislation and Member States' and Union's international obligations, notably under the Berne Convention for the Protection of Literary and Artistic Works and the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), documents on which third parties hold intellectual property rights should be excluded from the scope of Directive 2003/98/EC. If a third party was the initial owner of a document held by libraries (including university libraries), museums and archives that is still protected by intellectual property rights, that document should, for the purpose of this Directive, be considered as a document for which third parties hold intellectual property rights.</p>
		<p><b>(7b) For the purpose of identifying documents the supply of which is an activity falling outside the scope of the public task of the public sector bodies concerned as defined by law or by other binding rules in the Member State, or in the absence of such rules as defined in line with common administrative practice in the Member State. The public task could be defined generally or on a case-by-case basis for individual public sector bodies.</b></p>	<p><b>(7b) For the purpose of identifying Directive 2003/98/EC should apply to documents the supply of which is an activity falling outside the scope forms part of the public task of the public sector bodies concerned, as defined by law or by other binding rules in the Member State. <del>or</del> In the absence of such rules as the public task should be defined in line with common administrative practice in the Member State, provided that the scope of the public task is transparent and subject to review. The public task could be defined generally or on a case-by-case basis for individual public sector bodies.</b></p>

		<p><b>(7c) This Directive should be implemented and applied in full compliance with the principles relating to the protection of personal data in accordance with the Directive 95/46/EC of the European Parliament and the Council of 24 October 1995 on the protection of individuals with regard to the processing of data and of the free movement of such data.</b></p>	<p>(7c) This Directive should be implemented and applied in full compliance with the principles relating to the protection of personal data in accordance with the Directive 95/46/EC of the European Parliament and the Council of 24 October 1995 on the protection of individuals with regard to the processing of data and of the free movement of such data. <b>In particular, it is worth recalling that, according to that Directive, the Member States should determine the conditions under which the processing of personal data is lawful. Furthermore, one of the principles of that Directive is that the further processing of personal data should not be incompatible with specified, explicit and legitimate purposes established for the collection of that data.</b></p>
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	<p><i>(7a) Documents in which the intellectual property rights have expired and which consequently enter the public domain constitute a very important part of the collections of libraries, archives and museums and should be given priority in digitisation campaigns; it is therefore desirable to ensure that such digitisation does not alter their legal status. Access to, and re-use of, those data must be guaranteed in order to respect the fundamental right of access to culture, information and education.</i></p> <p style="text-align: center;"><b>Amendment 11</b> <b>Proposal for a directive</b> <b>Recital 7a (new)</b></p>		<b>EP text withdrawn - covered by new recital 10f</b>
(8) The application of Directive 2003/98/EC should be without prejudice to the rights that employees of public sector bodies may enjoy under national rules.	<i>[no change]</i>	<i>[no change]</i>	(8) The application of Directive 2003/98/EC should be without prejudice to the rights, <b>including economic and moral intellectual property rights</b> , that employees of public sector bodies may enjoy under national rules.
(9) Moreover, where any document is made available for re-use, the public sector body concerned should retain the right to exploit the document.	<i>[no change]</i>	<i>[no change]</i>	<i>[no change]</i>

	<p><i>(9a) Seeking out, digitising and presenting cultural assets are important challenges in order to ensure access to culture, information and education for all. It is therefore important to opt for judicious use of cultural assets which facilitates access to their cultural heritage for members of the public, while taking account of the fact that cultural assets are not economic assets like any others and that they should be protected against excessive commercialisation. The cultural institutions with which this Directive is concerned should be supported by public authorities through the establishment of public funds for the digitisation and dissemination of data.</i></p> <p style="text-align: center;"><b>Amendment 12 Proposal for a directive Recital 9a (new)</b></p>		<p><b>EP text withdrawn - covered by new recital 10f</b></p>
<p>(10) The scope of application of the Directive is extended to libraries (including university libraries), museums and archives. The Directive does not apply to other cultural institutions, such as operas, ballets or theatres, including the archives that are part of these institutions.</p>	<p><b>Rapporteur's compromise amendment replacing amendment 13:</b></p> <p>(10) The scope of application of the Directive is extended to libraries (including university libraries), museums and archives.</p>	<p>(10) The scope of application of the Directive <del>is should be</del> extended to <del>the cultural establishments, such as</del> libraries (including university libraries), museums and archives. <del>The Directive does not apply to other cultural institutions, such as operas, ballets or theatres, including the archives that are part of these institutions.</del></p>	<p>(10) The scope of application of the Directive should be extended to libraries (including university libraries), museums and archives.</p>



