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The Government 2.0 Taskforce  
Department of Finance and Deregulation  
Nicholas Gruen (Chair)  
Ms Ann Steward (Deputy Chair)

Vienna, 21<sup>st</sup> of August 2009

Subject: Public Consultation regarding "Towards Government 2.0: An issues paper"

Dear Ms Steward, Dear Mr Gruen,

I have been working as one of five external researchers for the European Commission monitoring the implementation of the EU PSI Directive 2003 across Europe.

Based on my experience on PSI re-use, content-industries, eGovernment (and partly FOI) from 1992 on I was invited by an Australian colleague to comment "Towards eGovernment 2.0" , the "Inquiry into improving access to Victorian PSI" (June 2009) and related reports.

Firstly, let me congratulate to your effort to establish a coherent framework for **PSI re-use, FOI-legislation and eGovernment** and even to set up a "national information strategy/policy". However, in the past 12 years I came across only six countries worldwide which met this challenge. Most governmental efforts (e.g. France, Germany) turned out to be mediocre or even distorted the markets. Therefore I drafted a simple model to achieve a basic coherency between FOI, PSI re-use, eGovernment and a fourth legal topic in order to achieve a (flexible) division of labour between public and private sector.

My **consortium** of interdisciplinary experts (Europe, U.S., Canada, Hongkong) started to elaborate on the following:

**Model** to assemble FOI, PSI re-use, eGovernment and a fourth topic within a coherent legal and organizational framework.

Presented first at the PSI conference 2005 in Potsdam, since the FOI&PSI-legislation of Germany resulted in both methodological and organisational inconsistencies.

**National information and content strategy:** by scanning the national strategies and action plans in the past 240 years (and even some in ancient times) we identified already 8 key drivers of utmost importance for any country. None of them relate to technology but to a different set of values and type of education. They explain very well the North-South gap in Europe.

**Methodology** to investigate, measure and evaluate this set of 4 issues (eGov, PSI, FOI, fourth topic) in a coherent and systematic way.

- Even in that regard the past EU projects and national Governments did not achieve a persistent and valuable methodology or even standardized terminology.
- Most European statistics do not reflect the markets since the two major revenue streams of public data holders were not separated at all.

**Toolbox to investigate, measure and evaluate FOI, PSI re-use and eGovernment:**

- More than 40 applications have been identified across Europe and the U.S., whereof some were already licensed by public dataholders (e.g. public traffic agencies).
- Even the demand and price sensitivity of future public services and re-users can be evaluated in advance.
- The European Commission licensed one of these applications to measure whether their online contents meet the needs and demands of the citizens.

My fellow distinguished professors drafted some of the key lessons learnt from Europe:

**First lesson:** Surprisingly PSI re-users do NOT prioritize pricing, licensing and OSS-models; even in countries running a free PSI regime they re-collect spatial information for a second time (see open street maps).

**Second lesson:** the EU PSI Directive and the OECD Recommendations lack substance since they did not address the whole value chain and whole legal environment. They lack granularity and address FOI instead of PSI re-use. One OECD Recommendation even contradicts the mission of the PSI Directive.

**Third lesson:** Even the successful U.S.-model is not primarily based on free public data but on parameters which even the European Commission neglected for years. Consequently, also the German public-private platform for traffic information failed since their business model did not meet the interests of the commercial stakeholders.

**Fourth lesson:** FOI and PSI re-use require separate legislation. Otherwise you will run into massive legal and organizational troubles as Germany or Eastern Europe faces for years. In our concept, PSI re-use, FOI, eGovernment and a fourth topic form a clear-cut hierarchal model. So that public dataholder can easily distinguish these domains and draw first lessons regarding the application of privacy.

**Fifth lesson:** most EU or national PSI related reports as Cambridge (2008) and Micus (2008) or even the results of EU projects lack severe methodological weaknesses or access to the balance sheets of public data holders. Even the complexity and diversity of PSI re-use value chains was not thoroughly investigated.

I am confident that the Australian Parliament and Government will commission a more thorough analysis (including economists and publishing experts) taking into account the expertise and lessons learned in the past 30 years. Even regarding the evaluation of the STATUS QUO some European applications might assist you.

Australia as **forerunner** in information policy:

The 2008 amendment of the Australian legislation on N.N. paved the way to a fundamentally new understanding of eGovernment (not referred to by any literature in Europe and the U.S.). Latvia opened the door, but Australia became the first who laid down that new principle in legislative form. A first PhD of Germany described already the impact of that principle on governmental policy development and I am confident that this principle will be adopted worldwide within reasonable time.

yours sincerely,

Gerhard K. Wagner, Vienna – Belgrade – Budapest

Attachments

Part A: Topics not raised by the Issues Paper

Part B: Commenting the Issues Paper

Part C (under separate cover): Research topics of relevance for Australia

Part D (under separate cover): Applications offered by an international consortium

**Part A: the “Issues Paper” and even the EU PSI Directive did not address the following issues**

- K1: labeling re-use products (a fundamental issue of consumer law since some consumer are often unable to distinguish between governmental and re-use service)
- K2: What kind of data has a PSI re-user to submit to the licensing authority? (very controversial debate across Europe and an issue even for the competition authorities)
- K3: which domains of public data should be defined as authentic and publicly liable? What consequences does this pose for the re-use industry?
- K4: How should legislation define the very end of the re-use chain?
- K5: in practice, public data holders grant two business models for the content-industry. But in theory, also a third business model could be defined granting even further benefits for the public sector itself.
- K6: What tasks should the Parliament assign to the the competition authorities in terms of PSI re-use and eGovernment?
- K7: A clear-cut division of labour between public dataholders and the re-users should be laid down by each public data holder, or the Government, or even by Constitution?
- K8: What are the crossroads between eGovernment and content-industries?
- K9: Role and functions of a National Data Warehouse (and its benefits for the re-use industry)
- K10: One European country will start soon to design privacy from the scratch. Did you take into account their findings?
- K11: Some countries already started to overcome the monodirectional approach of eGovernment. Is your Government ready to empower their citizen even on the data level?
- K12: The majority of Governments copied the New Zealand’s approach of “new public management” (NPM) which became very controversial in Europe. Is your country ready to adopt a more VISIONARY concept?
- Further side issues s are available on demand

