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PSI in Sweden: from infringement to enforcement?

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Key words

Public Sector Information, Directive 2003/98/EC; PSI re-use Sweden; PSI re-use and exclusive arrangements; PSI re-use and unfair competition; Sweden government response to European Commission infringement on incorrect transposition of the PSI Directive; PSI and the information market

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1. Abstract

The Government initially took a minimalist approach to the implementation of the PSI Directive¹ in Sweden citing existing legislation. It became clear that the implementation was insufficient, as was pointed out by interested parties such as the Stockholm Chamber of Commerce. Alerted to the poor implementation in Sweden, the Commission started infringement proceedings against Sweden in 2008. The main complaints by the Commission related to charging, non-discrimination, prohibition of exclusive arrangements, processing of requests to re-use public sector information and formats.

The present Government responded by making PSI re-use a part of e-government policy and quickly delivered a PSI law to parliament. A PSI law is now in force effective 1 July 2010. The law is a close interpretation of the EU PSI Directive, whereas the re-users had hoped for a more proactive approach.

National estimates on the economic potential of PSI re-use are few and not very elaborate. They indicate that the potential gains of PSI re-use would be significantly worth more than the market activities of the authorities and that the market for geographical information could double. While 18 authorities had revenue from fees for information re-use amounting to SEK 526 million, it has proven difficult to study the PSI economics in authorities. Sales of geographical information dominate with 59% of the revenue.

There is an established information industry in Sweden, based partly on access to PSI. Important fields are legal, financial and property information and information on vehicles. Perhaps more unusual, there is good access to personal information. New web-based services, often by small companies or entrepreneurs, are now emerging.

The PSI Directive has had direct implications for Government policy (privatisation, exclusive agreements and e-government). Also, more indirectly on public sector work on geographical data and the role of authorities on the market in general.

Even with the PSI Law a number of issues remain, and the Government will probably need to keep a close watch on the behaviour of the authorities, as well as a number of administrative and legal issues.

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.

2. Introduction

This topic report deals with the implementation of the PSI (Public Sector Information) Directive in Sweden. The Directive deals with the way public sector bodies should enhance re-use of their information resources. The Directive is built on transparency and fair competition on the internal market. It sets minimum rules for the re-use of PSI. In its recitals it encourages Member States to go beyond these minimum rules and to adopt open data policies, allowing a broad use of documents held by public sector bodies.²

Access to public information has a long history in Sweden. Yet the PSI Directive received little attention and a remarkably poor implementation. With a PSI law now in force from 1 July 2010, the current Government has made PSI an important part of e-Government policy. Although Sweden already has an information industry, there are still growth opportunities in the information market. Research, promotion of re-use and enforcement of the new PSI law promises a renewed interest in PSI and its development.

Structure

The report first gives a brief background to PSI in Sweden and then turns to the implementation of the PSI Directive (section 3). The main part of the report deals with the infringement proceeding against Sweden for failing to implement the Directive and the Government's response to it (sections 4 and 5). Various aspects of the PSI economics is covered in section 6. Section 7 gives a brief description of the Swedish PSI market and services. The last section is on further PSI work. The report finishes with conclusions and references.

3. Relying on history

In hindsight, Sweden should have been one of the leading PSI countries from the start. Lack of political interest paved the way for a minimalist approach to implementation. Perhaps the access to documents regime of close to 250 years made the transparency and accountability argument weaker in Sweden, thus missing out on a key factor promoting PSI re-use policy in other countries. Overconfidence in the history of freedom of information and transparency in Swedish government obscured the new European view on public sector information. A view that included commercialisation and innovation with information as raw material.

Sweden has a long tradition – and legislation – of freedom of information, the first act came into force in 1766 (actually including re-use – the right to reprint

² The description of the Directive is at

http://ec.europa.eu/information_society/policy/psi/actions_eu/policy_actions/index_en.htm.

More details in

http://ec.europa.eu/information_society/policy/psi/docs/pdfs/directive/quick_guide_directive.pdf. Full text:

http://ec.europa.eu/information_society/policy/psi/docs/pdfs/directive/psi_directive_en.pdf.

official documents). More modern laws and rules in public administration (regarding for example access to documents, official secrets, the administration of public authorities, and fees) also served the purpose of giving access to official documents (including registers and databases). The Swedish notification of implementation relied on such laws³ to implement the Directive, thus there was no need to draw up new laws, according to the Government.