		<p><b>(10a) One of the principal aims of the establishment of the internal market is the creation of conditions conducive to the development of Union-wide services. The libraries, museum and archives hold significant amount of valuable public sector information resources, in particular since digitisation projects have multiplied the amount of digital public domain material. These cultural heritage collections and related metadata are a potential base for digital content products and services and has a huge potential for innovative re-use in sectors such as learning and tourism. Wider possibilities of re-using public cultural material should inter alia allow European companies to exploit its potential and contribute to economic growth and job creation.</b></p>	<p>(10a) One of the principal aims of the establishment of the internal market is the creation of conditions conducive to the development of Union-wide services. The libraries, museum and archives hold significant amount of valuable public sector information resources, in particular since digitisation projects have multiplied the amount of digital public domain material. These cultural heritage collections and related metadata are a potential base for digital content products and services and has a huge potential for innovative re-use in sectors such as learning and tourism. Wider possibilities of re-using public cultural material should inter alia allow European companies to exploit its potential and contribute to economic growth and job creation.</p>
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	<p><b>Rapporteur's compromise amendment for Coucil's recital 10b and Parliament's recital 10a (Amendment 14):</b></p> <p><b>(10b) There are considerable differences in the rules and practices in the Member States relating to the exploitation of public cultural resources, which constitute barriers to realising economic potential of those resources. As libraries, museums and archives continue to invest in digitisation, many already make their public domain content available for re-use and many are actively seeking out opportunities to re-use their content. Inter alia, the digitisation of European cultural collections should be promoted, both through instruments like Europeana and through public-private partnerships. The developments should be encouraged also by removing the regulatory barriers.</b></p>	<p><b>(10b) There are considerable differences in the rules and practices in the Member States relating to the exploitation of public cultural resources, which constitute barriers to realising economic potential of those resources. As libraries, museums and archives continue to invest in digitisation, many already make their public domain content available for re-use and many are actively seeking out opportunities to re-use their content. However, as they operate within very different regulatory and cultural environments, practices of cultural establishments in exploiting content have developed in disparate ways.</b></p>	<p>(10b) There are considerable differences in the rules and practices in the Member States relating to the exploitation of public cultural resources, which constitute barriers to realising economic potential of those resources. As libraries, museums and archives continue to invest in digitisation, many already make their public domain content available for re-use and many are actively seeking out opportunities to re-use their content. However, as they operate within very different regulatory and cultural environments, practices of cultural establishments in exploiting content have developed in disparate ways.</p>
		<p><b>(10c) Therefore minimum harmonisation of national rules and practices on the re-use of public cultural material in libraries, museums and archives should be undertaken, in cases where the differences in national regulations and practices or the absence of clarity hinder the smooth functioning of the internal market and the proper development of the information society in the Union.</b></p>	<p>(10c) Therefore minimum harmonisation of national rules and practices on the re-use of public cultural material in libraries, museums and archives should be undertaken, in cases where the differences in national regulations and practices or the absence of clarity hinder the smooth functioning of the internal market and the proper development of the information society in the Union.</p>

		<p><b>(10d) The extension of the scope of the Directive should be limited to three types of cultural establishments – libraries (including university libraries), museums and archives, because their collections are and will increasingly become a valuable raw material for re-use in many products such as mobile applications. Other types of cultural establishments (such as orchestras, operas, ballets and theatres), including the archives that are part of these establishments, should remain excluded because of their "performing arts" specificity. Since almost all of their material is covered by third-party intellectual property rights and would therefore remain excluded from the scope of the Directive, including them in the scope would have little effect.</b></p>	<p>(10d) The extension of the scope of the Directive should be limited to three types of cultural establishments – libraries (including university libraries), museums and archives, because their collections are and will increasingly become a valuable raw material for re-use in many products such as mobile applications. Other types of cultural establishments (such as orchestras, operas, ballets and theatres), including the archives that are part of these establishments, should remain excluded because of their "performing arts" specificity. Since almost all of their material is covered by third-party intellectual property rights and would therefore remain excluded from the scope of the Directive, including them in the scope would have little effect.</p>