**Part B: commenting the issues and questions raised by the Public Consultation**

	Comments done by Mr Wagner
Item 10: The aim of Government 2.0 is to make government information more accessible and useable, to make government more consultative, participatory and transparent, to build a culture of online innovation, and promote collaboration across agencies in online and information initiatives.	If you target to “promote collaboration across agencies”, Government 2.0 will not automatically improve the situation. For such purpose you have to implement a different set of organizational measures.
Item 11: Government can use collaborative technologies to draw on the skills, knowledge and resources of the general community when developing policies or delivering services.	Wagner: What incentives or “business model” does your Government offer the society to advise your Government for free?
Item 13: Indeed in 2009 the internet became citizens’ preferred means of interacting with government	Wagner: Yes, this might apply to the national level. However, on local level (e.g. municipalities) we still have to take into account that some target groups (e.g. elderly person) prefer to establish a PERSONAL relationship with their local government – and nobody is entitled to stop this very important communication channel.
Item 13-18:	<p>1. the re-use industry became THE most important <b>middle-man</b> between Government and citizens. No citizen is being assigned time, money and experience to aggregate hundreds of public databases, even not in his local vicinity in order to establish a NAVIGATION application for his car. Thats the job of Navteq or Garmin and citizen appreciate that convenient service. (and even public administration itself)</p> <p>2. We may observe few NGOs in the U.S. going in the re-use industry business. But that’s still a minority program. On average not more than 1 percent of the citizens are using or even re-using public data in regular terms or at a substantial scale.</p> <p>2. Government faces three major types of customers: re-use industry; the business sector; citizen. - Web 2.0 supports primarily the communication to and with the citizen, but does not provide substantial benefit for the first two target groups. Even the business sector lacks time to read thousands of pages and to aggregate databases. Therefore, the re-use industry comes in.</p>

	Web 2.0 will not change the role of the re-use industry.
Item 20: What government information should be more freely available and what might be made of it?	<p>There are two outstanding software applications in use by Governments and even the European Commission in Europe:</p> <ol style="list-style-type: none"> <li>The first measures and evaluates which type of public data is used by which target group or which content is demanded for, but not available online.</li> <li>The second assists Governments to identify the <b>demand for future public services</b> and to customize them to the needs of heterogeneous target groups.</li> </ol>
Item 23: How can government capture the imagination of citizens to encourage participation in policy development and interactive consultation with government?	<p>Open public information policy does not encourage automatically citizens to become communicative or even “empowered”. That is one of the major misconceptions of the European Commission. – in order to encourage participation of citizens you require INTER-MEDIARIES (A) or an <b>excellent model of PUBLIC CONSULTATION</b> as deployed in one of the Americas (B). The later model became very successful since based on physical presence</p>
Item 26:	<ul style="list-style-type: none"> <li>The quadruple of PSI re-use, FOI, eGov and a fourth topic should be separated by legislation and responsible public authority. The merger of FOI and PSI re-use within ONE single public authority created plenty of confusion and obstruction in Europe.</li> <li>On the other hand, in terms of marketing monitoring and organizational capacity building, these four topics could be researched by one unit based on a coherent methodology.</li> </ul>
Item 27: How can we build a culture within government which favours the disclosure of public sector information?	<p>That’s not primarily a cultural issue. Civil servants have to obey a bulk of legal provisions and there is no tool in place which automatically checks whether publication of that specific piece of data or document is in line with privacy, national security and so on. We should not blame the civil servants for that slow deployment.</p> <ul style="list-style-type: none"> <li>Firstly, a set of categories have to be established and to be filled with dozens of cases.</li> <li>Secondly, politicians (and society) have to take a decision how balance the conflicting values. This job must not be shifted to the civil servants or even the Highest Courts.</li> <li>Thirdly, the most demanded public sources have to undergo a precheck and be classified.</li> </ul> <p>However, one FUNDAMENTAL question has not been answered yet: shall the PSI re-user even be forced to submit (his secret) business and financial plan to the relevant licensing authority? I identified more cons than pros</p>
Item 27: The Taskforce seeks to build on this work and to accelerate the change to allow more open access to, and use of, the information created and/or funded by government.	<p>Both re-users and businesses require AUTHENTIC AND LIABLE public data - in certain (!) information domains. As soon as Governments are not ready to provide that add-on</p>
Item 28: What government information should be more	<p>We have learned from studies across the world that the major customers of governmental data are the re-use industry (even small</p>

<p>freely available and what might be made of it?</p>	<p>local content-publishers and the creative industries) and the business sector.</p> <p>Two software applications emerged in Europe: the first measures whether the adequate public data has been put online (on average 90 percent is not used or re-used at all). And the second one identifies in advance (!) the demand for future public data services. Both applications are in use by Governments across Europe including the European Commission.</p>
<p>Item 31: The Taskforce acknowledges these principles and intends to use them as a starting point for that part of our work relating to public sector information.</p>	<p>These OECD principles were drafted by an FOI-expert and not one experienced with PSI re-use. So the principles are useful for drafting an FOI-policy. But regarding PSI re-use policy I do not see all of them applicable and one principle even contradicts the EU PSI Directive.</p> <p>So draft NEW guidelines for PSI re-use purposes.</p>
<p>Item 32: <i>If you feel that those principles detailed below are inadequate for any reason, either because they are too strong or too weak, too vague or too specific, if you feel they can be improved upon, please tell us as clearly as you can why and how they can be improved.</i></p>	<p>These OECD Recommendations were drafted by an FOI-expert and not a PSI re-user. So the principles are useful for drafting an FOI-policy. But regarding PSI re-use I would define different ones. Above all of them, one OECD Recommendation even contradict the EU PSI Directive.</p> <p>So draft NEW guidelines for PSI re-use purposes.</p>
<p>Item 34: 2. 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,</p>	<p>PPP are in contrast with that aims since each PPP is based on exclusivity on one or more levels. – It would be extremely difficult to bring PPP in competition with competition law and the principle of non-exclusivity.</p>
<p>Item 34: 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</p>	<p>Public databases are not standardized commodities. Even extensive metadata cannot describe all necessary factors. It often takes the re-users months to evaluate such sources.</p> <p>At a PSI meeting 2007 in London I proposed to deploy an easy approach which was welcomed by the community and further quoted by the European Commission.</p>
<p>Item 35: asset lists</p>	<p>Most asset lists in Europe do not meet minimum requirements for re-users and are not beneficial at all since they do not target the different needs of the major target groups.</p> <p>And the Austrian approach turned out to create an extremely</p>

