

REPORT TO THE PRIME MINISTER

Open Government Data

Are all exceptions to the principle of cost-free access and reuse legitimate?

[EXCERPTS – Full report in French available here:

<http://bit.ly/RapportTrojette2013>]

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relevant to the exercise of democracy or have major socio-economic potential, such as geographical, meteorological or health data for example.

3. The absence of historical perspective means that there is little scientific research to enable precise quantification of that potential. Nevertheless, experiments conducted abroad at national or sectorial level suggest that an initial phase of investment in open public data is followed by a phase in which the social and economic benefits far outweigh the cost for the national community.

In the area of geographical data for example a Finnish study indicates that there is more development of companies reusing data in countries where public information is openly available. This outcome is corroborated by studies conducted by the French National Institute of Geographic and Forestry Information (IGN): the move to provision free of charge of this public establishment's large scale reference map for organisations responsible for delivery of official public services led to a twentyfold increase in the quantities of data downloaded, generating estimated extra social revenue of €114m compared with lost earnings of around €6m from charges. Similarly, an open data policy on geographical and meteorological information in the United States has led to the creation of multinational groups valued at several billion euros (e.g. *The Weather Channel* and *Garmin*).

The United Kingdom, a country seen, like the United States, as a pioneer in open public data, has estimated at £6.8bn (€7.9bn) the revenue in 2010 and 2011 generated for British society by open public data, of which £5bn (€5.8bn) is profit. As an example, a start-up has highlighted the existence of areas in which massive savings can be made by analysing prescriptions of patented drugs and the corresponding generics.

Such possibilities are not beyond reach for France, which is not only deemed to be among the pioneers but also one of the countries making the most rapid progress in this domain. This fact, endorsed by a number of observers, is true with regard to the G8, the European Union and a group of 23 countries with highly diverse profiles.

4. In order to realise this potential, Government can combine large volumes of high-quality open public data with a large and diverse population of reusers – the general public, researchers, software developer communities and private companies. If such a combination is to be facilitated and encouraged, it is essential that Government adopt a strategy based on an effective web platform through which open data can be made available in formats suitable for automated processing. Such platforms are part and parcel of the creation of the information infrastructure essential to both democracy and economic development.

A platform-based strategy has a number of advantages. In addition to enabling public departments to keep control of official data, it also gives them a unique opportunity to observe and to understand how their information is used and reused, with a view to identifying promising innovations and deriving productivity gains, based on voluntary contributions from the ecosystem thus created. Additionally, it provides a framework for the automated exchange of data between Government departments.

5. Where it can be seen to be necessary to fund part of the cost incurred in setting up a platform of this kind, Government must be in a position to determine exactly which actors should bear the financial burden, along with the most suitable funding methods. The financing of the major digital platforms provides an example of this: these are usually funded by a fractional levy on the value of the innovation ecosystem they are able to attract, feed with data and stimulate, rather than by trying to develop their own applications or predict the ways in which their information will be used.

Introduction

A little over fifteen years ago now, the then Prime Minister Lionel Jospin declared that **“henceforth, essential public data must be available free of charge to all on the Internet.”** Two years later, a working group chaired by Mr. Mandelkern predicted that *“interactivity will tend to expand the definition of ‘essential data’. This is so because as they move from data request to data request users are encouraged to seek increasingly detailed information. There is a risk that the boundary for unpaid provision will become increasingly difficult to draw”.*

Indeed, as the mission statement I received on 25 March last (see annex) indicates: **“the reuse of public information is governed by a principle of provision free of charge in our legislation, but this does allow for exceptions to the general rule.”** On a number of occasions, at recent interministerial meetings on government modernisation (CIMAP) or at the *Futur en Seine* digital festival, the Prime Minister has reaffirmed the free provision principle. The Minister of Administrative Reform, Decentralization and the Civil Service, welcoming the commitment given at the G8 summit on 18 June by the President of the Republic to open public data as the default option, recently recalled that it is the *“profound conviction”* of the Government that *“an open public data policy is a lever for the modernisation of the operation of government.”*

The Prime Minister has asked the general secretariat for government modernisation (*Secrétariat Général pour la Modernisation de l’Action Publique – SGMAP*), in conjunction with the Minister with responsibility for the budget, to **“assess the business models for all existing fee regimes applied to the use of public data, notably by auditing the relevant costs and revenue”** and has entrusted to me the task of providing input for that assessment.