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	<p>This Amendment 14 has been replaced by Rapporteur's compromise amendment for Council's recital 10b and Parliament recital 10a above.</p> <p><del>(10a) As the re-use of documents held by libraries (including university libraries), museums and archives offers substantial social and economic potential for the cultural and creative industries, as well as to society through the extension of the collection of Europeana, the on-going digitisation of European cultural collections should be promoted.</del></p> <p style="text-align: center;"><b>Amendment 14</b> <b>Proposal for a directive</b> <b>Recital 10a (new)</b></p>		<p><b>EP text withdrawn - covered by new recital 10f</b></p>
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			<p><b>New recital covering EP recitals 7a, 9a and 10a</b>  <b>(10f) Digitisation is an important means for ensuring greater access to and use of cultural material for education, work or leisure. It also offers considerable economic opportunities, allowing for an easier integration of cultural material into digital services and products, thus supporting job creation and growth. These aspects were underlined in, amongst others, the European Parliament's resolution of 5 May 2010 on "Europeana - the next steps", the European Commission's Recommendation on the digitisation and online accessibility of cultural material and digital preservation of 27.10.2011, and the related Council conclusions of 11 May 2012. These documents define the way forward for dealing with the legal, financial and organisational aspects of digitising Europe's cultural heritage and bringing it online.</b></p>
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	<p><i>(10b) As regards the description, digitisation and presentation of cultural collections, there are numerous cooperation arrangements between libraries (including university libraries), museums, archives and private partners which involve public sector bodies granting exclusive rights of access and commercial exploitation to cooperation partners. Practice has shown that such public-private partnerships can facilitate worthwhile use of cultural collections and at the same time that they accelerate access to the cultural heritage for members of the public. Directive 2003/98/EC should therefore not preclude the conclusion of agreements granting exclusive rights. Moreover, cultural institutions should be free to choose for themselves the partners with which they wish to cooperate, subject to compliance with the principles of transparency and non-discrimination.</i></p> <p style="text-align: center;"><b>Amendment 15</b> <b>Proposal for a directive</b> <b>Recital 10b (new)</b></p>		<p><b>EP text withdrawn - covered in recitals 10f and 14c</b></p>
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	<p><i>(10c) Union institutions and bodies should lead by example in the re-use of public sector information, thus transforming information management across the public sector, promoting best practices and developing innovative technology solutions.</i></p> <p><b>Amendment 16</b>  <b>Proposal for a directive</b>  <b>Recital 10c (new)</b></p>		EP text withdrawn
	<p><i>(10d) Certain personal data contained in archive documents to which the prohibition of any form of discrimination applies should be excluded from the scope of Directive 2003/98/EC or, if the legislation in force requires them to be communicated, should be rendered anonymous or the data concerning individuals should be masked out before they are used in any way.</i></p> <p><b>Amendment 17</b>  <b>Proposal for a directive</b>  <b>Recital 10d (new)</b></p>		EP text withdrawn
	<p><i>(10e) Data held by educational and research establishments should remain outside the scope of Directive 2003/98/EC.</i></p> <p><b>Amendment 18</b>  <b>Proposal for a directive</b>  <b>Recital 10e (new)</b></p>		EP text withdrawn

<p>(11) To facilitate re-use, public sector bodies should make documents available through machine readable formats and together with their metadata where possible and appropriate, in a format that ensures interoperability , e.g. by processing them in a way consistent with the principles governing the compatibility and usability requirements for spatial information under Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)<sup>22</sup></p>	<p>(11) To facilitate re-use, public sector bodies should make documents available through <i>open</i> formats and together with their metadata where possible and appropriate, in a format that ensures interoperability , e.g. by processing them in a way consistent with the principles governing the compatibility and usability requirements for spatial information under Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE).</p> <p style="text-align: center;"><b>Amendment 19</b> <b>Proposal for a directive</b> <b>Recital 11</b></p>	<p>(11) To facilitate re-use, public sector bodies should make documents available through machine readable formats and together with their metadata, <b>at the best level of precision and granularity</b>, where possible and appropriate, in a format that ensures interoperability , e.g. by processing them in a way consistent with the principles governing the compatibility and usability requirements for spatial information under Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)<sup>8</sup></p>	<p>(11) To facilitate re-use, public sector bodies should make documents available through <b>open and</b> machine readable formats and together with their metadata, at the best level of precision and granularity, where possible and appropriate, in a format that ensures interoperability , e.g. by processing them in a way consistent with the principles governing the compatibility and usability requirements for spatial information under Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)<sup>8</sup></p>