	methodological mass.
Item 36: 4. Quality. Ensuring methodical data collection and curation practices to enhance quality and reliability including through cooperation of various government bodies involved in the creation, collection, processing, storing and distribution of public sector information.	<ul style="list-style-type: none"> <li>• Without an additional revenue streams (e.g. by re-users) quality and reliability cannot be maintained.</li> <li>• Secondly: I haven't seen any initiative ACROSS Government bodies due to the lack of governmental funding and organizational barriers in place. Only the "new census approach" tries to blur the boundaries.</li> </ul>
Item 37: 5. 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	<ul style="list-style-type: none"> <li>• These concerns may apply in a very limited area of public data.</li> <li>• Regarding the majority of public data these concerns indicate that the authors did not understand at all the business model of the re-use industry. By the way most public dataholders refrain from taking liability for their data published.</li> </ul>
Item 38, part A: New technologies and long-term preservation.	Yes, there are plenty of valuable technologies available. But
Item 39: Copyright	<ul style="list-style-type: none"> <li>• The waiving of copyright provides both pros and cons as we see from the feedback of re-users from the U.S.</li> <li>• However, if public data holders want to benefit further from copyright and the attached RIGHTS, I would impose them at least 2 fundamental obligations.</li> </ul>
Item 40. Pricing	<ul style="list-style-type: none"> <li>• See my remarks in the foreword of this document</li> <li>• Free of charge public data granted to re-users in certain areas of public data (A) on certain levels of granularity (B) and depending on certain levels of</li> </ul>
Item 41: Competition	<p>In terms of value added services I haven't seen any fair competition provided by public authorities worldwide. And there is no competition authority in place which regulates the markets EX ANTE.</p> <p>Consequently, when the public added value service was in place first, no private service provider will enter the same "product market".</p> <p>I have seen only two cases worldwide where the public data holder closed down its added value service as soon as the private providers gained substantial market share.</p>

	<p>Even efforts to draw a clear-cut borderline between basic (ground) services and public added-value services failed in most countries.</p> <p>In that regard only a fine-tuned phasing in and phasing out model may be applicable.</p>
Item 42: redress mechanism	<p>In hardly any European country an SME can afford the redress mechanism (A) and solutions cannot be expected within reasonable time (B).</p> <p>Any redress mechanism has to be complemented by further instruments which emerged in its infancy already in Europe.</p>
Item 43: PPP	<p>The wording of this chapter indicates that the authors are not fully aware of the 3 indispensable criteria for an PPP and to which sphere a PPP has to be assigned.</p> <p>I haven't seen any PPP in Europe (neither on digitization nor re-use level) which is in line with the 4 relevant legal domains. In theory you could design a PPP in line with those 4 legal domains. But consequently, it is likely that the business case for the private partner will not pay off any more.</p> <p>Do NOT apply PPP at any stage of the public data value chain.</p>
Item 45. BEST PRACTICES	<p>Best practices are often bad since they applied without INTENSE and SCIENTIFIC analysis of the dozens of national and local data markets in your country.</p> <p>The implementation of the PSI Directive was delayed at last 10 years in Europe since the European Commission did not realize that the cultural settings in Europe basically differ from the in the U.S. and Canada. And the Canadian model is inter alia responsible for the mass of FOI and PSI legislations in Europe.</p> <p>Lowering prices stimulated in some PSI Segments the demand, in others this approach was totally ineffective and even worsened the re-use markets.</p> <p>You have to take into account at least 20 parameters which can be research advanced, by means of economic theory and some applications stemming from the product design industry.</p>
Item 50:	<p>The current situation in three European countries indicates that privacy concern could be extremely overstressed. Even anonymisation was not accepted by their public authorities.</p> <p>The unnecessary clash between re-use and privacy legislation in Europe proves that PARLIAMENT and later Government has to precisely define the borderlines IN ADVANCE. It would contradict the aims of achieving a slim state (eGovernment) if these checks increase the volume of public administration.</p>
Item 51:	<ul style="list-style-type: none"> <li>• Open policy should be extensive. Especially the data and databases kept by local authorities are of utmost important for both users and re-users.</li> <li>• Please do avoid fragmentation of access- and re-use policies.</li> </ul>

	<p>Unless ALL local agencies supply the PSI-category N.N. (e.g. crime data) and grant re-use, no re-user will enter the market.</p> <ul style="list-style-type: none"> <li>• There nearly happened any case of MIS-USE of public data. Misuse is one of the myths which have to be busted.</li> <li>• Transparency of public sector and even private transactions is THE UTMOST value for any society. I could tell you lots of stories on intransparent markets in Eastern Europe and how this negatively affected even the daily life of citizen (looking for a new apartment).</li> <li>• In small countries as MALTA even health care is not sensitive any more since in such a small community any citizen is already aware of the health care status of their fellow Maltese.</li> <li>• Even the very open public data in Sweden (tax files are published online) did not cause any negative effects or even misuse. However that's a cultural issue and might differ from country to country.</li> <li>• But by any means the trend became very clear: transparency both in public sector and commercial life.</li> </ul> <p>I recommend to read the famous book LIFE INCORPORATED by Douglas Ruskoff in which he lays down the negative effects of a society moving from a PUBLIC SPHERE to a PRIVATELY CLOSED SOCIETY.</p>
Item 52, question 2:	<p>Concerning extension to government business enterprises and statutory authorities (the term is not known in Central Europe) it may be stated as follows:</p> <ul style="list-style-type: none"> <li>• You might even apply a different regime between FOI and PSI legislation.</li> <li>• Some public sources are of utmost value for the re-users (energy data of public ESU), but FOI legislation should be applied very narrowly or even restricted.</li> </ul> <p>Furthermore, if Australia would commission a report worldwide (A) and interview the re-use community (B) including the potential re-users which do not appear in any records, you would quickly get a clue what sources are asked for on a broad scale.</p> <p>In terms of FOI such a prediction cannot be made.</p>
Item 53 and 54: OECD Principle 1:	<p>Who serves as benchmark for accessibility? The average Australian citizen, the specialised professions (most public data is LEGAL data understandable and interpretable only by legal experts), the foreigners?</p> <p>At what <b>time framework</b> is your benchmark? In 50 years plenty of Australian public data will not be understandable any more to the YOUNG Australians since they lack the historical or local context and even ancient terminology.</p> <p>Accessibility does not automatically mean understandability.</p>
Item 55:	<p>In terms of re-use such pro-disclosure culture could be achieved more easily since the civil servants might be even given access to</p>

