

Commercializing Public Sector Information

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This Article seeks to explore the terms under which public sector information should be commercialized. Public sector information is a major informational product produced by governments around the world. Freedom of information laws require that such information should be provided to the public upon request. Freedom of information statutes guarantee important values in democratic societies. However, once obtained, such information can be used by individuals and corporations for any purpose, including commercial purposes. In that process, information is repackaged and offered to the public at a price, at times even a monopolistic price, when information is provided by sole source providers or in concentrated markets.

This Article wishes to address the question of commercialization of public sector information, exploring freedom of information acts in the U.S. and the EU, where a public sector information directive has been recently adopted and implemented. The Article argues that a right to commercialize should be distinguished from the right to know under the freedom of information acts, and that the freedom to commercialize can and should be subject to restrictions. It also considers existing licensing regimes of public sector information and argues that public sector information should be licensed by governments under certain terms where licensed for commercial purposes, taking into account the public interest in creating these informational works in the first place. Introduction of such restraints are justified and equitable given the public investment in creating these important informational goods. Possible challenges to this licensing model are also introduced and addressed.