In order to address this issue, the commission⁷ has endeavoured to base its considerations on:

- the **work done on a regular basis** over the last twenty or so years by Government on issues relating to the dissemination of public data⁸;
- intensive discussion with **producers of public information**, the views of all of whom have been heard and who have responded to a targeted questionnaire;
- **international comparisons** carried out extremely competently in record time by France’s economic units in 36 countries;
- **hearings of evidence from competent official authorities**, comprising official bodies in France, at national⁹ or local level, abroad or in the European Union;
- **hearings of evidence from the general public, Members of Parliament, representatives of non-**

⁷ Referred to as the *“fee commission”* for convenience in the present report.

⁸ As long ago as 1992 Prof. Philippe Gaudrait provided a summary, in a report on the commercialisation of public data, of the consideration of the issues conducted at the request of the general secretariat of the government by OJTI (*Observatoire juridique des technologies de l’information / Judicial monitoring body on information technology*).

⁹ Most notably: CADA (*Commission d’accès aux documents administratifs / Commission on Access to Official Documents*), COEPIA (*Conseil d’orientation de l’édition publique et de l’information administrative / Council for policy guidance on public documents and official information*), CNIL (*Commission nationale pour l’informatique et les libertés / National commission for information technology and civil liberties*) and CNum (*Conseil national du numérique / National council on digital technology*).

Conclusion

The work done by the commission has led to a number of **observations of facts**:

- **Following some doctrinal indecision**, France seems to have finally opted for **the principle of free-of-charge provision** of its public information.
- Notwithstanding this, government has put or is keeping in place **charges** for data reuse **on various grounds**, with **very limited legitimacy in some cases**.
- Currently, some twenty official departments are authorized to apply or to maintain charges for the reuse of public information; however, **a much smaller number** of these **account for most of the revenue** generated.
- That revenue, **a not insignificant portion of which comes from public-sector purchasers**, is **constantly being eroded**.
- The adopted business models, which usually involve **the sale of data** on a volume basis ("*by the kilo(byte)*") have **theoretical and practical limitations prejudicial** to the reuse of public data, and indeed are possibly problematic under competition rules.
- **Experience abroad** very often leads to expectations of **major benefits** from opening up public data to **the general public, official bodies and private enterprise**. In France, the policy adopted by the National Institute of Geographic and Forestry Information (IGN) in favour of provision free of charge for bodies responsible for the delivery of public services are in accord with such expectations.

The above observations make it possible to define a number of **ways forward for the ongoing development** of systems for the dissemination of public information.

Firstly, fees for data reuse should not act as a barrier to reuse. Not only are such barriers incompatible with the policy laid down by Government but they also run the risk of limiting efforts to foster transparent, modernised Government and compromising economic development.

This observation is not new. According to PAGSI (*Programme d'Action Gouvernemental pour la Société de l'Information / Government action programme for the information society*), "*looking beyond essential public data, whose free distribution is enabled by the Internet, there is a wide range of data access to which constitutes one of the fundamental conditions for the development of industry and the information market in France*²⁵⁸. *"An independent public figure [should have been, at the time of writing] appointed to propose to official departments the basis for a clear doctrine on the scope and conditions for the charging of fees for the use of public data."*

Secondly, the modernisation, power and outreach of public services, dynamic reuse of public information and the social and economic benefits that can be expected to be generated thereby depend on the ability of Government to adopt open platform and innovation strategies. Today, the **information infrastructure** for the communication of public information constitutes a public good as important as physical infrastructure and it can be expected to generate equally positive externalities.

²⁵⁸ PAGSI, 1998, p. 25.