	some private re-use services. This win2win situation is not that evident in terms of a more broader FOI legislation.
Item 56: question 2:	The easiest way would be to start first with the PSI re-use areas and take those non-disclosed public databases which have been re-used already in other countries worldwide.
Question 3:	<p>Unless the re-use industry is not away of the hundreds or thousands of non-disclosed public sources and a detailed description of these databases, how should they do make a guess and explain their interests?</p> <ul style="list-style-type: none"> <li>a) Commission a hands-one survey worldwide (by re-use and not FOI-experts) and scan the 500-1000 most re-used sources per country. One all three levels (national, regional, municipality level)</li> <li>b) Provide some 200 cases of data which has not been re-used yet in Australia</li> <li>c) Interview the Australian and even international re-use industry regarding their interest for these 200 cases</li> </ul>
Item 57: Government agencies currently make a large amount of information available on their websites, and much more could be made available freely on the internet	<p>This kind of unstructured publishing is completely useless for the re-use industry. Even in the U.S. major public dataholders do not understand that re-users require a DIRECT data-feed (and often real-time) from public datasources based on specific data and transport standards.</p> <p>As European surveys showed up to 90 percent of such tons of published governmental data is not used by citizens, and even not by re-users since that form of publication is totally inadequate for them.</p>
Item 59, question 4: Question 4: What is needed to make the large volume of public sector information (a) searchable and (b) useable? And in each case, what do we do about legacy information in agencies? How might the licensing of on-line information be improved to facilitate greater re-use where appropriate?	<ul style="list-style-type: none"> <li>• As I pointed out already in my answer to question 53 and 54 access and search of public data faces multiple challenges: specialized information versus citizen information; constantly changing terminology;</li> <li>• In general for the re-use industry searchability and usability is NOT the first challenge since experts already are aware of the pitfalls of public data and lacks of quality.</li> <li>• All these additional services by public dataholders require constant INVESTMENTS by public data holders. One of the arguments not to provide re-use for free since the maintenance or even better usability cannot be maintained any more.</li> <li>• In addition, searchability and usability is NOT the key priority for re-users. They prioritize different parameters.</li> </ul>
Item 61:	<p>I constantly get reported from US-colleagues that their public data is for free but to certain extent rubbish and not reliable. – It is a fact that re-users worldwide have to invest even more than a billion to correct the often false or non-updated public data.</p> <p>So interview first the re-users of gov.com about their view on that initiative.</p>
Item 62:	The success of the openness of US-public data and the flourishing of the re-use industries (B2B, publishers) is based on a FURTHER factor which has been rarely published. I remember only a leaflet of

	LexisNexis (approx 2000) highlighting this further success factor.
Item 63 and 64, question 5:	<ul style="list-style-type: none"> <li>Automated metadata generation: there are plenty of applications available in Europe (and of course in the U.S.) which allow an automated harvesting across large and heterogenous databases.</li> <li>However, PSI re-use history from Europe showed that re-users require a list of at least 30 key parameters – public dataholders have to investigate most of them manually.</li> <li>Since the most re-used public sources are well known in Europe and the U.S. this work seems to be fundable by the Australian government.</li> <li>Most public asset lists in Europe do not meet the minimum standards for re-users or even mixed the requirements of FOI-users and PSI re-users (see Austria).</li> </ul> <p>However, it is certain that ALL public data holders would require EXTRA FUNDS to do that job in a proper way.</p>
Item 65 and 66, and question 6:	<p>This plea for publicly open standards is not of importance for most of the re-use industry.</p> <p>Each re-use sector (e.g. traffic data, GIS, weather data) has agreed upon various metadata and data standards worldwide and they do not distinguish between proprietary or open standards.</p> <p>This debate may be of interest for the FOI-domain but certainly not for the PSI re-use sector. Since PSI re-users DO NEVER re-use single documents. That's not their business.</p> <p>More important than this issue is to STIPULATE all public dataholders to agree on 1 common and worldwide used METADATA standard and to provide CONTEXT INFORMATION and further parameters.</p>
Item 67:	<p>If public dataholders would frequently license commercial databases and data (for their internal purposes) than the issue of interoperability could be easily solved.</p> <p>The challenge are PROPRIETARY standards deployed by the public sector and not by the commercial industry.</p>
Item 68, question 7:	<p>Technology is NOT the challenge at all. Plenty of very sophisticated applications emerged in the past 10 years in Europe and the U.S. However, the majority of public dataholders cannot afford them (since they do not generate revenues at all). I have seen major investments only in the field of traffic information and bad weather information.</p> <p>However, as long as public data holders use <b>incoherent METADATA SCHEMES and non-standardized TERMINOLOGY</b> (see the mass between German and Austrian museums which blocked projects for years) any intra-governmental or even cross-border sharing is wishful thinking.</p> <p>Regarding PSI re-use I did not come across any re-use product which</p>

