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Developing European Legal Information Markets Based on Government Information: First Findings from The Add-Wijzer Project

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1. Introduction: E-Content

We report on part of an EU funded eContent programme and then develop this to take into account the proposed Directive on re-use of government information.[1] We argue that there are potential advantages in bringing the US federal model (of owning copyright but not asserting control) over to Europe. Our particular area of interest is legal information and we discuss whether this is a special form of government information or whether it should be the general model for other government copyright materials.

The eContent Programme is one strand of the 'Information Society' which was born from the Bangemann Report [2] in the mid-1990s. Many lawyers may have come across this notion of the Information Society, and most will have forgotten it, concentrating instead upon the developments in IP law and e-Commerce law which have taken place over the past few years. Such a view is unhelpful since the developments in, for example, copyright and electronic signatures are very much a child of the Information Society and its perceived needs. eContent is just another strand in this attempt to build an Information Society.

According to the Commission:

"The eContent programme is aimed at supporting the production, dissemination and use of European digital content and to promote linguistic diversity on the global networks. The eContent programme is based on three main strands of action where EU added value can be maximised:

Improving access to and expanding use of public sector information

Enhancing content production in a multilingual and multicultural environment
Increasing dynamism of the digital content market" [3]

eContent projects in this first phase are demonstrators, which will try to determine the nature of the new electronic markets. Add-Wijzer [4] is looking to the legal information marketplace, and it's collaborators include both academics (UK and Sweden), a legal publisher (Context Ltd, London), a web design company (framFab, Netherlands) and local government officials in south Holland

province of the Netherlands. The project is looking at two different aspects of law – access to traditional legal information, and also access to legal information which is linked directly to digital geographical information systems. We deal with the exploratory work carried out for the first of these two aspects in this article, which was directed towards the question "Is there the potential for widening the marketplace for legal information?"

It is well known that law is difficult to access – even systems such as BAILII, which are free and available, do not really enable 'understanding' of the law since they do not apply any coherent conceptual overview onto the materials. That, of course, is not their aim: the aim is to get the text of law out into the 'public domain' so that users of law can access it. A widened marketplace suggests that the BAILII strategy is only part of the answer: after making the information available, is there some way that ICT can be used to make it more understandable and usable by a broader range of people than those who traditionally use law? The question can better be set as: "Are there ICT techniques which can be applied to add value [5] to legal information, which would significantly increase the commercial value of the raw information?"

Our strategy to begin to answer that question was to choose a legal field, then determine what sort of potential user there may be in that area and target these potential users to find out what they might want from an 'ideal law machine'. We chose the area of planning and environmental law. It is an area of significant change, with much European and local dimension. It also fitted in with our proposed attempts to look at map based legal information. We therefore carried out a number of interviews (mostly face to face, one or two via telephone) with a sample of those who had a professional interest in accessing legal information.

2. Accessing Law

"Electronic legal information spaces are arenas for interactions about which we know little – interactions between the public and black-letter law." [6]

Whilst it is accepted that legal practitioners use legal information, a review of literature reveals that little is known of their research practices. [7] Likewise, little is known of the difficulties encountered by non-lawyers in accessing and understanding legal information. Thus interview questions explored the deficiencies of methods utilised to access information and elicited difficulties experienced in understanding such information, together with suggested improvements. The interview questions examined whether means of accessing legal information developed in the print era might not be sufficient for users brought in by the internet, and found that interviewees who are prospective users of such information may increasingly come to expect new search access tools/features. For example, the utilisation of GIS may be more appropriate than traditional full–text searches of legal databases for some users. Additionally, it will be suggested that in order to compete it will be necessary for information providers to understand how the legal market place might develop with the provision of 'added value' information. Thus any developmental project would have to consider how their product could add value to the information provided which will be already available in raw format from a number of other sources.

3. Using Legal Information

The interviews provided a breadth of information about how the various interviewees involved in this research actually used legal information. Obviously, the use which a solicitor would make of a piece of legislation will differ from that which a member of the farming community, or a member of a campaigning organisation might make. It is important to remember that information is not a simple, atomic piece of knowledge – it's meaning and usefulness will depend upon a number of factors, primarily being that of the role of the user of that information. In this section of the report, then, we have divided our interviewees up into groups (defined by role) and will deal with the purpose to which they put information and their current access to this.