Since the Government decided not to draw up a new law important, information is missing from the process. Normally a Committee prepares a new law. The Committee would consider a number of related issues such as legal and economic aspects of the Directive. They would summarise their work, give reasons for the proposals and so on in reports sent to the Ministry responsible for drafting a bill for the parliament. The report would be circulated for comments and the Ministry writes the draft bill based on the report and the comments it has received.

The result, in the case of the PSI Directive, was poor preparations for implementing the Directive. With no Committee and no report it was likely that a number of issues were overlooked or not thoroughly studied.

In 2007 the Stockholm Chamber of Commerce wrote to the Commissioner Viviane Reding, alerting her to the poor implementation and possible violations of the Directive in Sweden. There had also been a number of formal complaints by businesses against a few authorities. By that time, interested parties and experts had concluded that it was likely that Sweden actually did not meet the Directive's requirements.

Low awareness about PSI

In a survey conducted by the Stockholm Chamber of Commerce in 2009⁴ it became clear that awareness about the PSI Directive was low. Of the 70 public organisations that answered questions on PSI, 36% said that they held information that would fall under the Directive. Some 29% said that they did not hold such information. It is very unlikely this group of organisations has made the correct analysis of their information. Most of the organisations claiming not to be PSI holders were municipalities.

Part of the Commissions criticism of the Swedish implementation of the Directive was that it was unclear how it would apply to municipalities. The Chamber's

³ The Swedish notification referenced Tryckfrihetsförordningen (Freedom of the Press Order), Sekretesslagen (Secrecy Act), Lagen om överlämnande av allmänna handlingar till andra organ än myndigheter för förvaring (Act (1994:1383) on the depositing of public documents with bodies other than the authorities for safekeeping), Förvaltningslagen (Administrative Procedures Act (1986:223)), Avgiftsförordningen (Fees and Charges Order), Verksförordningen (Government Agencies and Institutes Order (1995:1322)) and Regeringsformen (Constitution Act). The notification also referenced two Government Bills and the decision by the parliament on those Bills: prop. 1989/90:138, bet. 1989/90:FiU38, rskr. 1989:289 and prop. 1997/98:136, bet. 1997/98:KU31, rskr. 1997/98:294. In 2008 Förordning om villkor vid vidareutnyttjande av information från statliga myndigheter (Regulation on the re-use of public sector information (SFS 2008:31)) was added.

⁴ Stockholm Chamber of Commerce (2009), pp. 7–8.

survey supports the Commission's criticism. It would appear that the Government needs to raise awareness among the municipalities on their responsibilities under the Directive.

The Chamber's survey indicated that a quarter of the organisations each supplied a hundred or more customers with PSI.⁵

Ineffective measures

The new Government that came into power in 2006 did not immediately turn to the PSI issue. Business lobbying intensified to achieve change. When the Ministry of Finance (in charge of policy regarding public administration) belatedly decided to act, the Ministry attempted to implement the Directive by a Government Ordinance.⁶

The PSI Ordinance of 2008⁷ to implement the Directive had little effect. The Government decided on this implementation in an effort to enforce the Directive, and perhaps to escape an infringement procedure from the Commission.

The Ordinance addressed formats, conditions of sales and re-use, non-discrimination, exclusive agreements, formats and more. According to the ordinance authorities should publish a list of information they hold for re-use. The authorities should also publish information about fees. Although the ordinance leaves some room for the authorities to judge for themselves what information to publish, it is striking that 11 out of 20 authorities possibly were in violation of the ordinance in 2009.⁸ It included some authorities that hold some very interesting data sets, such as the Swedish Public Employment Service (Arbetsförmedlingen)⁹ and the Swedish Enforcement Authority (Kronofogdemyndigheten).

In fact the implementation of the PSI Directive was so poor it has even been used as an example of what not to do. The Committee on Public Administration, Government, which reviews the tasks and organisation of the state administration, addressed implementation of EU legislation. The Committee reviewed possible improvements in implementing EU legislation and concluded: "Guidelines on implementing [EU legislation] should underline the need to give priority to the desired results [of the EU legislation], rather than implementing with a view to make a minimum of changes in existing legislation." It went on to note that the implementation of the PSI Directive was an example of the latter.¹⁰

⁵ Stockholm Chamber of Commerce (2009), p. 8.

⁶ An Ordinance (förordning) is a binding regulation issued by the Government, for example the provisions governing the operations of central government authorities.

⁷ Svensk författningssamling (2008).

⁸ Stockholm Chamber of Commerce (2009), p. 7.