	is based on any web 2.0 technology (as blogs, youtube, flickr). That's of relevance only for the FOI-sphere.
Item 69 and 70:	<p>These principles proposed by Tim O'Reilly apply only to the FOI-sphere and the software industry. But not the content-sphere and definitely not to the re-users.</p> <p>There is NO re-use of Governmental software at all since most Governments adopted (hopefully) an opposite one: stop Governments from programming own software (the worst thing that happened in the past 30 years). Government has to buy software from the private sector or use OSS. A separate <u>public</u> software industry will hopefully never emerge again.</p>
Question 8:	<p>Plenty of similar initiatives failed in Europe due to lack of business models within the public sector. Why should a public entity invest millions in a new portal and then forward the data or even the portal for free to another public authority? Whats the rational behind that?</p> <p>The INTRA-Governmental policy on PSI re-use very well demonstrates why the absence of PRICING destroys the whole inter- and intra-governmental data market.</p> <p>Intra-Governmental markets have to be based on a BUSINESS MODEL (A) and a form of PRICING (B).</p>
Item 72:	<p>Apparently, public policy makers constantly encounter NIGHTMARES on the misuse of public data.</p> <p>Up to now no major case of misuse was reported to me. Citizens constantly live in a public space and are monitored already by hundreds of co-citizen on a daily basis. And enterprises have to encounter a higher level of transparency and publicity.</p> <p>Platforms as e.g. NEIGHBORS WATCH clearly indicate that misuse of PRIVATELY collected data is more common than that of public data.</p>
Question 9:	<p>Most redress mechanisms regarding FOI-reuse are ineffective in Europe or too expensive. Even the instrument to establish ad hoc a voluntary arbitration board (see Austria) turned to be ineffective since SME quickly run into costs of 10,000 EUR and more.</p> <p>Conflictuous issues have to solved (ex ante) by means of public-private roundtable including the re-use industry.</p>
Item 75: privacy	<ul style="list-style-type: none"> <li>• Only one European country was so wise to exclude EX LEGE one type of public sources from the application of the privacy regime.</li> <li>• Other countries run into the trap to apply the privacy jurisdiction (relating to the FOI regime) in the same way to the PSI regime. That heavily endangered a whole industry (spatial information) to establish innovations.</li> <li>• Three European countries are doing extremely bad in that regard. I carefully read their FOI- and PSI-related judgements and was stunned by some of their arguments and explanations.</li> </ul>

	<p>IN general, I recommend not to merge the three functions (FOI commissioner, PSI Commissioner, Privacy Commissioner) within one public agency. However, in terms of monitoring, market research and market dialogue synergies could be achieved.</p>
Item 75 to 80:	<ul style="list-style-type: none"> <li>• It is fact that criminals do not require public data. They simply collect data by their own or buy data from any publishers.</li> <li>• In Austria a database of wealthy people was set up by a group of criminals including even their personal habits and working hours (when opera singers performed in the opera their houses were robbed).</li> <li>• Shall we cease to disclose telephone books? No.</li> </ul>
Item 80: Privacy impact assessments	<p>For decades property databases have been in place in the U.S. and U.K. collecting any information on the property and building including even details as <u>former owners and purchase fees</u>. As a buyer you enjoy full transparency and transactions can take place very swiftly (low transaction costs involved). Any misuse reported? NO.</p> <p>Yes, of course you might link a specific property to the CURRENT owner. And criminals might draw some conclusions from that. Anyway, criminals may draw information from thousands of public sources (media, databases) so that PUBLIC DATA does not play in important role in that regard.</p> <p>Latest by the occurrence of the internet Governmental Data has lost its monopoly status.</p>
Item 83: quality	<p>It is not about the issue of good record keeping. That principle was achieved in Europe already 250 years ago. – But clever eGovernment taking into account the EXTENDED value chains (e.g. by the re-use industry) could be asked to collect and aggregate public data and METADATA in a more <u>sophisticated and re-usable way</u>.</p> <p>Note. The statistical data is often of low value for the re-use industry since statistical bodies either apply not appropriate or out-of-date classification schemes.</p>
Item84, question 10:	<ul style="list-style-type: none"> <li>• Each of the more than 30 domains of public data sectors (see energy, transport, weather, environment) requires a PERMANENT public-private roundtable with the re-use industry.</li> <li>• Within such sector-specific roundtables PLUS an overall national roundtables such record keeping and preservation standards could be agreed on.</li> </ul>
Question 11:	<p>The major challenge for CITIZEN is the fact that they are unaware whether and when a specific public content will be deleted from the governmental website.</p> <p>So they are indirectly FORCED to download gigabytes of data and to record them at home.</p>

	<p>Further, I haven't seen any government which describes the LIVECYCLE of an individual document or database so that the citizen can rely on that METADATA information in the next 40 years.</p> <p>Preservation and coherent METADATA standards became the key challenge worldwide.</p>
<p>Question 84: integrity of information</p>	<p>Yes, that's an important issue for the FOI-domain. But then please initiative also a debate on the LIABILITY of certain (!) governmental databases as it takes place in Europe for decades.</p> <p>B. Regarding the PSI RE-USE domain it surprises that Government did not understand the business model of the re-use industry. It is the very task of the re-use industry NOT TO DUPLICATE governmental data but to produce NEW contents: aggregated with other hundreds of public and datasources.</p> <p>Re-users do not address single documents (where the issue of integrity applies to) but mainly data and databases.</p> <p>If you turn on the navigation system in your car (Garmin, Navteq) then you are not interested at all in the source of the data (public or private).</p>
<p>Question 12:</p>	<p>Based on European (and maybe even US-experience) it is evident that ONE category of public data has to provide full liability and even a reverse mechanism of prove (not the citizen but the state has to prove that the data was accurate).</p> <p>All other types of governmental data can be released on a lower level of integrity and liability.</p> <p>However, any type of public data should be accompanied by a minimum set of metadata in a <u>format</u> which I described 2006 in a conference in London.</p> <p>However, any governmental policy has to take into account and has to CLEARLY COMMUNICATE THAT TO citizen that up 90 percent of public data is SPECIALISED information which is always at risk to be used and interpreted in a wrong way.</p> <p>No citizen is recommended to do self-surgery based on the consumption of some medical literature.</p> <p>Consequently, what I tried to outline in the whole paper is the fact that the main target-group of public data are not citizens but the re-use industry and specialized intermediaries as NGOs.</p>
<p>Item 86:</p>	<p>Public data is primarily or even exclusively generated to perform PUBLIC DUTIES laid down by constitution and sector specific laws.</p> <p>It would fully overload civil servants to address "concerns about aspects of information". That's not their business. – The majority of public dataholders do not define themselves as publishers. Only few</p>

