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Public Sector Information: Identification of Exclusive Agreements in Czech Republic

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Background



- The PSI Directive forbids, as a general rule, the **existence of exclusive agreements** (EAs) and the transitional period laid down in the Directive for existing exclusive agreements ended on 31. December 2008.
- According to the European Commission, only two Member States (the Netherlands and the UK) have taken action to identify possible EAs within the public sector bodies in their respective countries, before the 31st December 2008 deadline. Both assessments have indeed identified the existence of EAs and their specific nature. In this context the **Commission has launched an EU wide study** to assess the existence of possible EAs concluded by Public Sector Bodies (PSBs) within certain Member States
- The study in the Czech Republic was awarded to **European Projects & Management Agency (EPMA)**, which is permanently raising awareness on PSI and re-use also through its Czech PSI Watch Initiative (www.czechpsi.info). An expert assessment of the identified potential EAs was undertaken by the Faculty of Law of Masaryk University in Brno.

Main objectives



- identification of the Information Market Domains (IMD) to be targeted
- undertaking a systematic survey of 26 PSBs at the national level of Government in the selected domains
- validation of the information gathered with 46 re-users in these domains
- preparation of a summary country report (the Final Report), and provision of summary information sheet including preliminary legal analysis for each of the potential EA identified, in the light of Article 11 of the Directive.

PSI domains covered



PSI Domain	information covered
Business information	business and commercial registers, patent and trademark information, public tender databases
Geographic information	Address and building information, ortophotomaps, cadastral data, geodetic networks, geological data, hydrography, topographic information
Legal information	decisions of national courts
Meteorological information	climatological data and models, weather forecast
Social statistical information	Economic, employment, health, population and social statistics
Transport information	Information on traffic congestion, work on roads, public transport and vehicles

Results of PSB survey



PSI Domain	PSBs		Re-users		
	<i>Number of questionnaires sent out</i>	<i>Number of responses received</i>	<i>Number of subjects contacted</i>	<i>Number of statements received</i>	<i>Number of phone verifications</i>
Business information	7	7	15	6	9
Geographic information	5	5	12	3	9
Legal information	2	2	6	1	5
Meteorological information	2	2	3	0	3
Social statistical information	8	8	4	2	2
Transport information	2	2	6	1	4
Total number	26	26	46	13	32

Results of PSB survey



- ❑ Realized through official FOI request
- ❑ All the PSBs replied (they had to)
- ❑ No EA identified through the request - the PSB lawyers are sometimes of not very good quality
- ❑ One potential EA identified through the desk research (National Mass Transport Timetables)

Results of re-users survey

Pertinent occurrences	Re-users	
	<i>total</i>	%
organizations responding	14	30
organisations contacted by phone call	31	67
- explicitly no interest in cooperation	21	45
- not aware of any EAs	10	22
organisations aware of potential Eas	4	8
organisations with statement made	13	28
personal meeting demand	4	8

Results of re-users survey



- One potential EA identified (Commercial Journal Database)
- The main finding is that the PSI re-users were not generally interested in providing information for this study or they were not aware about potential existing EAs.
- Generally, the re-users do not see the main **problem for their business in relation to potential EAs**. This has been mostly solved by the market itself, through the actions taken by the PSI initiatives and the legislative processes.
- What they see as the main obstacle for their re-use business is **the impossibility of obtaining the raw and complete** data from important Czech public databases (e.g. Business Registr) and **the prices for data, which are very high (e.g. Cadastral Data)**.

Conclusions



- Both potential EAs has been requested and then analyzed by Radim Polčák, PhD., Faculty of Law, Masaryk Univerzity in Brno
- Both has been identified as void in terms of Directive
- Both exclusive re-users were not very happy about the findings, one of them paid for wrong anti-analysis
- Now it is upon EC to take an action



...thank you for the attention

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