



ADVISORY PANEL ON PUBLIC SECTOR INFORMATION

THE USE OF PUBLIC SECTOR INFORMATION APPSI'S NEW RESPONSIBILITIES

Position Paper by Michael Clark
Expert Member, APPSI

What are most likely to be the main bones of contention which will require resolution, mediation or arbitration in the newly defined regime of regulating public sector information availability and usage?

It seems probable that the two most prominent will be a) accessibility, and b) charging.

The Advisory Panel for Public Sector Information (APPSI) may or may not be asked to consider prices, fees and charging, and to become involved in what should be routine commercial negotiations between parties. If it is, though, any problems that arise and need sorting are very likely to be rooted in the facts of state monopoly of supply, which themselves, of course, link directly to questions of availability.

In this context, public bodies (PBs) have to carry out two separate decision-making exercises: whether to make their information assets available (either proactively or reactively), and, if so, whether and how to charge either for the information itself or for the service of providing it.

In the matter of accessibility, therefore, let us first look at the exemptions and exceptions which can apply to the provision of public sector information and which are defined in the three major pieces of information legislation introduced in the last five years: Data Protection, Freedom of Information¹ and the Use and Exploitation of PSI.

As we know, categories of exemption cover:

- information of a personally or professionally sensitive nature
- information disclosure of which might be harmful to UK interests abroad
- information which might be prejudicial to law enforcement
- information provided in confidence
- information specifically prohibited from disclosure
- court records
- taxation records
- other information subject to a public interest test

¹ The Environmental Information Regulations are for the present purpose treated as an extension of the Freedom of Information Act.

- complications arising from intellectual property rights

With this and other legislation on the way as a backdrop, the following table illustrates certain natural tensions that exist between various concepts as they apply to the information held by the public sector:-

Table 1:

CONFIDENTIALITY	v.	TRANSPARENCY
SECURITY	v.	HUMAN RIGHTS
PRIVATE INTEREST	v.	PUBLIC INTEREST
COSTS	v.	CONVENIENCE

We may, then, consider some examples of areas of government activity where open accessibility and charging have been, and in some cases still are, important issues:

ENVIRONMENT

- environmental information held by public authorities is dealt with as a special case in FoI terms and rendered subject to additional legislation
- but much of it is difficult and expensive to collect, especially where data is collected and processed as a specific task, as opposed to gathered incidentally to some other task (e.g. sampling water quality)
- the balance of judgement has tended towards making as much environmental information as possible available free of charge. Apart from justifying it by regulatory and governmental usage, therefore, environmental data production, maintenance and dissemination is generally a direct cost on government

HEALTH

- the medical profession has always had concerns about the confidentiality of patient data
- but the value of putting patient records to work at a statistical (i.e. non-personal) level is the classic story of Dr Snow's demonstration of geospatial epidemiology in nineteenth century London
- more recently, the nCJD Surveillance Unit started to be really effective only when it was able to work with universal datasets instead of samples and began to access data which previously had not been available

EDUCATION

- open government has had a major impact on the education establishment, whose administrative responsibilities and costs have increased significantly in recent years
- a recent newspaper article drew attention to the link between academic achievement and “social class”, but pointed out that the only measure of the latter available to its author for comparison with examination results was the percentage of Free School Meals (FSM) per school
- but the public has now grown used to the idea of schools league tables, for instance, and it would be politically very difficult to row back from here

POPULATION DATA

- some sociologists have concerns about confidentiality in the context of information about individuals (such as ethnic and religious backgrounds), and others are bothered by the use of electoral registers for direct marketing purposes
- but the free availability of data about births, deaths and marriages and the use of geodemographics, as well as being fundamental to government, drive some important commercial activities
- a major revision to pricing strategy at ONS four years ago has been a considerable stimulant to new analytical research as well as commercial activity

MOTOR VEHICLES

- the registration of motor vehicles has become a necessary part of regulating society in several ways, and it is often argued that this information should be a matter solely between the citizen and the state
- but it has been found necessary, for instance, to provide access to car registration details to the private companies which have been contracted to run parking arrangements at railway stations and deal with on-street parking on behalf of local authorities
- cherished number plates provide an important source of income for DVLA itself, which helps to offset the cost of running the agency
- other transport-related government agencies contribute important data across government (e.g. emission control, traffic density & road planning, etc)

LAND AND PROPERTY

- HM Land Registry also performs a regulatory role: it is unthinkable that there should not exist some form of central record of land and property holdings

- reference to it must be an essential element in establishing title when land and property transactions take place, and the commercial application of data deriving from the registration process generates income
- the Valuation Office is positioned alongside HMLR and maintains important links between central and local government

BUSINESS

- the governance of corporate business activity produces a vast amount of essential data about the economy and its various components
- it is essential that data is traceable to its source not only in order to validate it but also to analyse it
- a range of commercial by-products of the data deposited under the various Companies Acts has been well-known and well-established for many years

FORESTRY

- in some ways the Forestry Commission can be thought of as an arboricultural version of the Land Registry
- but a policy decision taken here keeps the Forestry Commission a few paces back from making full-scale commercial use of its data

MAPPING

- the Ordnance Survey has to be considered, of course, in a class of its own because it provides an essential framework for organising almost all other official data streams. One is reminded of the old axiom that more than eighty per cent of all information has a geospatial component
- much the same applies to the UK Hydrographic Office, known throughout the world for the quality and accuracy of its Admiralty maps and charts

THE RESEARCH COUNCILS

- NERC, SERC, MRC and their offshoots, such as the British Geological Survey (BGS) are commercially active as sponsors as well as producers and publishers of research data alongside the universities
- few would argue with applying the principles of cost recovery to research information which, although possibly not particularly confidential, may nevertheless be specialised and of considerable value

SOME GENERAL OBSERVATIONS:

- As APPSI's Annual Report for 2005 has pointed out, the past few decades have seen a significant shift in the Government's attitude to the information it collects and maintains, from secretive to open and from reluctantly reactive to positively proactive.
- However, the general public is less aware of its interests than what it is interested in, which is largely orchestrated by the media and entertainment industries.
- The average citizen takes much of the public sector's information that is provided to him for granted without being overly concerned about either how it is generated or what it costs to provide. He or she is also relatively unconcerned about the rights and wrongs or the whys and wherefores of commercial PSI use and exploitation.
- One is most likely to find controversy where information is the subject of government monopoly and/or what appears to be arbitrary control. Complaints are most likely to originate from commercial interests.
- Politicians will not, in general, see many headlines or votes in PSI unless a *cause celebre* derives from some politico-commercial activity related to it.

Users – beneficiaries – whether they are citizens seeking to inform themselves for whatever reason, whether they are other parts of our public administration looking for information in order to improve their functionality in some way, or whether they are simply private sector publishers or other commercial enterprises who have identified a business opportunity involving PSI, will also be sensitive to questions of perceived value. Each side of any transaction, supply or demand, would almost certainly hold views which might well be said to represent another form of tension which could be added to the table above.

But APPSI, however, strengthened by the extraordinary breadth and depth of the expertise of its members, is not only in a unique position to contribute to the resolution of PSI-related problems (sometimes, hopefully, before they turn into disputes), but will also remain focused on its original remit to advise in a balanced, objective and informed way. After all, for many people and institutions perceptions are the only reality.

End.

MC/S/28.09.05