⁹ An easy straightforward PSI service is already available making it easier to see jobs in a specific area or close to a certain place: <http://www.jobbkartan.se>

¹⁰ SOU 2008:118, text and footnote 50 on p. 106.

4. Infringement: the case against Sweden

On 16 October 2008 the Commission notified Sweden that the implementation of the Directive was incomplete and incorrect and launched an infringement proceeding against Sweden. According to the Commission a number of crucial provisions of the PSI Directive had not been, or had been incorrectly, transposed into national law. These mainly relate to charging, non-discrimination, prohibition of exclusive arrangements, processing of requests to re-use public sector information and the formats in which it should be made available.¹¹ The Commission made it clear that the Ordinance was not sufficient. The main criticism concerned articles 2–6, 10 and 11. The Commission's main points are summarised below.¹²

General problems

The Swedish implementation notification to the Commission (30 June 2005) stated that the Directive had been implemented in Swedish law, citing legislation already in force. The legislation cited deals mainly with freedom of information, access to documents, fees and other administrative rules. This approach inherently makes it difficult to judge if the implementation effectively achieves the aims of the Directive.

Unclear which laws apply

The PSI Ordinance of April 2008 was an attempt to strengthen the implementation of the Directive. The ordinance stated that if other laws or ordinances differ from the rules in the PSI Ordinance, they would take precedence. New and existing laws and ordinances could thus negate the rules of the Directive. There is an ordinance regulating fees charged by authorities in general terms. The ordinance contains a similar exception, that other rules regulating fees take precedence. The Commission found that there is considerable uncertainty as to which laws actually apply and that the PSI Ordinance was insufficient to implement the Directive's rules.

A review of fees for public sector information in Sweden shows that fees, with one exception, were below the limit in the Directive (article 6).¹³ The review covered 140 central government authorities (more public bodies are covered by the regulation, such as regional and local governments).

The review showed that the Government does not have a complete picture of the fees that the state charges. Further, there is no complete picture of which powers the Riksdag (the Swedish national parliament) has given to Government, or given by the Government to the authorities, to charge fees. The Commission concluded that there is uncertainty about the rules for fees, the extent to which they are used and under which conditions the rules apply.

¹¹ European Commission (2008b)

¹² This section is based on European Commission (2008a).

¹³ SOU 2007:96.

Implementation fails to include regional and local government

The Commission found that the PSI Ordinance the ordinance on fees used a more narrow definition of a public sector body than the Directive (article 2). The PSI Ordinance for example only applied to central government authorities, which does not include regional governments (landsting) or local governments (kommuner). The Commission concluded that further rules were needed to ensure that all public sector bodies covered by the Directive are also covered by Swedish PSI legislation.

Means of redress unclear

The PSI Ordinance was explicit that decisions made according to it could not be challenged. The Government stated that the Official Secrets Act and the ordinance on fees took precedence over the PSI Ordinance and covered the means of redress. Since the PSI Ordinance also contains rules on re-use, non-discrimination, exclusive rights and available formats the Commission maintained that it was unclear whether decisions relating to these rules can be challenged. The Commission found that this and other circumstances lead to a situation where the full implementation of the Directive's article 4 was not guaranteed.

Pre-existing electronic format

The Directive is clear that public sector bodies shall make their documents available in any pre-existing format (article 5). The Swedish Freedom of the Press Act, however, includes an exception. It states: "A public authority is however under no obligation to release material recorded for automatic data processing¹⁴ in any form other than a printout except insofar as follows from an act of law."

The PSI Ordinance states that information that is held for re-use should be available in "pre-existing ... formats, if possible and appropriate". The Ordinance further states, "The information may, upon request be made available electronically, if possible and appropriate."¹⁵

The Commission concluded that the rules of the Freedom of the Press Act and the PSI Ordinance were open for subjective judgment on whether to make information available in (a pre-existing) electronic format or not – contrary to article 5. The Commission views "upon request" as an additional condition to making information available and concludes that article 5 is incorrectly implemented.

No upper limit for fees

A few fees are regulated by special laws or in other legislation covering specific registers, of which there are over 200. Fees are in practice below the limit in the Directive (article 6). The Commission found that the Swedish implementation did not make sure that the upper limit in the Directive cannot be exceeded when deciding fees.

¹⁴ Automatic data processing, in practice electronic processing and documents.

¹⁵ Svensk författningssamling (2008), article 16 (author's translation).

