

COMMISSION OF THE EUROPEAN COMMUNITIES

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OPENNESS IN THE COMMUNITY

Communication to the Council, the Parliament and the
Economic and Social Committee

CONTENTS

1. Introduction

2. State of play

3. Access to documents

4. Relations with the General Public

5. Final

Annexes :

- Implementation of the open approach and of measures on special interest groups (December 1992)
- Access to documents
- Openness and transparency

OPENNESS IN THE COMMUNITY

1. Introduction

In the Treaty on European Union and subsequently in the Birmingham European Council Declaration, and in the Conclusions of the Edinburgh European Council, the Heads of State or Government gave clear signals that the Community must be seen to be close to its citizens.

Conditions must be created in which a more informed public debate on the Community and its future can flourish. The Commission has taken several initiatives as a contribution to this.

The purpose of this communication is to take stock of the implementation of the measures concerned. It shows substantial achievement, rapidly executed, and provides a clear indication of further work already underway at the Commission.

Another goal is, in conjunction with the work finished in May, to present more detailed requirements for providing access to the institution's documents in order to enhance further discussion. Therefore this communication forms the Commission's completed response to a declaration made at Maastricht containing an invitation for a report on measures designed to improve public access.

This communication also outlines further Commission measures designed to improve its relations with the general public as announced in the Commission's work programme for 1993/94. It equally invites the other institutions, national, regional and local authorities and non-governmental organisations to cooperate in achieving these ends.

The Commission sees the development of its information and communication policy as very much linked to the achievement of openness. The future shaping of this policy will be dealt with more in detail in a separate communication which will be adopted shortly.

2. State of Play

The Commission has a commendable history of an open door policy. Traditionally it has been open to input from citizens. This stems from the belief that such a process is fundamental for the development of sound and workable policies. The Commission intends, as indicated in the communication on Increased Transparency in the work of the Commission (O.J. C 63, 5.3.1993, p. 8) to extend this policy more widely. For example by broadening participation in the working process of the Commission and by making Commission documents more rapidly available. To this end the Commission has already taken a series of measures. In a parallel communication the Commission outlined its approach to an Open and Structured Dialogue with Special Interest Groups.

The measures foreseen in both Communications are at present being put into practice. Some actions have already been implemented, such as identification in the legislative programme for 1993 of forthcoming proposals which should be preceded by broad external consultations and

the publication of a list of subjects on which green or white papers will be prepared in 1993. A programme for legislative consolidation of various Community measures has been announced and, in addition, arrangements have been made for launching an effective and rapid system, through the Office of Official Publications of the European Communities, for making available consolidated texts for practical use. Moreover, several steps have been taken to ensure that Commission staff are aware of the need for increased openness. Further details on the substantial progress made are contained in annex 1.

The December package dealt explicitly with openness. However, the Commission would like to point out that many other recent initiatives also contribute directly or indirectly to greater openness. In this respect the following examples could be mentioned :

- the Commission's follow up to the Sutherland report (SEC (92) 2277) which contains a series of activities to improve openness for firms, trade associations and consumers on the management of the internal market;
- the Commission's proposals to develop the Euro Info centres to facilitate access by enterprises to Community information will equally increase openness; and
- work on administrative simplification of Community policies in favour of enterprises and in the field of agriculture.

The Commission has noted with great interest the efforts in the field of transparency made by the other institutions and supports these. For example, it noted with satisfaction that the Council has started to put the decisions made at Edinburgh on access to its work and on information on its role and its decisions into practice as quickly as possible. The Commission is willing to contribute to the implementation of the Edinburgh conclusions on easier access to Community legislation.

By its nature the European Parliament is accessible to the public. The Commission awaits with interest the outcome of its current discussions such as on the European Community's information policy as a whole. The Birmingham European Council affirmed that national parliaments should be more involved in the Community's activities. In the Commission's view this will leave unchanged the key and vital role played by the European Parliament in the Community.

3. Access to Documents

On the specific matter of access to documents, the Commission in its Communication of 5 May 1993 (COM (93) 191 final) suggested that, as a general principle, access to documents should be permitted albeit with certain exemptions. It considered this principle as a key element for establishing the openness required i.e. to make the institutions more accessible and therefore to encourage more dialogue. It has proposed a certain number of minimum requirements and basic principles for the establishment of a policy on access to documents. The Commission invited the other institutions to cooperate in this development. It suggested that this could take the form of an inter-institutional agreement. The guiding principles which the Commission would like to reaffirm for such access are:

- The importance of reinforcing an open relationship between the Community's institutions and its citizens;
- Additional actions would obviously have maximum effect if taken by all institutions concerned, while taking into account the specific role of each institution, including the particular working practices of each institution;
- The right balance will have to be struck between the interests of increased openness and transparency, and such other considerations as the protection of public and private interests and the importance of ensuring that work within the institutions can proceed in a timely and effective manner.