	agencies (statistics, legal data, statutory registers) have acquired competence in the publishing sector.
Item 87:	Whenever citizen ask for HIGH QUALITY AND INTEGRITY then they have to learn that this added value has to be paid for. There is no free lunch for added value.
Question 13:	<p>Firstly, we have to distinguish between primary public data publishers (e.g. statistics, statutory registers) who grant re-use licences on a daily basis and have established a vast experience in that regard.</p> <p>The other public data holders may face on average 2-3 requests per year and therefore lack expertise and manpower to handle such requests within “reasonable time” (4-6 weeks).</p> <p>Consequently, a national PSI licensing body (or even contracted out to a company) could take over these task for the thousands of minor public dataholders.</p>
Item 89 and 91:	<p>It seems that the author of that product has mixed up the content industry with the software industry. Fixing bugs in a software differs from the challenges of the publishing industry.</p> <p>However, there is ONE area of public data where timeless publication may become controversial and where we faced some public disputes in Germany and Austria in 2008. In that case the public data was misused and misinterpreted by other POLITICAL PARTIES and not by the citizen.</p> <p>So the major threat to timeless publication are not the citizens but unfair political rivals misusing incomplete or unfinished public data for their political games.</p> <p>However, that specific domain of public data may be defined very well and politics might grant some semi-public access to qualified professions and parliamentarians.</p>
Question 14:	<p>In terms of PSI re-use public data may be released earlier since the experts of the re-use industry have acquired decades of experience how to handle unfinished, incomplete or even false data.</p> <p>In terms of FOI, access may be granted to a semi-public audience (experts, parliamentarians, associations).</p> <p>One option might be to establish various grades of semi-publicity allowing earlier access to prequalified institutions as business associations and NGOs.</p>
Item 94:	<p>As long as public dataholders extensively apply copyright and database protection legislation, any technology or tool as Creative Commons will not improve the situation.</p> <p>However, the WHOLE MODEL OF internally funding the processing and publishing of public data is at stake. As soon as Government REFUSES to adequately fund public data holders , they are FORCED</p>

	to acquire funds (by re-users or even users), the situation will not improve. It is up to the Government to end this vicious circle.
Question 15: how can we draw departments together?	<p>As long as an exaggerating application of privacy rules – even WITHIN the public sector - does not allow the blurring of boundaries between vertical data silos, the situation will not move forward.</p> <p>Further, the majority of budgetary frameworks are not ready to handle common investments across departments.</p>
Question 16:	<p>There are no quick solutions at stake for this tricky question.</p> <p>First, Government has to find an adequate FUNDING MODEL for the public data holders providing them ADDITIONAL FUNDS to address the various challenges of improving integrity, quality, licensing, re-use and at the same time long term-preservation.</p> <p>Since most Governments do not cover any more 100 percent of the budget of various public data holders (museums and even libraries in Europe have to acquire up to 30 percent of their budget from private sponsors or re-users), it does not surprise that public data holders were driven by Government to raise license fees for at least re-users.</p> <p>POLITICIANS and Governments are responsible for the constant move of public data holders even towards OWN added-value services (competing with the private re-use sector).</p>
Item 96:	<p>See my remarks regarding item 95.</p> <p>As long as decreasing Governmental funding drives public dataholders into commercial services, uniform prices or even a free lunch will not take place.</p>
Item 96:	<p>The following quotation reminds me on a myth of the 90ies:</p> <p>I quote: “In the electronic world, the marginal costs of providing information are lower than in a paper-based environment, which could suggest that different pricing approaches might be appropriate”</p> <p>As any electronic publisher might respond to you: for various reasons electronic publishing is MORE EXPENSIVE than paper-based publishing.</p>
Question 17:	<ul style="list-style-type: none"> <li>• In my humble opinion Freemium products do not pave the way for the future since their business model could be easily bypassed.</li> <li>• Most European efforts to distinguish between (free) basic public services and (commercial) added-value services failed. For various obvious reasons.</li> <li>• Promising might be an approach done in the U.S. which was not laid down in any official FOI- or PSI-document. But it became part of US-Governmental behavior and became very common, even in Switzerland.</li> </ul>
Item 98 and 99:	Yes, PPP is useful to foster PUBLIC services (instead of commercial

	<p>re-use services). However, most PPP in Europe – even on the level of digitization – are not in line with the 4 major legal domains applicable in that regard.</p> <p>Concluding, I haven't seen any PPP in Europe which does not distort competition and kick out other re-users from the market.</p> <p>Theoretically, PPP could be done in legal compliance with the 4 legal domains addressed above and the PSI Directive. But consequently, the business model of the private partner will not pay off any more.</p>
Item 101:	<p>It is fact that Asian, European and of course American public entities and re-users have adopted different standards. Australian Government has to define first which continent to link first – both in terms of cross-border <u>governmental</u> services and in terms of demand of <u>re-use</u> services.</p> <p>It is very likely that China and other Asian followers are going to drift away from both European and American standards.</p>
Question 20:	<ul style="list-style-type: none"> <li>• Here again we have to distinguish between FOI and PSI re-use. Sorry to mention that in Europe I came across only one FOI-scholar who fully understood the complex value chain of PSI e-use.</li> <li>• Best practices do not exist in absolute terms. Each country and culture has to adopt such practices to their local requirements and needs.</li> </ul>
Item 104:	<p>Yes, plenty of expertise exists outside Government. But then Government has to provide funds for that expertise. Taking good decisions requires thorough and granular analysis, constant dialogue with the stakeholders and long-term monitoring of the market. No expert or consultant will offer that service for free.</p> <p>Technology or distributed networks cannot substitute proper research and the necessity to establish a proper systematic methodology taking into account the different needs of the 4 major domains: eGovernment, FOI, PSI re-use and a fourth topic.</p>
Item 105:	<p>The primary or even sole task of public administration (as laid down constitution and legislation) is to execute legislation in a proper and efficient (and maybe even effective) way.</p> <p>I never understood the term “democratizing public administration and policy development”. Primarily it is the responsibility of the elected parliamentarians and politicians to coin new policies, involving intermediaries as civil society and business associations. The elected are responsible for running the Government, not the citizen.</p>
Item 106:	<p>We know from cognitive science that mutual learning only takes place if both sides trust and respect each other. In most countries worldwide citizen do not believe any more in their Government and their corrupt/unprofessional politicians.</p>