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	<p><b>Rapporteur's compromise amendment replacing amendment 20:</b></p> <p><i>(11a) A document would be in a machine readable format if it was in a file format that was structured in such a way that software applications could easily identify, recognise and extract data of interest from it. Data encoded in files that are structured in a machine-readable format are machine-readable data. Machine-readable formats can exist as formal open standards or not. Machine-readable formats can be open or proprietary; they can be formal standards or not. Documents encoded in a file format that limits such automatic processing, because the data cannot or cannot easily be extracted from these documents, should not be considered as documents in machine-readable format. Member States should when appropriate encourage the use of open, machine-readable formats.</i></p>	<p>(11a) A document should be considered as a document in a machine readable format if it is in a file format that is structured in such a way that software applications can easily identify, recognise and extract data of interest from it. Data encoded in files that are structured in a machine-readable format are machine-readable data. Machine-readable formats can be open (for example Comma Separated Values) or proprietary (for example as used by various proprietary spreadsheet programs, such as XLS); they can be formal standards (for example XML or RDF) or not (for example Comma Separated Values). Documents encoded in a file format that limits such automatic processing, because the data cannot or cannot easily be extracted from these documents, should not be considered as documents in machine-readable format. Member States should when appropriate encourage the use of open, machine-readable formats.</p>	<p>(11a) A document should be considered as a document in a machine readable format if it is in a file format that is structured in such a way that software applications can easily identify, recognise and extract data of interest from it. Data encoded in files that are structured in a machine-readable format are machine-readable data. Machine-readable formats can exist as formal open standards or not. Machine-readable formats can be open (for example Comma Separated Values) or proprietary (for example as used by various proprietary spreadsheet programs, such as XLS); they can be formal standards (for example XML or RDF) or not (for example Comma Separated Values). Documents encoded in a file format that limits such automatic processing, because the data cannot or cannot easily be extracted from these documents, should not be considered as documents in machine-readable format. Member States should when appropriate encourage the use of open, machine-readable formats.</p>
<p>(12) Where charges are made for the re-use of documents, they should in principle be limited to the marginal costs incurred for their reproduction and dissemination, unless exceptionally justified according to objective, transparent and verifiable criteria. The necessity of not hindering the normal running of public sector bodies covering a substantial part of the operating cost relating to the performance of their public task from the exploitation of their intellectual property rights should notably</p>	<p><b>Rapporteur's compromise amendment replacing amendment 21:</b></p> <p>(12) Where charges are made for allowing and supplying the re-use of documents, they should in principle be limited to the marginal costs incurred for their reproduction, <i>provision and formatting, ensuring of their interoperability</i> and dissemination, unless exceptionally justified according to objective, transparent and verifiable criteria.</p>	<p>(12) Where charges are made for <b>supplying and allowing</b> the re-use of documents, they should in principle be limited to the marginal costs <del>incurred for their reproduction and dissemination, unless higher charges are exceptionally justified according to objective, transparent and verifiable criteria.</del> However, <del>the</del> necessity of not hindering the normal running of public sector bodies <del>covering that are required to generate revenue to cover a substantial part of</del></p>	<p><b>To be aligned with Article 6</b>  (12) Where charges are made <b>by public sector bodies</b> for <del>supplying and allowing</del> the re-use of documents, <del>they</del> <b>those</b> charges should in principle be limited to the marginal costs. However, the necessity of not hindering the normal running of public sector bodies that are required to generate revenue to cover a substantial part of their costs relating to the performance of their public task or <del>the cost relating to the performance of</del></p>

<p>be taken into consideration. The burden of proving that charges are cost-oriented and comply with relevant limits should lie with the public sector body charging for the re-use of documents.