The Commission also quotes two instances where authorities used market oriented mark-ups in their fees – the Swedish Road Administration (Vägverket) and the Government Persons and Address Register (Statens personadressregister, Spar – register with all natural persons residing in Sweden).

The Commission's view on fees was that there are no clear and binding rules on fees and that the full implementation of article 6 is not guaranteed. Laws, rules and contracts contain rules on fees not disclosed to the Commission. The rules are not precise enough to provide for a legally clear situation and fall short of a full implementation of article 6.

It should be noted that the authorities are below the upper limit of the Directive, but in many instances above the marginal cost principle endorsed by the Government and the parliament. The principle states that normally charges should be based on costs for compiling and distributing information. Indirect costs should not be included, however in some cases costs for collection and registration may be covered.¹⁶ This sets a considerable lower ceiling than the Directive.¹⁷

Non-discrimination

Article 10 in the Directive calls for any applicable conditions for the re-use of documents shall be non-discriminatory for comparable categories of re-use. The Government claimed that it is implemented (not only) through the Freedom of the Press Act. It states "*Except as otherwise laid down in this Act or elsewhere in law, foreign nationals are equated with Swedish citizens.*"¹⁸ According to the Commission this amounts to a situation where foreign nationals do not seem to have the same status as Swedish citizens (or at least there is a possibility that laws to that effect are enacted). It notes that there are no explicit rules to protect "comparable categories of re-use".

The implementation also lacked rules to prevent cross-subsidies in the authorities' commercial activities. The PSI Ordinance had rules on provision of paid services (uppdragsverksamhet) that are not purely commercial, but could be seen as competing with private companies' services. The Commission found that there is no definition of such services. Thus the Commission found it difficult to distinguish such services from commercial activities.

All together, the Commission was of the view that article 10 had not fully been implemented.

Exclusive agreements exist

The notification from 2005 contained no information on exclusive agreements. In 2006 the Government said that such agreements were rare in Sweden. The

¹⁶ Prop. 1997/98:136

¹⁷ Ministry of Finance (2009a) pp. 9–10

¹⁸ Svensk författningssamling (1949), chapter 15, article 5.

Commission stated that, although activities mentioned in a Directive do not exist in a Member State; it is still obliged to implement the Directive. Furthermore, there *were* exclusive agreements in Sweden, in the Swedish Road Authority¹⁹ and notably in regards to the Government Persons and Address Register. The Commission found no rules that would ensure that existing agreements would be terminated by 31 December 2008. The PSI Ordinance prohibited exclusive agreements, but it was unclear if that applied retrospectively to agreements already entered into. The Commission finds that article 11 had not been fully implemented.

The general principle

The Swedish Government claimed that article 3 of the Directive was implemented by a number of rules in three different legal acts. The Commission writes it is unaware of any Swedish rules that fully implemented article 3 and the conditions set out in the Directive's chapter III and IV cannot be guaranteed. The Commission was of the view the initial Swedish actions to implement the Directive were lacking in clarity, precision and undeniable legal effect. Thus they could not guarantee the full application of the goals in article 3 and likewise could not guarantee the obligations in the same article.

5. The Government's response

Following the additional letter of formal notice to the Swedish Government of 17 October 2008 for incorrect implementation of the PSI Directive, the Swedish Government agreed to further implementation measures. The Government's new approach to PSI policy was announced at the national PSI meeting arranged by the Stockholm Chamber of Commerce and the ePSIplus Thematic Network in December 2008. The Government presented a plan for a PSI Law to be in force by 1 July 2010.²⁰ The PSI Law was to be drafted by the PSI Group, appointed on 4 December 2008, working in the Ministry of Finance. The Group presented a draft law in June 2009.²¹

The draft law was sent out to the stakeholders for a formal consultation during the autumn of 2009 as a step in the Swedish legislative process. On 23 March 2010 the law was presented to the Riksdag in a Government bill on public administration.²² The Riksdag voted in favour of the Government's bill on 2 June 2010. The opposition voted against the Bill on the new law, but said that in principle they supported the law. The law was promulgated by the Government the day after and entered into force on 1 July 2010 and the PSI Ordinance has since been repealed.

¹⁹ The register in the case is now managed by the Swedish Transport Agency.

²⁰ The Commission has published news items relating to the infringement procedure on: http://ec.europa.eu/information_society/policy/psi/news_archive/index_en.htm.

²¹ Ds 2009:44.

²² Proposition 2009/10:175.