Group 1: Lawyers in Practice

The lawyers (5) interviewed mainly appeared to be driven by client needs. This is not unexpected – their business is to find clients able to pay for their services, and then service those clients. Many of the lawyers were also involved in providing legal training and/or lecturing. They generally described their knowledge of environmental/planning law as good or very good. Some suggested that they were good in one area but very good on the other.

Interestingly, <u>all</u> of the lawyers suggested that better relevant knowledge would help them in their workload – even though they all considered themselves to have good or very good legal skills. One of them noted:

"The rate of change of environmental law means that it is difficult to stay up to speed. It's also a very time-consuming process. Keeping up-to-date with planning law also requires considerable effort".

One lawyer had access to a research group within the practice and simply sent a request to them to provide the required information. This research group would provide the lawyer with the required documents "within 30 minutes". This is the kind of service which larger practices can afford – the response to the query about whether they would feel confident about accessing a Directive they had heard about said "yes" and then, being asked how they would access it, simply said "I'd ring the research group".

There was a feeling that they were under time pressure to find materials. Most had a number of techniques which they had personalised – perhaps going to a textbook first (which seems to be a common tactic), or a web site, and then if still not found, doing more detailed research. These interviewees were working in the field, but often this was not their only field of expertise, so they certainly intimated that getting access to coherent, up-to-date information which matched the queries being asked by their clients was an important aspect of their work.

CD-ROM as a method of disseminating legal information is less used than it previously was (only 1 interviewee used this source of information). The literature on legal information has certainly suggested that users like the fact that there is no "clock running" in the background, but dislike the fact that most CD-ROMs have proprietary interfaces which are difficult to learn and remember how to use. We did not specifically ask why CD-ROMS were not used – though some interviewees indicated problems such difficulty of use, difficulty of networking, difficulty of obtaining CD-ROMS specifically related to NI. It may be that the web-interface which is standard to all Internet resources has proven easier to use, and this resource also removes the time pressure from using pay-by-access-time systems.

Overall, the responses to the question concerning their ability to understand the legal materials which they found, indicated that they felt confident with the materials.

Group 2: Commercial Firms involved in Environmental/Planning Issues

We interviewed some of the eventual commercial users of information (6) comprising waste, quarry, energy and advisory bodies including an ADR specialist. The advisory agency was set up as a charitable organisation by business to support business in environmental issues. The individuals we spoke to required understanding of legal issues. They were involved in training other staff and deciding policy and procedures to be followed. Also, they were involved in educating others (for example, local authority staff) on the business issues and practices in their company.

The expertise claimed in planning/environmental law was 'average' or 'good compared to the general population'. It is clear that they see themselves as needing legal information (and would

welcome more) but, also perceive potential problems in that they are not legal experts. For example, one suggested:

"I know all the relevant law for my job. If I need advice I contact [our expert solicitor]. I ask her to check the legal position regarding any environmental consultants we employ – to ensure that if their advice is inaccurate/defective – they, not us are legal responsible for providing compensation etc."

The advisory service also thought that they had to be careful with the knowledge they possessed:

"We are always careful not to give specific legal advice because we cannot be certain we understand the law fully. We only give general legal advice. Better access to information is the key. Also legal documents are not good at stating the key points. For example, it's better to have 'If you are a manufacturing company you should do these 5 things to comply with the legislation'."

Their use of legal information was also reasonable. The interviewees all described techniques where they would find legal information, and certainly appeared to require access to this on a reasonable constant basis. They were all aware that they had to keep up to date with what was happening, but that they had to be careful in interpretation – if they felt that there were problems they would seek clarification or advice from government or lawyer.

Group 3: NGOs

Due to the nature of the planning/environmental field, many of those actively involved in using legal information are employed or active in NGOs. These may be campaign groups, advisory groups, wildlife organisations etc. All interviewees (11) noted that they were charitable organisations and thus run with limited facilities and access to information.

Expertise is obviously required in order to provide advice, campaign and advise properly, these all being activities that the NGOs were involved in. All felt that they had reasonably good understanding of planning law, but all felt that they could benefit from better access to legal information.

