

Infringement Proceedings – A Member State View

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In his [blog post of 4 December 2009](#) Javier Hernández-Ros of the European Commission claimed that infringement proceedings are an opportunity for the member states. Although no member state could possibly aspire to be the object of an infringement proceeding, I tend to agree with Mr Hernández-Ros. I would like to devote my first blog post to a few comments on this subject from a Swedish point of view.

The Commission has launched infringement processes against a small number of member states. One of them is Sweden, which came as a surprise to many. Sweden has a long history of transparency and access to documents as well as a long history of commercial re-use of public information. There is a market for public information, and there is a prosperous information industry.

Since everything worked fairly well in Sweden, the general feeling was that there was no need for a thorough analysis of the implications of the PSI Directive. Accordingly, the issue did not get much attention in the administration. The primary result of the infringement proceeding was to draw attention to the question of PSI.

The infringement proceedings brought PSI to the attention of politicians and ministries. A cross agency task force was set up with the mandate to draft new legislation to ensure full compliance with the directive. The result of the task force was a draft law, which, after a formal consultation process and re-drafting was passed by the Parliament, and entered into force 1 July 2010.

The attention caused by the infringement proceedings also prompted activities by agencies. At first, agencies were sceptical and worried. Some claimed that the PSI rules did not apply to them. Some claimed that it would be very difficult to comply with the directive and the new law. As agencies have started using their capacity and their creativity to find new ways of organising their activities, scepticism has turned to interest, maybe even enthusiasm. Few drastic re-arrangements have taken place, and agencies are less worried. We are on the path to a better understanding of the needs of re-users and how to better accommodate those needs.

The infringement proceedings also prompted activities that resulted in new knowledge. The task force made a survey of revenues from fees for re-use of information, and of legislation regarding such fees. The survey confirmed that the fees applied are in compliance with the directive. In addition to this, the survey has given the government an overview of these revenues that it did not have before.

Although no country could wish to be the object of infringement proceedings, the process against Sweden has indeed brought attention to PSI re-use. It has also prompted activities which would

otherwise not have taken place. All in all, as suggested by Mr Hernández-Ros, the infringement proceedings provided “an opportunity to prepare better legislation, building on what we know today”.