On this basis, the Commission has pursued its analysis of similar policies applied by other administrations as well as the relevant provisions existing at Community level. (See also the comparative survey as annexed to COM (93) 191 final).

The Commission considers that after an agreement on basic principles and minimum requirements has been reached between the institutions, the question of the form by which these principles are put into effect will have to be addressed. Likewise the need for an appeal procedure will be considered. This could include the need to revise relevant Community legislation on the classification of documents and dealing with secrecy rules. Moreover certain administrative and organisational changes within each institution would be required. It would also call for more detailed guidance for staff on this policy.

Following these deliberations, the Commission has been elaborating on the necessary key principles and requirements to allow access to documents, in view of further discussions with the other institutions. These additional elements are contained in annex II.

4. Relations with the General Public

The Commission is aware that the process of European integration and in particular the implementation of the Treaty on European Union and progress towards Community enlargement can only progress successfully with the support of Europe's citizens.

The Member States play a particularly important role in the Community since it is they who enact Community policy. Given this importance, the Commission invites Member States to take further action to improve openness at national level in the implementation of Community policies.

The Commission itself feels that as a first priority it should explain its actions more clearly and provide adequate understanding about the Community's work. In this case, it considers that it is not so much whether more use should be made of existing tools, but how these could be better targeted and managed in order to convey messages, to dialogue with and

facilitate participation of the public in the most effective way. It therefore has initiated a set of measures aimed at increasing openness and transparency in its relations with the public. These are set out in greater detail in annex III.

Taking account of the way the European Community is being constructed, it is the Commission's view that all the relevant Community institutions, Member State authorities and others have a role to play in the process of making the Community's policies transparent. A transparent Community could be better achieved by concerted action on the part of the different authorities and organisations. It is important that the relevant partners play their part in this area and work together.

The Commission therefore invites the other institutions, national, regional and local authorities and non-governmental organisations to cooperate in achieving these ends. The Commission is of the opinion that the useful experience gained in raising awareness of the single market could be used to develop greater openness through an accent on specific targets and themes. In particular, the Commission should work more closely with the European Parliament on these questions.

It is prepared to take an initiative to arrange for the development of such common themes around which further activities of the different partners could be structured. A round table meeting will be organised to that end.

The institutions' offices in the Member States could play a leading role by facilitating the implementation of the common arrangements made. The institution's offices will also take initiatives in the promotion of further relay partnerships with local and vocational organisations prepared to cooperate in bringing about a wider awareness of Community policies.

5. Final

The implementation of a Transparency policy is of importance to all institutions. The Commission will put into place these measures within the existing budgetary constraints bearing in mind that extra resources are likely to be necessary.

Implementation of the open approach
and of measures on special interest groups

December 1992

I. INTRODUCTION

On 2 December 1992 the Commission adopted two complementary communications, the first on transparency, the second on special interest groups.

The purpose of the first communication was to provide a basis for an initial discussion on the Commission's contribution to openness. It was specifically addressed to those members of the public who follow Community affairs closely.

The purpose of the second communication was to define the ground rules for an open, structured dialogue between the Commission and special interest groups.

The measures foreseen in both Communications are at present being put into practice. This annex describes the substantial progress that has been made.

II. THE OPEN APPROACH

1. To bring into effect the provisions of the communication on transparency, action has been or is being taken on a number of fronts.
2. The following measures are in place:
 - publication of lists of COM documents on general topics in the Official Journal each week;
 - inclusion in the COM series of papers of general interest hitherto classified as SEC documents and not normally published, with a view to broadening access to this category of information;
 - publication of work programmes and legislative programmes in the Official Journal to publicize action planned by the Commission;

- flagging in the legislative programme of upcoming proposals which will be suitable for wide-ranging preliminary consultations;
 - publication in the legislative programme of a list of topics on which Green or White Papers will be prepared in 1993;
 - publication in the legislative programme of plans to consolidate legislation;
 - adoption by the Commission on 5 May 1993 of a communication to the other institutions on public access to the institutions' documents;
 - the preparation of an interinstitutional yearbook which will describe in more detail the organigramme of the institutions.
3. As regards the preparation of Commission proposals and decisions, with particular reference to the consultation of interested parties, the implementation of the notification procedure described in the communication (publication of a brief summary of proposed policy initiatives in the C series of the Official Journal, setting of a deadline for the receipt of comments...) will be reinforced.
4. Other measures relating to the dissemination of information have been taken or are in the process of implementation. The Commission had given an undertaking to increase awareness of its data bases and asked its services to come up with ideas for improving the dissemination of information.