The PSI Law

The purpose of the new Swedish PSI law is to promote re-use and fair competition. The law addresses administrative law, competition law and civil law. There are rules on conditions for re-use and the practical issues to enable re-use of public sector information. The law does not address the right to access documents (freedom of information issues), the right to re-use documents (e.g. intellectual property rights) or the practical promotion of re-use.

The law applies to state, regional and local public sector bodies. It also applies to a number of bodies (companies, foundations and organisations) that are covered by the Swedish principles of access to documents (offentlighetsprincipen). The bodies are those listed in an annex to the Official Secrets Act and various sorts of organisations owned or controlled by governments. The Government decided to keep the exceptions allowed for in article 2.1. The ceiling for fees corresponds to that of the Directive. Redress is to be sought in administrative courts. Overall the implementation aligns closely with the rules in the Directive

Businesses in Sweden welcomed the new law and its aims to promote an information market with fair competition. According to the businesses, it would have been better with an even stronger commitment to lower fees (marginal cost based). This is the Government's line in the explanatory part of the bill, but it is not written in to the law. The explanatory text also make it clear that "raw data" is covered by the term document (Swedish: handlingar), which could be other machine readable data or information such as sound and film recordings. There is a concern that seeking redress in administrative courts will be time consuming in a fast moving industry.

The PSI Law allows for raw data to be delivered to re-users as noted above. However, there is still a possibility for authorities to refuse electronic access to PSI. The new PSI law does not address this issue, but in the explanatory text of the Bill the Government notes that there is ongoing work to review electronic access. Businesses would like to see more oversight and follow-up of the law. There is no authority appointed to review, enforce or promote the work in the PSI holding bodies (redress can be sought in normal administrative courts). A considerably weaker mandate was given to the eGovernment Delegation (see below).

With the law, focus now shifts to the laws and ordinances that set the rules of individual registers affecting how the data can be re-used. There are more than 200 of them, dealing with privacy and fees. Many of these predate the broad use of information technology and the driving ideas behind the Directive. A review of these laws and ordinance with the aim of aligning them with the aim of the PSI law is needed from a business perspective.

Review of exclusive arrangements

Two exclusive agreements have been identified. It was the management of the Government Persons and Address Register (Statens personadressregister, Spar) and with the Swedish Road Authority, now a part of the Swedish Transport Agency.

The Spar register contains information about all residents in Sweden, both Swedish citizens and foreigners. Previously it was managed by Infodata AB. Infodata held the right to sell information from the register, a yearly business of SEK 200 million. From 1 January 2009 the Swedish Tax Agency is in charge of the register. New arrangements are being made to distribute and sell information from the register. So far a SEK 13 million a year deal for operations and administration services for the Spar register was made with EDB Business.²³

No systematic review of exclusive arrangements has been undertaken in Sweden. After having presented a bill to the parliament with a proposed PSI law the Government turned its attention to exclusive arrangements. The Swedish Agency for Public Management (Statskontoret) was given the task to study if there exclusive arrangements and provide detailed information on them. A report is due on 1 October 2010.²⁴

PSI and e-government

The current Government renewed efforts to promote e-government in Sweden. Re-use of public sector information has been included in the goals for e-government policy. The new PSI Law was actually presented in a bill that dealt with broader issues of public administration and e-government. To support the Government's efforts and as an attempt to centralise e-government policy (from Sweden's relatively independent authorities and agencies) the Government created an eGovernment Delegation in 2009.²⁵

The Government decided to give the eGovernment Delegation an important role in promoting PSI. The delegation is to improve conditions for re-use of information from the authorities. The Delegation is to explore how such information can be made available and disseminate good practice, based on the recently enacted PSI Law.²⁶ The delegation is also to address standard conditions for re-use.

While this decision reaffirms the Government's commitment to PSI issues, it can be criticised for centralising some responsibility for PSI. This is something that in turn could give unnecessary reason for individual authorities to delay their own PSI initiatives.

²³ <http://www.idg.se/2.1085/1.308314/edb-in-pa-skatteverket> and <http://www.edb.com/en/Corporate/Investor/Stock-exchange-and-press/?itemUrl=http://cws.huginonline.com/E/194/PR/201004/1404319.xml>

²⁴ Ministry of Finance (2010).