</p>	<p><i>However, the necessity of not hindering the normal running of public sector bodies that are required to cover a substantial part of their costs incurred in the performance of their public task as well as the normal running costs of libraries, museums and archives should notably be taken into consideration. Those public sector bodies should be allowed to charge higher charges for re-use. Such charges in excess of marginal costs should be set according to objective, transparent and verifiable criteria and the total income from supplying and allowing re-use of documents should not exceed the cost of production, reproduction and dissemination, together with a reasonable return on investment. In such cases charges should be set according to objective, transparent and verifiable criteria and the total income from supplying and allowing re-use of documents should not exceed the cost of production, reproduction and dissemination, together with a reasonable return on investment. Libraries, museums and archives should also be able to charge above marginal costs also for the reasons not to hinder the normal running of these public sector bodies. In case of those public sector bodies the total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction, dissemination, preservation and rights clearance, together with a reasonable return on investment. The</i></p>	<p>their <del>operating</del> costs relating to the performance of their public tasks or the costs relating to the performance of specific activities which form part of the public task and which give rise to the documents for which charges are made <del>from the exploitation of their intellectual property rights</del> should notably be taken into consideration. Such public sector bodies should be able to charge above marginal costs. The requirement to generate revenue to cover substantial part of their costs relating to the performance of their public tasks does not have to be a requirement in legislation and may result, for example, from administrative practices in Member States. In such cases charges should be set according to objective, transparent and verifiable criteria and the total income from supplying and allowing re-use of collection, production, reproduction and dissemination, together with a reasonable return on investment. Libraries, museums and archives should also be able to charge above marginal costs also for the reasons not to hinder the normal running of these public sector bodies. In case of those public sector bodies the total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction, dissemination, preservation and rights clearance,</p>	<p><del>specific activities which form part of the public task and which give rise to the documents for which charges are made</del> of the costs relating to the collection, production, reproduction and dissemination of certain documents made available for re-use should be taken into consideration. In <del>S</del> such cases public sector bodies should be able to charge above marginal costs. The requirement to generate revenue to cover a substantial part of their costs relating to the performance of their public tasks or of the costs relating to the collection, production, reproduction and dissemination of certain documents, does not have to be a requirement in legislation and may result, for example, from administrative practices in Member States. In such cases, charges should be set according to objective, transparent and verifiable criteria and the total income from supplying and allowing re-use of documents should not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment. Libraries, museums and archives should also be able to charge above marginal costs also for <del>the</del> reasons of not <del>to</del> hindering the normal running of these public sector bodies. In <del>the</del> case of those public sector bodies, the total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction, dissemination, preservation and rights clearance, together with a</p>
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	<p><i>upper limits for charges set in this Directive are without prejudice to the right of Member States or public sector bodies to apply lower charges or no charges at all.</i></p>	<p><b>together with a reasonable return on investment. For the purpose of libraries, museums and archives and bearing in mind their particularities, the prices charged by the private sector for the re-use of identical or similar documents could be considered when calculating the reasonable return on investment. The upper limits for charges set in this Directive are without prejudice to the right of Member States or public sector bodies to apply lower charges or no charges at all. The burden of proving that charges are cost-oriented and comply with relevant limits criteria should lie with the public sector body charging for the re-use of documents.</b></p>	<p>reasonable return on investment. For the purpose of libraries, museums and archives and bearing in mind their particularities, the prices charged by the private sector for the re-use of identical or similar documents could be considered when calculating the reasonable return on investment. The upper limits for charges set in this Directive are without prejudice to the right of Member States or public sector bodies to apply lower charges or no charges at all.</p>
		<p><b>(12a) Member States should lay down the criteria for charging above marginal costs. In this respect, Member States, for example, may lay down such criteria directly in national rules or may designate the appropriate body or appropriate bodies, other than the public sector body itself, competent to lay down such criteria. That body should be organised in accordance with the constitutional and legal systems of Member States. It could be an existing body with budgetary executive powers and under political responsibility.</b></p>	<p>(12a) Member States should lay down the criteria for charging above marginal costs. In this respect, Member States, for example, may lay down such criteria directly in national rules or may designate the appropriate body or appropriate bodies, other than the public sector body itself, competent to lay down such criteria. That body should be organised in accordance with the constitutional and legal systems of Member States. It could be an existing body with budgetary executive powers and under political responsibility.</p>