	So any online engagement will fail as long as trust has not been re-established. And trust is personal value which technology cannot transport to citizen.
Item 111:	Only few countries worldwide adopted an open public debate and dialogue. The reasons for that lie in the past and in certain radical changes of society taking place in the past 600 years. Please refer to the European literature.
Question 22:	In the past I identified only one (even English-speaking) country worldwide which adopted an outstanding model involving all those illiterate citizens across the WHOLE country including the periphery. Yes, Government has to invest in those initiatives and and it is worth to deploy these funds.
Question 23:	<p>The average citizen lacks time to consume thousands of public documents and to monitor policy developments on all four levels (international, national, regional, local). –This job is usually done by INTERMEDIARIES as civil society organizations or business associations. They will act also in the future as MAJOR partner for both Government and Parliament.</p> <p>Yes, technically speaking disintermediation can take place and any citizen may address any politician and civil servant worldwide. But no civil servant is able to address this overkill of information and data. Civil servants communicate with up to 40 business associations and some NGOs.</p>
Question 26:	<p>In Europe I have not identified ANY single country (except maybe the UK) where the civil servants do engage at all in online public debates.</p> <p>Even the website of EPSIPLUS did not encourage more than 4 civil servants across Europe to join the debate.</p> <p>Furthermore, plenty of legal and organizational reasons limit the readiness of civil servants to engage in such an online debate. Most European Governments ceased access to social networks as Facebook .</p>
Item 126:	It is fascinating to realize that people still believe in the overwhelming power of new technologies and their ability to change society in radical terms. – As long as governmental bodies mistrust each other or lack an institutional and financial setting for collaboration, any technology will be waste of money.
Question 29:	Yes at least two applications have been established in Europe which support Government to evaluate the demands of the citizens and the readiness of online applications.
Items 135-138:	<p>Why should citizens, businesses and consultants be motivated to transfer innovation for free to the public sector?</p> <p>I have seen plenty of free public innovations which were offered to other public authorities and their adoption was refused due to the “non-invented here syndrome”.</p>
Item 145:	The few successful national information strategies worldwide did go far beyond an dissemination and re-use policy. They established a very deliberate CYCLE OF INFORMATION which offers new value

	chains and business models and results even in the further creation of new jobs.
Question 32:	<ul style="list-style-type: none"> <li>• “Encouraging the developing of Government 2.0”: None of the European Governments fully understood that eGovernment requires INVESTMENT both in human resources and expertise. The regular budgets of public data holders cannot cover that amount of investment. Government has to grant EXTRA FUNDING.</li> <li>• OIC should develop a proper methodology to investigate, evaluate and measure the dozens or even hundreds of sub-markets both in the public and private sector.</li> <li>• I heavily stress that topic since all methodologies established by PSI re-use related EU-projects (ePSInet, MEPSIR, ePSIplus) were to a certain extent inadequate and lacked proper understanding of the value chains. So hardly any substantial feedback was received from the public data holders (for various reasons). – it is feasible but very time consuming to motivate public data holders to engage in the debate and trust the researchers.</li> <li>• The constant market monitoring should be so thoroughly that even the national competition authority may take upon that research.</li> <li>• The OIC should establish regular public-private roundtables including business associations (PSI re-use) and civil society organizations (relating to FOI).</li> </ul>

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Projects proposed to Australians Government 2.0 taskforce

Main focus: PSI re-use and Government 2.0

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Note: Due to lack of time (August is holiday season in Europe) I established this list without prior reference to your CONSULTATIONS page. Please do not mind an overlap between topics.





<p>Methodology</p>	<ul style="list-style-type: none"> <li>• It is pity to realize that none of the EU projects relating to PSI re-use (ePSInet, ePSIplus, MEPSIR, 2008 study on legal, weather and spatial information) succeeded to set up a coherent and systematic methodology to investigate, evaluate and measure the dozens of PSI re-use markets and the various income streams as well as expenditures of the public dataholders.</li> <li>• Even the OECD Recommendations are to a certain extent not adequate for PSI re-use since they were done by FOI experts. And one OECD recommendation is even in contradiction to EU legislation and the aims of the EU PSI Directive.</li> <li>• The Staff Document (2009) of the European Commission quotes one Best Practice from the U.S. which might serve as the opposite: direct access and re-use of local data is not allowed to them, and the few data published online is not that useful for them.</li> </ul> <p>Australia will count approx up to 200 major PSI re-use companies and approx 2000 major public data holders (on all three levels: national, regional, local). It is not that difficult to set up a proper methodology to target them directly and to investigate all necessary details on the side of the public data holders (expenditures, revenue streams and so on).</p>
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Measuring the demand of various target groups for public contents	<ul style="list-style-type: none"> <li>• At least two outstanding research projects were finished in Europe (spin offs from universities) which developed an application measuring which online content of the public data holders is asked for and why not. One of those applications has been licensed already by all European Governments and even the European Commission.</li> <li>• These two applications precisely allow to identify the target groups, their requirements and demand and even the adequate price level for them (in case of charging re-users).</li> <li>• These two applications revealed that up to 90 percent of public data (published online) was never used by citizens (re-users expect to receive public data directly and do not copy it from online resources).</li> </ul>
Public-private roundtables	<p>Such roundtables including re-use companies and their business associations have been set up occasionally in Europe. However, most of them <b>failed</b> and were discontinued since basic rules on both sides were not kept. This unguided procedure created <u>mistrust</u> between both parties.</p> <p>An improved methodology was designed by our consortium.</p>
Model of a coherent national information policy	<p>I have not seen any proper public national information plan which</p> <ul style="list-style-type: none"> <li>• Defines the division of labour between public and private stakeholders and the civil society (even based on a flexibility clause)</li> <li>• Establishes a coherent framework for eGovernment, FOI, PSI re-use and a fourth legal domain</li> </ul>
Privacy	<ul style="list-style-type: none"> <li>• In most European countries privacy hinders BOTH the further development of eGovernment and PSI re-use.</li> <li>• One European Country set up a procedural (!) improvement but this did not solve the conflict in re.</li> <li>• I have identified only one European country which set up a clear-cut regime years ago by exempting a certain type of PSI from the application of the privacy regime.</li> </ul> <p>Following paths could be taken:</p> <ul style="list-style-type: none"> <li>• In most European countries an adapted privacy regime would require a constitutional reform. I support this approach since we require a rebalancing of rights and duties.</li> <li>• Even three applications were identified which allow to identify conflictuous areas EX ANTE (e.g. privacy versus re-use).</li> </ul>
Pricing	<p>At least 2 applications were established in Europe which enable EX ANTE to set individual prices for different target groups based on the prior assumption of DEMAND.</p> <p>Both applications are in use by public data holders and turned out to be a very cutting-edge technology (one ranked 6<sup>th</sup> place in an US award for business applications).</p>