²⁵ Committee terms of reference for the eGovernment Delegation are available at http://en.edelegationen.se/sites/default/files/tor_2009_19_0.pdf

²⁶ <http://en.edelegationen.se/news/2010-04-21/new-instructions-on-re-use-of-public-information-and-social-media>

6. The economics of PSI

Economic estimates

National estimates on the economic potential of PSI re-use are few and not very elaborate. The Swedish Institute for Growth Policy Studies (Institutet för tillväxtpolitiska studier) wrote in 2007 that the potential gains of increases PSI re-use would be significantly worth more than the market activities of the authorities (at that time). Their report also stated that the market for geographical information could double. ITPS also used the figures in the MEPSIR study in an estimate of the Swedish information market. The Swedish share of the market was considered to be between SEK 3 billion and SEK 13 billion.²⁷

PSI in the state budget

The PSI Group of the Ministry of Finance was assigned to review the economic consequences of implementing the Directive for the state (national) budget (a part of their work to draft a PSI law). A review of all agencies directly under the control of the Government was undertaken. The result showed that there would not be a loss of revenue from fees when implementing the Directive. This analysis used the definition in the Directive, allowing for setting high fees. In many cases allowing for substantially higher fees than those currently charged.

The review found 331 organisations that would have to comply with the Directive. Of them 110 organisations were excluded for various reasons, such as not being proper authorities or part of another authority. A further 68 organisations were excluded due to the exceptions (article 1.2 d-f), mainly organisations in the educational and cultural sectors. That leaves 153 organisations. A closer examination of them revealed that 18 authorities had revenue from fees for information re-use amounting to SEK 526 million. It is worth noting that authorities with revenues over SEK 10 million SEK receive 95% of the revenue, and that the Swedish Mapping, Cadastral and Land Registration Authority (Lantmäteriet) claims 59% of the total revenues.

²⁷ ITPS (2007), pp. 12-13.

Below are seven authorities with the largest fee revenue from retrieval or re-use of information.²⁸

Authority	Revenue (SEK million)
Swedish Mapping, Cadastral and Land Registration Authority (Lantmäteriet)	308
Swedish Transport Agency (Transportstyrelsen)	124
Statistics Sweden (Statistiska centralbyrån)	26
Maritime Administration (Sjöfartsverket)	25
Swedish Tax Agency, including the State Person and Address Register (Skatteverket, inklusive Spar)	15
Swedish Companies Registration Office (Bolagsverket)	9
Swedish Meteorological and Hydrological Institute (SMHI) ²⁹	5

The figures are uncertain to some degree. According to the report it was difficult to distinguish what related to re-use or between the normal and the commercial activities of the authority. For example Statistics Sweden has revenue of SEK 395 million for consulting.³⁰ This is a sum that to a degree may include fees for re-use. This underlines the need for better accounting to measure PSI and the effects public information sales has on the market put forward by the Stockholm Chamber of Commerce and others.³¹

A study of five authorities showed that if information was given out electronically without charging fees would be about SEK 700 million in revenue for the authorities.³²

The Swedish Meteorological and Hydrological Institute and the Swedish Transport Administration (the the Swedish Road Administration, Vägverket) thought that the loss of fee revenue would be negligible. The National Police Board's (Rikspolisstyrelsen) view was that giving electronic information (without fees) would save money, compared to giving the information on paper.

If the authorities were allowed to charge fees to cover the cost of making the information available the revenue would be reduced by SEK 400 million. Low or no fees for economic delivery of information would mean that private actors would request, refine and sell large amounts of data. In turn that would mean a strong decrease in the authorities' income from paid services (uppdragsverksamhet) the study concluded.³³

²⁸ Ministry of Finance (2009), pp. 14–15. The figures exclude sales of publications.

²⁹ A breakdown of SMHI's total revenues (SEK 208 million in 2008) shows that 71% of the revenue comes from other public sector bodies. A figure which has been used in the debate on how to finance authorities in a more PSI regime with lower fees or no fees.

³⁰ Ministry of Finance (2009), p. 14.

³¹ Stockholm Chamber of Commerce (2007), p. 8.

³² The authorities were Swedish Companies Registration Office, Swedish Mapping, Cadastral and Land Registration Authority, the National Archives, Statistics Sweden and Swedish Transport Agency.

³³ SOU 2010:4, pp. 429–430.

