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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY
OF THE EVALUATION Accompanying the document Proposal for a
Directive of the European Parliament and of the Council on the re-use of
public sector information

Delegations will find attached document SWD(2018) 129 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE EVALUATION

Accompanying the document

**Proposal for a Directive of the European Parliament and of the Council on the re-use of
public sector information**

{COM(2018) 234 final} - {SWD(2018) 145 final}

Directive 2003/98/EC on the re-use of public sector information (the PSI Directive) aims to make it easier to re-use public sector information (PSI) throughout the EU by harmonising the basic conditions for making PSI available to re-users. More specifically, its objectives include:

- improving the development of EU-wide products and services based on PSI;
- stimulating cross-border re-use of PSI; and
- preventing distortions of competition on PSI-related markets.

The PSI Directive was amended in July 2013 by Directive 2013/37/EU to address a number of barriers that prevented the full realisation of the benefits of PSI re-use. This was done by (i) extending the scope of application to the cultural sector; (ii) laying down the principle of charging at maximum the marginal dissemination costs; and (iii) including a recommendation that public sector bodies should, as far as possible, make PSI available in open and machine-readable formats.

This REFIT evaluation has been carried out to fulfil the periodic review obligation contained in Article 13(1) of the PSI Directive, which stipulates that *‘the Commission shall carry out a review of the application of this Directive before 18 July 2018’*. At the same time, it will help fulfil the goals of the digital single market (DSM) strategy in the field of the data economy. In the May 2017 mid-term review of the DSM strategy, the Commission announced that it would, *‘in spring 2018, based on an evaluation of existing legislation and subject to an Impact Assessment, prepare an initiative on accessibility and re-use of public and publicly funded data and further explore the issue of privately held data which are of public interest’*.

Under this commitment, the evaluation¹ has been carried out back-to-back with the impact assessment on policy options for the future of the PSI Directive². The conclusions of this evaluation have — where relevant — fed into the impact assessment.

A broad set of data sources were used to perform this evaluation, including a study commissioned to support the review of the PSI Directive³ and the findings of the 2017 Open Data Maturity in Europe Report from the European Data Portal⁴. Input was also gathered from the Member States and broad stakeholder consultations were organised, including a public online consultation, numerous workshops and a public hearing.

In line with the Commission’s Better regulation guidelines, the Directive has been subject to an overall assessment as well as to a more specific evaluation process against the following five criteria: effectiveness, efficiency, relevance, coherence and EU added-value. The

¹ SWD(2018) 145.

² SWD(2018) 127.

³ Impact Assessment Support Study, Deloitte, SMART 2017/0061: <https://ec.europa.eu/digital-single-market/news-redirect/623420>

⁴ https://www.europeandataportal.eu/sites/default/files/edp_landscaping_insight_report_n3_2017.pdf

evaluation covered the overall functioning of the Directive, with particular focus on the changes introduced in 2013.

Effectiveness: Generally speaking, the PSI Directive has been effective in achieving its objectives of (i) ensuring fairer competition in the digital single market; (ii) enabling the creation of new jobs and services; and (iii) to a lesser extent, enhancing the effective cross-border use of PSI by businesses. The 2013 changes have also been effective, in particular on charging and data formats. However, the Directive has not yet reached its full potential and a few (and sometimes new) challenges exist, such as PSI data lock-in resulting from new types of partnerships between public sector bodies and private companies.

Efficiency: There is an overall positive balance between the costs and the (quantitative and qualitative) benefits of the PSI Directive. It is too early to draw conclusions on how efficient the 2013 extension to the cultural institutions has been.

Relevance: The PSI Directive has retained its relevance to stakeholders' needs. However, emerging trends such as the growing significance of dynamic data and Member States' measures designed to increase the availability of data in new areas not covered by the Directive (e.g. data from public undertakings in utility domains) might have an impact on its relevance for the future.

Coherence: Generally speaking, the PSI Directive is consistent with other relevant EU legislation. Nevertheless, a technical update clarifying in particular the relationship with the Database Directive and the INSPIRE Directive may be useful.

EU-added value: The overall EU added value of the instrument is unequivocal, although it is stronger for specific aspects of PSI re-use (charging) than for others (cultural data and formats).

In conclusion, the overall evaluation of the PSI Directive, including the changes introduced in 2013, has shown that it continues to be an effective, efficient and relevant instrument that successfully contributes to the achievement of its main objectives. Although the PSI Directive creates a certain number of obligations for public sector bodies, it does not impose a disproportionate burden on them. Re-users, on the other hand, have benefited from the substantial simplification of the procedures for obtaining PSI access, which helps them save time and money.

However, the evaluation has also revealed that there are a number of challenges that would need to be addressed in order to fully exploit the potential of PSI for the EU economy and society. They include (i) making it easier to re-use dynamic data; (ii) unlocking high-value public data that currently remains outside the scope of the Directive (scientific data, data from public undertakings in utility domains); (iii) addressing PSI data lock-in; (iv) limiting the use of exceptions that allow public sector bodies to charge above marginal costs; and (v)

clarifying some aspects of the interplay between the PSI Directive and the Database and INSPIRE Directives.