## Towards Government 2.0 and the coherent use/re-use of public data

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In 2005, Wagner set up a consortium of 50 experts across Europe and the U.S. representing different disciplines (economics, law, community informatics, information science) and industries (from agro-information services to GIS). In the following, please find some curricula:

<p>Gerhard K. Wagner: From 1992 on researching the content- and publishing industries. In his position as industrial lobbyist negotiating the re-use of public data with the Austrian Government, mainly legal &amp; business information and statutory registers. Researcher in EU-funded projects; member of the OECD working group on PSI</p> <p>Research focus: coherent <b>4-tier-model</b> of governmental data (FOI, PSI re-use, eGov, fourth topic); national data warehouses; public-private collaboration models; The weaknesses of the European publishing markets (compared with the U.S. and Asia). Manager of the consortium</p>	
<p>Professor for information science</p> <p>One of his software applications was ranked top in an U.S. competition on business analytic tools.</p> <p>References: several governmental institutions in Central Europe licensed the software predicting the future <b>demand</b> for governmental services and additional indicators required for product design and marketing (in case a public authority commercially licenses its data to the re-use industry).</p>	
<p>Former assistant professor of one of the leading universities in Europe.</p> <p>eGovernment: on average 90 per cent of all governmental data on the web has been NEVER read nor re-used. His research institute identifies these 90 per cent and supports you to put the <b>RIGHT content</b> on the <b>RIGHT place</b> on your private or governmental portal.</p> <p>Nearly all European Governments including the European Commission have licensed his application. Also member of European Jurys.</p>	
<p>Head of Department of a well known research institute.</p> <p>His application provides for the <b>clustering of topics and target groups</b> and pattern analysis. Inter alia it supports the client to take the decision whether to manufacture a new substance by its own or to outsource it.</p> <p>The European Commission licensed his application to identify patterns within their research programs and consortia.</p>	

## Five outstanding achievements and topics for research

The provision of following areas and applications (T1-T40) is unique, even on global scale. Complementary services (T50-T100) may be delivered on demand.

T1: Methodology establishing a **coherent legal framework** of numerous legislations (PSI, FOI, eGov, N.N.): presented first at the Potsdam conference 2005. The legal mass (FOI-PSI) in Germany and most Eastern European countries stimulated Wagner to establish a hierarchical model. It is based on the 2-tier concept in place in the majority of EU Member States and expands this to a 4-tier one.

T10: **Measuring the current/future demand** for governmental information. Note: up to 80 percent of all public sector information published on-line are never user or re-used by citizens. – The application has been licensed by nearly all European Governments including the European Commission and the Top 200 multinationals in Europe.

T20: Automatic **segregation and classification of the numerous target groups** of public sector information: the application was developed by a research institute and has been licensed to multinationals, Governments and the European Commission.

T30: **Predicting the demand** (plus price and depth of service) for each (!) single future governmental service: the application was licensed by Governmental Agencies across Central Europe and major multinationals (e.g. telcos). The results of the tool are proven.

T40: **Fine tuning each governmental service** to the heterogeneous requirements of numerous target groups. For that purpose two applications will be used.

T50-100: **further topics** have to be addressed and settled before you start to implement your national information strategy

- How to avoid governmental services which distort the market? How to achieve public-private **synergies** instead of doing parallel investment?
- Is the model of PPP appropriate for PSI re-use legislation?
- Which type of **stakeholder dialogue** is appropriate for my country?
- Do we require **liability** for all governmental data published online?
- Bridging vertical data silos towards a **national data warehouse**
- **Sharing** governmental data between the hundreds of governmental bodies (a nightmare in most countries worldwide)
- Establishing and measuring criteria for **data quality** (even in times of budgetary constraints – see financial crisis)
- Consumer law: **labeling** public services versus private re-use services
- Updating governmental databases in times of budgetary constraints
- Balancing values: innovative governmental services versus **privacy**

## The proposed methodology benefits you Government as follows

- **Less conflicts** between legislative areas and public authorities (Bad practice Germany: FOI is used to bypass failed requests for PSI licenses)
- **Collective rights** are put in line with different purposes (use, re-use etc)
- **Less transaction costs** for both citizen, NGOs and enterprises
- More and more requests by citizens/companies (FOI, PSI re-use) can be **automated** without lengthy individual analysis case by case
- The heterogeneous target groups (e.g. tourists, businessmen, FDI, disabled, global researchers) can be much better served
- **Local jobs** are more likely to emerge as soon as your Government has defined their core services and given room for further markets (e.g. NGO, Enterprises)

## Bad practices across Europe and the U.S.

U.S.	Private city-portals may re-use public data published online, but few are not given direct and real-time access to the original public databases (of course non-sensitive and non-personal data)
Germany	The merger of FOI- and PSI-related topics within one Act created a huge legal and organizational mass.  Obsessive use of data-protection obstructing even navigation services.  One national data warehouse fails for ten years since the proposed business model does not suit the small enterprises.
Austria	A PPP concluded between the Government and one Association hinders the development of further services.  How the free publication of legal information on the internet affected the whole publishing industry and did not provide any economic benefits.  The distortion of spatial information services – even within the governmental institutions.
France	Similar obstacles as visible in Germany
Eastern Europe	Very bad public culture and understanding towards PSI re-use except in 2 countries.
Slovenia	Prima vista it seems to be an excellent implementation of the PSI Directive, but the analysis of judgments and the feedback of publishers provides a different picture.
Finland, Sweden	Very well-versed FOI-legislation in place but missing support for PSI re-use.