7. The Swedish PSI market and services

There is an established information industry in Sweden. This industry has grown partly depending on access to PSI. The companies are active in the familiar areas of legal, financial and property information and information on vehicles. The annual turnover is several billion Swedish kronor. Perhaps more unusual, there is good access to personal information.³⁴

Online services

Online services include direct access to updated databases with information about companies, private persons, real estates, vehicles and legal information. In Sweden you can easily access information about companies and private persons. The largest online service is InfoTorg, a portal with access to important government registers from several different authorities. The largest sources are Spar, BASUN (company and working place register), the Real estate and mapping register with over 30 connected distributors (Swedish Mapping, Cadastral and Land Registration Authority) and the Register of vehicles and driving licenses (Swedish Transport Agency).

In legal information services the competition is very strong. The large actors are Norstedts Juridik, Thomson Reuters Professional, JP Infonet and InfoTorg Legal. They combine access to PSI with their own information. More free legal information is becoming available from the authorities and this means changing business models and openings for new, often smaller, market actors.

Credit and risk services

The market for credit and risk information is primarily based upon PSI that comes from the company register (Swedish Companies Registration Office), the population register and income register (Swedish Tax Agency) and from the Swedish Enforcement Authority. The largest actors are Upplysningscentralen (UC, owned by a number of banks), D & B and Soliditet. Smaller actors are moving into the market with lower priced services, based on PSI. To be in this market you have to have permission from the Swedish Data Inspection Board.

Direct marketing services

Most of the Swedish Direct Marketing services are based upon PSI. The consumer oriented part of the business is primarily based upon the Spar register, which is used by over 20 retailers. They can order selections from Spar and it is then combined with other kinds of information. The result is more qualified selections that can be used for different kinds of campaigns and other market activities.

Business to Business services are primarily based upon official registers such as BASUN from Statistics Sweden or the Company register from the Companies Registration Office. There are also certain companies acting with value added services building direct marketing databases by adding information about for

³⁴ The sections Online services, Credit and risk services and Real estate and vehicles are based on a brief market description provided by Mr Rolf Nordqvist employed by Bisnode and chairman of the PSI Alliance.

example company officials. These registers are used for marketing campaigns and other marketing activities.

Real estates and vehicles

The market for real estate information and maps is the largest PSI based market in Sweden. Data is available both by large selections from the register and by direct accesses. The services are of different kinds like real estate broker systems, property valuations, price statistics, production of maps etc. The competition on the market is strong.

The Swedish Vehicle Register is used for a number of services (such as the car finance, insurance, car retail and scrap dealers) based upon PSI. There are three major companies using direct access to information from the Transport Authority.

Other services

As we have seen in the USA and the UK, new categories of services are being created. They combine different data sets making them available with web mash-ups. Professional examples are eniro.se and hitta.se, combining information from public and private sources: addresses, telephone numbers, maps etc.³⁵

One service has gained some attention is opengov.se.³⁶ It is a non-profit attempt to improve the public sector by using open data. The web site lists data sets in various authorities. It also extracts information from the Government's web site finding references to new terms of references for government committees, references to existing laws in the terms of references and when committees' reports are due.

Lagen.nu is a non-profit, volunteer-run web site, which provides access to legal information with advanced linking and references, including to legal cases.³⁷

GovData is a site using procurement information, going back to 2003, from about 70 authorities, amounting to about 90% of central government spending.³⁸

Jobbkartan.se allows searches for vacant jobs a map.³⁹ Since the Employment Service has not provided a good data source, the web site uses post codes from the Employment Service's web listing of vacant jobs.

A number of web sites⁴⁰ use Swedish weather data, but obtained from the Norwegian weather service. Entrepreneurs feel that the Swedish weather service

³⁵ <http://www.hitta.se/> and <http://www.eniro.se/>

³⁶ <http://www.opengov.se/>

³⁷ <https://lagen.nu/>

³⁸ <http://govdata.se/>

³⁹ <http://www.jobbkartan.se/>

⁴⁰ See for example the weather site <http://www.vackertvader.se/> and the weather pages of the newspaper Svenska Dagbladet: <http://www.svd.se/nyheter/vader/karta/>

charges too much for its data. This is a situation that has received some mainstream media attention.⁴¹

Omvård.se compares services and medical care in hospitals and other health care organisations using official statistics.⁴² The aim is make it easier for patients to compare and make informed choices in health care. It is also an attempt to broaden the healthcare policy debate by the site's sponsor the Confederation of Swedish Enterprise.

8. Further PSI related work in Sweden

Electronic access to public information

A committee report has proposed changes in freedom of information legislation.⁴³ Currently there is a right to have a copy of a public document, with some exceptions. One exception is to prevent automated processing of information where there is risk of privacy intrusion. If the authority believes that this is the case, it is not obliged to deliver an electronic copy of the information (you can obtain the same information on paper). The exception is from the 1970s. (See also Pre-existing electronic format in section 4.)