Activities here include:

- publicizing and improving diffusion of existing data bases;
- improving the existing relay network, and
- daily transmission of information to Commission Offices in the Community and certain delegations outside the Community.

Actions are also underway to improve the diffusion of the monthly bulletin and the annual report. These official reference books, published in the 9 official Community languages describe in a systematic way the different stages of the decision making process related to files under preparation with reference to the Official Journal, COM and other accessible documents and equally present the Community's activities in a general way.

- 5 -
5. The Commission has defined a programme for legislative consolidation of various Community measures, and it encourages the other institutions to take part in this process. Priority areas for codification are under discussion. This will seek to implement the commitment made at Edinburgh and will reflect the priority given to codification in the Commission's 1993 legislative programme. The Commission will seek to make concrete proposals to the Council and the European parliament for an accelerated procedure to allow for rapid and effective adoption of codified Community law.
 6. Staff have been informed about the main features of the two communications and an administrative notice has been distributed, reminding staff of their rights and obligations under the staff regulations.

The Commission is in the process of clarifying contracts with temporary staff to bring them into line with the provisions of the Staff Regulations.

A committee, comprising the Secretary-General and the Directors-General concerned, has been set up to prepare the Commission's position on potential conflicts of interest between assignments undertaken by former staff and the posts they held during their time at the Commission (Article 16 of the Staff Regulations).

III. SPECIAL INTEREST GROUPS

Contacts have already been established with those concerned to clarify the content of the communication on special interest groups. Their representatives reacted favourably to the idea of self-regulation involving the drafting of a code of conduct by the interest groups themselves (profit-making or otherwise), a directory for profit-making organizations and the establishment of one or more organizations to provide a channel of communication between interest groups and the Commission. However, interest groups have taken no steps in this direction to date.

In order to accelerate the implementation of its policy, the Commission considers that a number of consultation meetings should be organized before the summer recess to outline the Commission's intentions and to further encourage interest groups to take appropriate initiatives.

It is worth noting that the European Parliament is also in the process of redefining its relations with special interest groups. The Commission intends to act in close cooperation with Parliament in this area.

48 -

The plan, following a political undertaking given by the two Presidents, is to create a data base common to the two institutions containing information on interest groups which maintain relations with them. The groundwork has been done by Commission services and is awaiting finalization. The data base is to be accessible not only to the two institutions but also to the general public. Each institution will draw its own conclusions from the information stored.

For the Commission, this means the establishment of a directory of all non-profit-making organizations. Inclusion in the directory will not imply any form of official recognition, nor will it confer any privileges, such as preferential access to information or buildings. The aim is to create an instrument of transparency available to all parties, not to introduce a system of accreditation.

ACCESS TO DOCUMENTS

The Communication from the Commission of 5 May (COM (93) 191 final) set out the basic principles of access to documents while respecting the existing Treaty obligations and the Acts derived thereof.

This annex seeks to expand upon these basic principles which the Commission sets out as a basis for discussion with the other institutions.

1. Definition of a document

The definition of a document is vital for the scope of this policy.

The Commission considers a document to be a written paper or other material containing existing data held by an institution or recognised part of an institution.

2. A precise request from the public

Access to documents will be provided subsequent to a sufficiently precise written request from the public, provided it is made in one of the official Community languages. The Institutions will therefore need to consider every such request, and decide which, if any, of the documents that they hold best meets the requirements of the person making the request.

3. Time Limits

A reply to a request for a document should be given as soon as possible and as a general rule within one month. The time limit could be extended by another four weeks if consultation, for example with Member State authorities, other institutions, third countries or parties or an international organisation has to take place. If a document is in the course of being located, or if permission is still being sought from a third party for the release of information when the time limit expires the institution concerned shall send a holding reply.

4. Accessibility of Documents

In its Communication on Public Access to the Institution's documents (COM (93) 191 final) the Commission proposed that access to documents should be permitted, albeit with certain exemptions.

The relevant Institution will consider each request on its own merits and will examine carefully whether or not a document should be made available. If the request applies to a classified document, the institution will consider whether the classification should be retained. In accordance with existing practices, each institution will systematically review the classification given to documents.

A request for a document should be refused where it is necessary to safeguard:

- The public interest (public security, international relations, monetary stability, judicial procedures, inspection and enquiries);
- Commercial, industrial and financial confidentiality, including intellectual property;
- Protection of the individual and personal privacy;
- Records of financial institutions;
- Financial interests of the Community;

Documents containing in particular personal views of staff and/or which have been produced for the purpose of internal deliberations, such as the opinions of services, are excluded from access. Once the decision has been taken, the institution may permit access to the preparatory documents associated with that decision.

