

Joint Statement on the Revision of the PSI Directive

12 November 2018

We, the undersigned associations representing key European Research and Innovation stakeholders, hereby voice our concerns regarding the extension of the Public Sector Information (PSI) directive to research data, and call on the European Commission, the European Parliament and the Council of the European Union to ensure a sound coherence between the different EU legislative texts on research data sharing, following the principle “as open as possible, as closed as necessary”.

The European Research and Innovation community is very supportive of the European agenda to promote Open Science and Innovation, and shares a common commitment to the principle of making research data “as open as possible and as closed as necessary”. Indeed, a balanced and flexible approach to data sharing is essential for an efficient European RD&I ecosystem, preserving scientific freedom and fostering collaboration and knowledge transfer from basic research to the market. As it is the case in the European Framework Programme for RD&I, the right to opt out of granting open access to research data is crucial, enabling public and private consortium partners to decide on a case-by-case basis whether access can be granted, to which data and to whom. Relevant privacy and security interests, intellectual property rights, confidentiality, EU economic competitiveness and other legitimate interests need to be balanced against the interest to grant access to research data.

Regarding the extension of the scope of the PSI Directive to research data, care needs to be taken to ensure that such balanced approach is preserved. We therefore call on the European Commission, the European Parliament and the Council of the European Union to:

1. **Reconsider the purpose and interest of the proposed extension of the PSI directive to research data.** Research data, due to its specificity and complexity, cannot be treated in a similar way as the “executive, judicial and administrative” data for which the original directive was conceived. Hence, the legal frameworks for research and administrative data simply cannot be the same.
2. **Ensure a sound coherent approach between the different EU legislative texts on research data sharing, following the principle “as open as possible, as closed as necessary”.** Such principle needs to be clearly added to Recital 24 and Article 10 of the proposed directive, and cannot be affected by any provision of this revised directive. Departing from such principle could seriously hamper and disincentivise public-private research partnerships, even in case of 100% publicly funded institutional competitive collaborations (Framework Programme, national programmes, etc.).
3. **Focus on the optimal re-use of research data and not on the (unconditional) opening of such data, with an explicit statement that only research data that has already been voluntarily and unconditionally published or put in an open access repository by research performing organisations is in the scope of this directive.** This is explicit in Recital 24. However, it is far from being that clearly stated in Article 10. To provide legal certainty and avoid misunderstanding and mis-interpretations, Articles 10.1 and 10.2 of the proposed directive need to be rephrased and clarified by adding the following sentence: « *Only research data which was voluntarily and unconditionally published / put in a data repository for open access by research performing organisations should be in the scope of this paragraph.* ».
4. **Clearly avoid extending even further the scope of this directive to “preparatory studies” and to “projects with only partial public funding”,** as proposed in some amendments of the European Parliament. Such unbalanced approach would go much beyond current legislations, endanger scientific freedom and public-private collaborations, and have dire consequences to the European RD&I ecosystem.

We, the undersigned associations, are ready to further discuss these recommendations with the EU co-legislators to make sure that the revision of the PSI directive does not hamper the development of Europe’s scientific and technological base, which is crucial for a competitive European RD&I ecosystem. A balanced and flexible approach to research data sharing is essential for Europe to keep its position as a global leader and to safeguard growth and employment.