<p>(13) In relation to any re-use that is made of the document, public sector bodies may, where practicable, impose conditions on the re-user, such as acknowledgment of source. Any licences for the re-use of public sector information should in any case place as few restrictions on re-use as possible. Open licences available online, which grant wider re-use rights without technological, financial or geographical limitations and relying on open data formats, may also play an important role in this respect. Therefore, Member States should encourage the use of open government licences.</p>	<p><b>Rapporteur's compromise amendment replacing amendment 22:</b></p> <p>(13) In relation to any re-use that is made of the document, public sector bodies may, where practicable, impose conditions on the re-user, such as acknowledgment of source <i>and acknowledgment of whether the document has been modified by the re-user in any way</i>. Any. Any licences for the re-use of public sector information should in any case place as few restrictions on re-use as possible, <i>preferably limiting them to an indication of source</i>. Open licences available online, which grant wider re-use rights without technological, financial or geographical limitations and relying on open data formats, <i>should</i> play an important role in this respect. Therefore, Member States should encourage the use of open licences <i>that in time should become standardised across the Union</i>.</p>	<p>(13) In relation to any re-use that is made of the document, public sector bodies may, where practicable, impose conditions on the re-user, such as acknowledgment of source <b>and acknowledgment of whether the document has been modified by the re-user in any way</b>. Any licences for the re-use of public sector information should in any case place as few restrictions on re-use as possible. Open licences available online, which grant wider re-use rights without technological, financial or geographical limitations and relying on open data formats, may also play an important role in this respect. Therefore, Member States should encourage the use of open government licences.</p>	<p>(13) In relation to any re-use that is made of the document, public sector bodies may, where practicable, impose conditions on the re-user, such as acknowledgment of source and acknowledgment of whether the document has been modified by the re-user in any way. Any licences for the re-use of public sector information should in any case place as few restrictions on re-use as possible, <b>for example limiting them to an indication of source</b>. Open licences available online, which grant wider re-use rights without technological, financial or geographical limitations and relying on open data formats, <b>should</b> play an important role in this respect. Therefore, Member States should encourage the use of open licences <b>that in time should become common practice across the Union</b>.</p>
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<p>(14) Proper implementation of some of the features of this Directive, such as means of redress, compliance with charging principles and reporting obligations require supervision by independent authorities competent on the re-use of public sector information. To ensure consistency between approaches at Union level, coordination between the independent authorities should be encouraged, particularly through exchange of information on best practices and data re-use policies.</p>	<p><b>Rapporteur's compromise amendment replacing amendment 23:</b></p> <p><i>(14) Member States shall regularly review the implementation of this Directive, including means of redress, compliance with charging principles and reporting obligations.</i> To ensure consistency between approaches at Union level, coordination <i>at Union level</i> should be encouraged, particularly through exchange of information on best practices and data re-use policies.</p>	<p><del>(14) Proper implementation of some of the features of this Directive, such as means of redress, compliance with charging principles and reporting obligations require supervision by independent authorities competent on the re-use of public sector information. To ensure consistency between approaches at Union level, coordination between the independent authorities should be encouraged, particularly through the exchange of information on best practices and data re-use policies.</del></p>	<p><b>Linked to the final compromise</b></p>
		<p><b>(14a) The means of redress should include the possibility of review by an impartial review body. That body could be an already existing national authority, such as the national competition authority, the national access to documents authority or the national judicial authority. That body should be organised in accordance with the constitutional and legal systems of Member States and should not prejudice any means of redress otherwise available to applicants for re-use. It should however be distinct from the Member State mechanism laying down the criteria for charging above marginal costs. The means of redress should include the possibility of review of negative decisions but also of decisions which, although permitting re-use, could still affect applicants on other grounds, notably by the charging rules applied.</b></p>	<p>(14a) The means of redress should include the possibility of review by an impartial review body. That body could be an already existing national authority, such as the national competition authority, the national access to documents authority or the national judicial authority. That body should be organised in accordance with the constitutional and legal systems of Member States and should not prejudice any means of redress otherwise available to applicants for re-use. It should however be distinct from the Member State mechanism laying down the criteria for charging above marginal costs. The means of redress should include the possibility of review of negative decisions but also of decisions which, although permitting re-use, could still affect applicants on other grounds, notably by the charging rules applied.</p>

