

To:

Members of the European Parliament
Committee for Industry, Research and Energy
60 rue Wiertz / Wiertzstraat 60
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For inquiries please contact Tom Kunzler (tom@openstate.eu)

Subject: Revision of the Public Sector Information (PSI) Directive and database rights amendment

Dear Members of the European Parliament,

We as European civil society organizations urge you to **reject amendment 32** of the revision of the Public Sector Information (PSI) Directive. The PSI directive and amendments will be on the agenda of your committee on Monday the 3rd of December. **We hope you will vote in favour of free access to company and Ultimate Beneficial Ownership (UBO) registers**, in line with the intention of the fifth European Anti-Money Laundering Directive and the original revision of the PSI directive. Please find more information below about our concerns and why we ask you to vote against Amendment 32.

One of the goals of this revision of the PSI Directive is to reduce market entry barriers – in particular for SMEs – by limiting the exceptions that allow public bodies to charge for the re-use of their data beyond the marginal costs of dissemination. This way, it will also limit the use of *sui generis* database rights that public bodies use to limit access and re-use of open registers. We find this a step in the right direction, as it lowers the barrier for fundamental datasets that promote economic growth and the prevention of crime, to be accessible to the many, and not the few. The proposed amendment 32 will nullify this positive purpose of the revision of the PSI Directive.

Company registers and UBO registers

Especially for company and UBO registers, the limitation of marginal costs and *sui generis* database rights are important not only for the economic value SMEs may generate by reusing the dataset. Journalists, research institutions and citizens enjoy equal rights to information and transparency. Although most European countries charge users for accessing their company registers, others started to grant free and open access to the registers, such as France, Belgium, Romania, Bulgaria, Finland, Denmark and the United Kingdom. We fear that these member states will start charging for accessing the UBO registers, when these registers become mandatory in 2019, in accordance with the fifth European Anti-Money Laundering Directive.

An example of a country that charges users for accessing their company registers is the Netherlands. The Dutch government is further trying to impose *sui generis* database rights on the register to prevent the re-use of the register. Latvia charges 12 euros for accessing a company-record and Slovenia charges 122.000 euros to get the whole database.¹ Croatia is currently planning how much it will charge for accessing the UBO-

¹ Research to the openness and costs of Company Registers by Access Info: <https://www.access-info.org/company-register-transparency> and <https://www.access-info.org/cos/17321>

register.² Preventing re-use with database rights and charging for access to these registers blocks innovation and charges SMEs and other interested parties keen to access the data with unnecessary costs. Based on research we know that the macro economic benefits of freely available and re-usable registers surpass the costs for both the public and the private sector.³ A cost-benefit analysis commissioned by the UK's Treasury Department in 2002 recommended implementing a public register because it estimated (conservatively) that it would result in at least £30 million of gains across other areas of the government, far outweighing any additional costs.⁴

For law enforcement and people to analyze and work with the UBO register they need free access to the company registers to match the listed company to the beneficiaries. The same goes for matching registers from different jurisdictions. This is essential for making the UBO register effective to prevent fraud, corruption, money-laundering and for creating legal certainty.

Amendment 32 and database rights

The first draft of the revised PSI directive includes language that would prevent member states from using *sui generis* database rights and clearly defines limitations for applying marginal costs: *'In particular where public sector bodies are holders of the right provided for in Article 7(1) they should not exercise it in order to prevent or restrict the re-use of data contained in databases'*.

Amendment 32 would remove this provision in the PSI directive and enable member states to charge fees and limit access to these registers. **We urge you to reject this amendment** to prevent countries from restricting access to company and UBO registers.

The revision also recommends to draw up a European High Value Datalist. We strongly suggest to add company registers and UBO registers to this list as they are vital datasets that promote economic growth and the prevention of crime.

If you have any questions regarding our letter, feel free to contact us for further information.

Yours sincerely,

<p>Tom Kunzler Interim-CEO – Open State Foundation (Netherlands)</p> 	<p>Karina Carvalho Executive Director – Transparency International Portugal</p>  <p>TRANSPARÊNCIA E INTEGRIDADE Transparency International Portugal</p>
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² Croatia and access to the UBO-register: <https://www.gong.hr/hr/dobra-vladavina/pristup-informacijama/nedopustiva-naplata-podataka-iz-registra-stvarnih/>

³ Different papers that claim free access to registers benefit the economy more than it will cost to make them freely available: <https://ec.europa.eu/digital-single-market/en/news/final-report-study-egovernment-and-reduction-administrative-burden-smart-20120061> , https://www.modernisation.gouv.fr/sites/default/files/fichiers-attaches/rapport_echanges-donnees-entre-administrations.pdf and <https://www.ladocumentationfrancaise.fr/var/storage/rapports-publics/134000739.pdf>

⁴ http://webarchive.nationalarchives.gov.uk/+/http://www.hm-treasury.gov.uk/media/9/9/ownership_long.pdf

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Zosia Sztykowski
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