The proposed change would mean that authorities would be required to give electronic copies of information they store electronically, if it is appropriate (mainly in regards to privacy concerns) and not forbidden by other legislation. The committee also recommends a review of the laws and ordinances that set the rules of individual registers.

New Swedish law to prevent unfair competition

Swedish government bodies can be prevented from engaging in business activities that distort competition. This is the implication of a law in force since 1 January 2010.⁴⁴

A public sector body that undertakes a business activity may have advantages over a private company. A government agency or municipality cannot be declared bankrupt and such bodies possess the kind of financial power that very few private enterprises can achieve. More specific to PSI, PSI Holders have easier access to and better understanding of the information they hold. They can also adapt prices, fees and conditions that could unfairly favour their own products and services on the information market.

⁴¹ Interview with the head of the Norwegian Met Office (YR) in the news paper Svenska dagbladet 7 September 2009: http://www.svd.se/naringsliv/nyheter/trygg-nydanare-i-stormens-oga_3478481.svd. Same newspaper, a columnist http://www.svd.se/opinion/kolumnister/larsryding/ingen-ort-for-liten-for-ambitios-vadersajt_3312951.svd.

⁴² <http://www.omvard.se>

⁴³ SOU 2010:4.

⁴⁴ This is based on Swedish Competition Authority (2009).

The new law enables the Swedish Competition Authority (Konkurrensverket) and entrepreneurs to approach the Stockholm City Court and apply for a public sector body to be prohibited from engaging in a business activity in a manner that distorts competition on the market.

A privatisation of Metria?

The Government is on course to make the commercial division, called Metria, of the Swedish Mapping, Cadastral and Land Registration Authority a separate company. Metria offers a wide range of products including field surveys, aerial photographs and satellite imagery, maps, geographic information technology, positioning services and other customised solutions. Industry welcomed the move, but expressed concern if the company would remain state owned.

Co-operation on geographical data in the public sector

A number of authorities are involved in co-operation on the national geodata strategy. Geodata.se⁴⁵ is a portal for web based geodata and services. Geodata.se contains metadata that makes it possible to search, locate, view and download geodata from different sources that are physically stored in different environments and the responsibility of different authorities. Geodata.se is also the main node for the Swedish cooperation in Europe in accordance with the Inspire Directive. The portal is under construction.

PSI and environmental information

A recent Government bill proposes easier access to maps and geographical environmental information. The idea is to make it easier to monitor changes in the environment also to predict, prevent and manage natural disasters. The system will be used to implement EU environmental policy.

Geographical environmental information on Sweden and Europe is to be available on the Internet at any time. The system is based on information in about 20 authorities including land registries, roads, water, protected areas, weather and facilities with activities hazardous to the environment. In proposing the law the Government cites government benefits and that is the Swedish implementation of the Inspire Directive.⁴⁶ The law is expected to be in force on 1 January 2011.

9. Conclusion

On the 1 July 2010, to the day five years after the implementation deadline of the Directive, the Swedish PSI Law came into force. As a result Sweden has legislation on the books which closely aligns to the Directive. It was also a clear signal from the Government on the commitment to promoting an information market without unfair competition from authorities selling information themselves.

⁴⁵ <http://www.geodata.se/>

⁴⁶ 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).

Even with the PSI Law a number of issues remains, and the Government will probably need to keep a close watch on the behaviour of the authorities, as well as a number of administrative and legal issues.

Practical issues and promotion has been given to the eGovernment Delegation. Will their mandate be sufficient to create change in the authorities? No authority, apart from seeking redress in the administrative courts, has been appointed to monitor practical implementation of the PSI Law. Charging and fees are still being discussed. The information industry are unwilling to pay for what they term “unnecessary refinement and services” by the authorities, where the industry really wants is access to raw data. There are over 200 pieces of legislation that cover specific registers. They set conditions for privacy, re-use and sometimes fees. A systematic review of them, with a view to align them to the aims of the Directive, is priority.

The economics of PSI in Sweden needs research. Information sales and accounting in the authorities needs to be much better understood in order to shape a function information market. Economic, social and cultural benefits of increased re-use should be studied to further inform PSI policy development.

If given more attention and handled with more skill than the Government’s initial attempts at implementation, Swedish re-use could increase substantially. High quality sources, including personal information, central databases and know-how in the information industry constitutes a good foundation.

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