		<p><b>(14b) Competition rules should be respected when establishing the principles for re-use of documents avoiding as far as possible exclusive agreements between public sector bodies and private partners. However, in order to provide a service in the public interest, an exclusive right to re-use specific public sector documents may sometimes be necessary. This may be, inter alia, the case if no commercial publisher would publish the information without such an exclusive right. In order to take this concern into account Directive 2003/98/EC authorises, subject to a regular review, exclusive arrangements where an exclusive right is necessary for the provision of a service in the public interest. Following the extension of the scope of Directive 2003/98/EC to libraries, museums and archives, it is appropriate to take into account current divergences in the Member States with regard to digitisation of cultural resources, which could not be effectively accommodated by current rules of that Directive on exclusive arrangements. Therefore, where an exclusive right relates to digitisation of cultural resources, a certain period in time might be necessary for this exclusive right in order to give the private partner the possibility to recoup its investment. This period should, however, be limited in time and as short as possible, in order to respect the principle that public domain material</b></p>	<p>(14b) Competition rules should be respected when establishing the principles for re-use of documents avoiding as far as possible exclusive agreements between public sector bodies and private partners. However, in order to provide a service in the public interest, an exclusive right to re-use specific public sector documents may sometimes be necessary. This may be, inter alia, the case if no commercial publisher would publish the information without such an exclusive right. In order to take this concern into account Directive 2003/98/EC authorises, subject to a regular review, exclusive arrangements where an exclusive right is necessary for the provision of a service in the public interest.</p>
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		<p>should stay in the public domain once it is digitised. The period of exclusive right to digitise cultural resources should not exceed in general 10 years. In addition, any public private partnership for digitisation of cultural resources should grant the partner cultural institution full rights with respect to the post-termination use of digitised objects.</p>	
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			<p><b>(14c)</b> Following the extension of the scope of Directive 2003/98/EC to libraries (including university libraries), museums and archives, it is appropriate to take into account current divergences in the Member States with regard to digitisation of cultural recourses, which could not be effectively accommodated by current rules of that Directive on exclusive arrangements. <b>There are numerous cooperation arrangements between libraries (including university libraries), museums, archives and private partners which involve digitisation of cultural resources granting exclusive rights to private partners. Practice has shown that such public-private partnerships can facilitate worthwhile use of cultural collections and at the same time that they accelerate access to the cultural heritage for members of the public.</b></p> <p>Where an exclusive right relates to digitisation of cultural resources, a certain period in time might be necessary for this exclusive right in order to give the private partner the possibility to recoup its investment. This period should, however, be limited in time and as short as possible, in order to respect the principle that public domain material should stay in the public domain once it is digitised. The period of exclusive right to digitise cultural resources should not exceed in general 10 years. In addition, any public private partnership for digitisation of cultural resources should grant the partner cultural institution full rights with respect to the post-termination use of digitised objects.</p>
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<p>(15) Since the objective of this Directive, namely to facilitate the creation of Union-wide information products and services based on public sector documents, to ensure the effective cross-border use of public sector documents by private companies for added value information products and services, and to limit distortions of competition on the Union market, cannot be sufficiently achieved by Member States and can therefore, in view of the intrinsic pan-European scope of the proposed action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the Functioning of the European Union. In accordance with the principles of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.</p>	<p>(15) Since the objective of this Directive, namely to facilitate the creation of Union-wide information products and services based on public sector documents, to ensure the effective cross-border use of public sector documents <b><i>on the one hand</i></b> by private companies, <b><i>focusing on small and medium enterprises</i></b>, for added-value information products and services, and <b><i>on the other hand by citizens to facilitate the free circulation of information and communication</i></b>, cannot be sufficiently achieved by Member States and can therefore, in view of the intrinsic pan-European scope of the proposed action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the Functioning of the European Union. In accordance with the principles of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.</p> <p style="text-align: center;"><b>Amendment 24</b> <b>Proposal for a directive</b> <b>Recital 15</b></p>	<p>[no change]</p>	<p>(15) Since the objective of this Directive, namely to facilitate the creation of Union-wide information products and services based on public sector documents, to ensure the effective cross-border use of public sector documents <b>on the one hand</b> by private companies, <b>focusing on small and medium enterprises</b>, for added-value information products and services, and <b>on the other hand by citizens to facilitate the free circulation of information and communication</b>, cannot be sufficiently achieved by Member States and can therefore, in view of the intrinsic pan-European scope of the proposed action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the Functioning of the European Union. In accordance with the principles of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.</p>