An institution may also refuse a request which it considers to be manifestly unreasonable i.e. when a request would undermine the effectiveness and good functioning of the institution.

5. Documents containing information from a secondary source

As present rules indicate, a classified document received from a Member State or Community institution retains its classification. A document originating from any other source will, as necessary, be given an appropriate grading by the institution. Requests for access to all documents from secondary sources will be referred to their source.

Documents drafted by one of the EC institutions often contain information which comes from the Member States or Community institutions, and some of that information may be classified. At present, the drafter of the institution's document decides on its classification. In making this classification the drafter may only deviate from the security rating of the secondary source if the information as such is not attributable to the secondary source concerned, if the information is already widely available and/or if the secondary source agrees on declassification.

The existing Community policy as described above in this field appears to be appropriate and could therefore continue.

6. Languages

The reply will be made in the language used by the person making the request, provided it is one of the official languages of the Community. The document prepared by the institution will be given in the language requested. Other documents, made at the request of the institution, for example studies, will be given in the language in which they exist. Account will be taken of the preference of the requestee as far as possible.

7. Costs

Each Institution may make a charge for supplying documents but such charge may not exceed a reasonable amount. Each of the institutions will further investigate this area; for example, the handling of cases where charges are small, and may cost more to collect than the revenue they yield.

8. How to make the documents available

The Institutions could make information available either by sending an unabridged copy, by allowing personal examination, by sending a summary or extract. The preferences of the individual making the request must be taken into account when deciding which of these methods is most appropriate.

9. Committees

In the execution of its tasks, the Commission and the other institutions are aided by a number of committees. Each institution could as appropriate draw up a list of the committees to which access upon request to documents will be possible, subject to the exemptions mentioned above.

10. Databases

Information contained in a data-base will be given provided the request does not necessitate the writing of new computer programmes to sort the data and the existing information can be made available through routine operations. This will not affect present access on a paid basis.

11. Organisational Matters

In the further development of the outline a number of decisions have to be taken about the way that this policy will be handled by the Institutions (costs, fees, organisation, administrative procedures, establishment of reading rooms...).

Openness and Transparency
as they relate to the general public

The Commission will take additional steps designed to provide the public with a better understanding of its work. Their aim will be not just to make more information available, but to make it available in a way that provides easy access, in a user-friendly format, when and where it is required.

The following elements relating to aspects of openness and transparency addressing the general public directly or indirectly represent a reinforcement of existing Commission practice.

Media relations

Sound relations with the media are the first essential in any commitment to openness. In today's Europe, and given the status of the Community in the world, this requires the availability round-the-clock of a professional press service. The Commission will provide the resources and facilities necessary for 24-hour accessibility for newspaper, radio and television inquiries.

Personal contact

While the media will continue to be the main channel of communication between the Community and its citizens, the Commission must also be equipped to respond quickly and effectively to individual inquiries of all kinds. A major management priority is being given to an improvement in the treatment of telephone, mail and personal contacts between citizens and the Commission, including, of course, contacts with Commission services and with Commission Offices in the Member States.

The Community's public databases are to be more widely promoted and made more user-friendly. Greater use will be made of systems open to the general public (for example MINITEL, BTX...) to facilitate access to information services such as the Publications Office's electronic catalogue of Community publications.

Once a new approach to press and public relations is agreed, steps will be taken to publicise them throughout the Community.

Training and Image

The Commission is taking steps to ensure actively that openness and the importance of communication with Community citizens are seen to be part of its political and management culture. Such initiatives will include special staff training and a re-examination of information and other publications.

Networking

Even with an energetic and professional approach to press and public relations, to ensure that the Commission develops a capacity to communicate with Community citizens on a regional basis it will be necessary to build on available experience of information networking. This experience includes, for example, the Euro Info Centre project which gives businesses access to EC information.

Commission Offices will play a leading role in the promotion of further relay partnerships with local and vocational organisations prepared to cooperate with the Commission in seeking to bring about a wider awareness of what the Community means and how it works. The Commission is taking steps to reinforce internal co-ordination of the management and extension of relay initiatives.

Evaluation

The full use of instruments such as Eurobarometer will facilitate the evaluation of the effectiveness and cost-benefit of information and communication activities. Follow-up can then provide a clear indication of the effectiveness of Commission and other initiatives aimed at bringing the Community closer to its citizens.

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DOCUMENTS

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