Recommendation of the Council for Enhanced Access and More Effective Use of Public Sector Information

OECD

BETTER POLICIES FOR BETTER LIVES

This document is published under the responsibility of the Secretary-General of the OECD. It reproduces an OECD Legal Instrument and may contain additional material. The opinions expressed and arguments employed in the additional material do not necessarily reflect the official views of OECD Member countries.

This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

For access to the official and up-to-date texts of OECD Legal Instruments, as well as other related information, please consult the Compendium of OECD Legal Instruments at http://legalinstruments.oecd.org.

Please cite this document as:
OECD, *Recommendation of the Council for Enhanced Access and More Effective Use of Public Sector Information*, OECD/LEGAL/0362

Series: OECD Legal Instruments

Background Information

The Recommendation for Enhanced Access and More Effective Use of Public Sector Information was adopted by the OECD Council on 30 April 2008 on the proposal of the Committee for Information, Computer and Communications Policy (now called Digital Policy Committee). OECD Member countries have established a variety of laws, policies and practices concerning access to and re-use of public sector information at both the national and international level. The Recommendation was developed in order to contribute to the global exchange and use of such information, and provide a broader more compatible framework for development and implementation of national and regional approaches and guidelines to facilitate access and re-use.

Implementation

The published version of the 2015 Report is available at this link.

THE COUNCIL,

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

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

HAVING REGARD to the aim to increase returns on public investments in public sector information[1] and increase economic and social benefits from better access and wider use and re-use[2], in particular through more efficient distribution, enhanced innovation and development of new uses;

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

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

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

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

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

- **Openness.** Maximising the availability of public sector information for use and re-use based upon presumption of openness as the default rule to facilitate access and re-use. Developing a regime of access principles or assuming openness in public sector information as a default rule wherever possible no matter what the model of funding is for the development and maintenance of the information. Defining grounds of refusal or limitations, such as for protection of national security interests, personal privacy, preservation of private interests for example where protected by copyright, or the application of national access legislation and rules.

- **Access and transparent conditions for re-use.** Encouraging broad non-discriminatory competitive access and conditions for re-use of public sector information, eliminating exclusive arrangements, and removing unnecessary restrictions on the ways in which it can be accessed, used, re-used, combined or shared, so that in principle all accessible information would be open to re-use by all. Improving access to information over the Internet and in electronic form. Making available and developing automated on-line licensing systems covering re-use in those cases where licensing is applied, taking into account the copyright principle below.

- **Asset lists.** Strengthening awareness of what public sector information is available for access and re-use. This could take the form of information asset lists and inventories, preferably published on-line, as well as clear presentation of conditions to access and re-use at access points to the information.

- **Quality.** Ensuring methodical data collection and curation practices to enhance quality and reliability including through co-operation of various government bodies involved in the creation, collection, processing, storing and distribution of public sector information.

- **Integrity.** Maximising the integrity and availability of information through the use of best practices in information management. Developing and implementing appropriate safeguards to protect information from unauthorised modification or from intentional or unintentional denial of authorised access to information.

- **New technologies and long-term preservation.** Improving interoperable archiving, search and retrieval technologies and related research including research on improving access and availability of public sector information in multiple languages, and ensuring development of the necessary related skills. Addressing technological obsolescence and challenges of long term preservation and access. Finding new ways for the digitisation of existing public sector information and content, the development of born-digital public sector information products and data, and the implementation of cultural digitisation projects (public broadcasters, digital libraries, museums, etc.) where market mechanisms do not foster effective digitisation.

- **Copyright.** Intellectual property rights should be respected. There is a wide range of ways to deal with copyrights on public sector information, ranging from governments or private entities holding copyrights, to public sector information being copyright-free. Exercising copyright in ways that facilitate re-use (including waiving copyright and creating mechanisms that facilitate waiving of copyright where copyright owners are willing and able to do so, and developing mechanisms to deal with orphan works), and where copyright holders are in agreement, developing simple mechanisms to encourage wider access and use (including simple and effective licensing arrangements), and encouraging institutions and government agencies that fund works from outside sources to find ways to make these works widely accessible to the public.

- **Pricing.** When public sector information is not provided free of charge, pricing public sector information transparently and consistently within and, as far as possible, across different public sector organisations so that it facilitates access and re-use and ensures competition. Where possible, costs charged to any user should not exceed marginal costs of maintenance and distribution, and in special cases extra costs for example of digitisation. Basing any higher pricing on clearly expressed policy grounds.

- **Competition.** Ensuring that pricing strategies take into account considerations of unfair competition in situations where both public and business users provide value added services. Pursuing competitive neutrality, equality and timeliness of access where there is potential for cross-subsidisation from other government monopoly activities or reduced charges on government activities. Requiring public bodies to treat their own downstream/value-added activities on the same basis as their competitors for comparable purposes, including pricing. Particular attention should be paid to single sources of information resources. Promoting non-exclusive arrangements for disseminating information so that public sector information is open to all possible users and re-users on non-exclusive terms.

- **Redress mechanisms.** Providing appropriate transparent complaints and appeals processes.

- **Public private partnerships.** Facilitating public-private partnerships where appropriate and feasible in making public sector information available, for example by finding creative ways to finance the costs of digitisation, while increasing access and re-use rights of third parties.

- **International access and use.** Seeking greater consistency in access regimes and administration to facilitate cross-border use and implementing other measures to improve cross-border interoperability, including in situations where there have been restrictions on non-public users. Supporting international co-operation and co-ordination for commercial re-use and non-commercial use. Avoiding fragmentation and promote greater interoperability and facilitate sharing and comparisons of national and international datasets. Striving for interoperability and compatible and widely used common formats.

- **Best practices.** Encouraging the wide sharing of best practices and exchange of information on enhanced implementation, educating users and re-users, building institutional capacity and practical measures for promoting re-use, cost and pricing models, copyright handling, monitoring performance and compliance, and their wider impacts on innovation, entrepreneurship, economic growth and social effects.

INVITES:

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

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

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

---

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

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

About the OECD

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD Member countries are: Australia, Austria, Belgium, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Legal Instruments

Since the creation of the OECD in 1961, around 460 substantive legal instruments have been developed within its framework. These include OECD Acts (i.e. the Decisions and Recommendations adopted by the OECD Council in accordance with the OECD Convention) and other legal instruments developed within the OECD framework (e.g. Declarations, international agreements).

All substantive OECD legal instruments, whether in force or abrogated, are listed in the online Compendium of OECD Legal Instruments. They are presented in five categories:

- **Decisions** are adopted by Council and are legally binding on all Members except those which abstain at the time of adoption. They set out specific rights and obligations and may contain monitoring mechanisms.

- **Recommendations** are adopted by Council and are not legally binding. They represent a political commitment to the principles they contain and entail an expectation that Adherents will do their best to implement them.

- **Substantive Outcome Documents** are adopted by the individual listed Adherents rather than by an OECD body, as the outcome of a ministerial, high-level or other meeting within the framework of the Organisation. They usually set general principles or long-term goals and have a solemn character.

- **International Agreements** are negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.

- **Arrangement, Understanding and Others**: several other types of substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.