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<p>(16) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the right to property (Article 17). Nothing in this Directive should be interpreted or implemented in a manner that is inconsistent with the European Convention on Human Rights.</p>	<p>(16) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including <i>the right to protection of personal data in all aspects of life (Article 8)</i> and the right to property (Article 17). Nothing in this Directive should be interpreted or implemented in a manner that is inconsistent with the European Convention on Human Rights.</p> <p style="text-align: center;"><b>Amendment 25</b> <b>Proposal for a directive</b> <b>Recital 16</b></p>	<p>(16) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the right to property (Article 17) <b>and protection of personal data (Article 8)</b>. Nothing in this Directive should be interpreted or implemented in a manner that is inconsistent with the European Convention on Human Rights.</p>	<p>(16) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including <b>protection of personal data (Article 8)</b> and the right to property (Article 17) <del>and protection of personal data (Article 8)</del>. Nothing in this Directive should be interpreted or implemented in a manner that is inconsistent with the European Convention on Human Rights.</p>
<p>(17) It is necessary to ensure that the Member States (see recital 19) report to the Commission on the extent of the re-use of public sector information, the conditions under which it is made available, and the work of the independent authority. To ensure consistency between approaches at Union level, coordination between the independent authorities should be encouraged, particularly through exchange of information on best practices and data re-use policies.</p>	<p><b>Rapporteur's compromise amendment replacing amendment 26:</b></p> <p>(17) It is necessary to ensure that the Member States report to the Commission on the extent of the re-use of public sector information, the conditions under which it is made available, <i>the supervision and the redress practices</i>.</p>	<p>(17) It is necessary to ensure that the Member States (<del>see recital 19</del>) report to the Commission on the extent of the re-use of public sector information; <b>and</b> the conditions under which it is made available. <del>and the work of the independent authority. To ensure consistency between approaches at Union level, coordination between the independent authorities should be encouraged, particularly through exchange of information on best practices and data re-use policies.</del></p>	<p><b>Depends on the final text of Article 13(1) second subparagraph</b> (17) It is necessary to ensure that the Member States report to the Commission on the extent of the re-use of public sector information, the conditions under which it is made available <b>and the redress practices</b>.</p>

<p>(18) The Commission should assist the Member States in implementing the Directive in a consistent way by giving guidance, particularly on charging and calculation of costs, on recommended licensing conditions and on formats, after consulting interested parties.</p>	<p><b>Rapporteur's compromise amendment replacing amendment 27:</b></p> <p><b>(18) The Commission may assist the Member States in implementing the Directive in a consistent way by making available, after consulting the Member States and other stakeholders, non-binding guidelines on recommended standard licenses, and datasets, formats calculation of costs and charging for the re-use of documents. Thus, cross-border exchange of best practices and knowledge between stakeholders, public bodies and regulators should be promoted by the Commission and the Member States.</b></p>	<p><del>(18) The Commission should assist the Member States in implementing the Directive in a consistent way by giving guidance, particularly on charging and calculation of costs, on recommended licensing conditions and on formats, after consulting interested parties. The Commission may assist the Member States in implementing the Directive in a consistent way by making available, after consulting the Member States, non-binding guidelines on recommended standard licenses, and datasets and charging for the re-use of documents.</del></p>	<p>(18) The Commission <del>may</del> <b>should</b> assist the Member States in implementing the Directive in a consistent way by <del>making available issuing, after consulting the Member States, non-binding</del> <b>making available issuing, after consulting</b> guidelines, particularly on recommended standard licenses, datasets and charging for the re-use of documents, <b>after consulting interested parties.</b></p>
<p>(19) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of [date], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.</p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>
<p>(20) Directive 2003/98/EC should therefore be amended accordingly,</p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>	<p><i>[no change]</i></p>