Their use of legal information was also reasonable. The general attitude of all these users was that they required law but had a difficulty in getting much of it. There appeared to be two main approaches to finding information. First, because much of what they were interested in was of European origin, they would go to the Europa website. Second, if they wanted information, they would ask someone else where it could be found or for interpretation. NGOs thus appear to be involved in a community which shares information quite freely and is happy to provide advice and backup where they have expertise and other groups do not.

We interviewed one **politician** who had an active interest in environmental issues and it is useful to consider his replies here. He gave advice in a broad manner to member of the public who were his constituents, and also as a member of the relevant environmental committee gave views and attempted to modify legislation. He felt that his understanding was 'good'. The materials he used were primarily the Internet, statute and government reports, newspapers and magazines.

In order to understand the proposed or existing legislation, this interviewee had access to a research facility but also seemed to utilise the expertise of both government departments and NGOs. There was a sense that he was looking for a balance of views, and was prepared to seek these out, but not really through looking at the sources themselves, so much as getting interpretations from others. For example, when asked whether he would be able to find a copy of a Directive, he suggested 'probably not'. In his position, of course, the actual mechanics were not so important – a library staff and researcher were available to carry out the actual search for the document.

Group 4: Government

We interviewed several (5) government employees involved in planning issues, particularly with regard to policy development. The self-perceptions of expertise ranged from very good (an academic on secondment) to 'below average'. Those suggesting less than good knowledge appeared to see the field as very wide ranging (particularly since they were involved in many specialist areas) and were aware that they did not have specialist knowledge in all areas. They all provided training and consultancy services to colleagues, politicians, lawyers etc. The interviewee who mentioned that lawyers required training, noted that the general understanding of planning issues amongst lawyers who were not experts was very low.

All felt that easier and better access to information would help them – particularly in the areas in which they were not directly expert. This suggests that government users of legal information have very wide-ranging information needs.

One interviewee stated:

"I always refer a legal query to [our legal] team. I have never used the library, and am unsure of how to access legal information, I would simply request a copy of the legislation from the library or use HMSO."

However, later in the interview he did suggest that he used the Europa website for access to Directives. He also suggested that it could be difficult to get time with the legal team to discuss his queries, but despite this, "I determine what policy is on the basis of legal opinion". This interviewee suggests that there is indeed a need for legal information, but that some of those who can use this information are put off by the difficulties of accessing it in print form. He appears to be a classic, potential recipient of a "Value Added" legal information service.

Two of the interviewees had very high legal skills and were competent in their knowledge of law and how to access it. However, as one – an academic lawyer on secondment - said:

"A lot of policymakers are aware of their knowledge limitations regarding law. This causes stress in the department. [The department] is traditionally reliant upon the Departmental Solicitors Office for legal expertise – however they are very short staffed and take a long time to respond. I am the first in-house lawyer, and now colleagues are stressed that they can't get instant answers from me."

Group 5: The Farming/Advisory Community

This final group could be seen as testing the limits of the potential marketplace. Planning law, but particularly environmental law is of high import to the farming community. They are the recipients of the regulations which come from the legislative process. But rarely has the literature of legal information retrieval considered these as potential users of legal information. If this group has an interest, it suggests that the marketplace could indeed be substantially expanded.

The group included lecturing staff at an agricultural college and representatives of the farming press and farming organisations. There were 6 interviews in this group.

The all felt that their expertise in these areas was 'good in comparison to the general public'. All answered positively that access to better, relevant knowledge would help them. Some appeared to suggest that their need would not be constant, since they said that this access would be best "as and when you need it".

Only those involved in farming organisations gave advice which could be called 'legal'. This was to farmers. These respondents also suggested that they would try to advise (that is, lobby) government departments on legislative proposals during consultative periods.[8]

Access to materials for most of the interviewees seemed to be average. Only the farming press claimed to have good access to library facilities. Most appeared to use the Internet and to know of the <u>Europa</u> site. On respondent – from a farming organisation - noted that the Internet was time consuming but did provide "new ideas/different approaches that I have not previously considered".

Most of this group used personal contacts with the relevant government department to get information. Some would use a solicitor, but this was viewed as an expensive option. Another suggested that, since they were technically within government (as a lecturer), they had reasonable library facilities, but these were not as useful given a lack of legal training:

"Because I am within government, I have greater access to information that is relevant. I am familiar with the legislative system because I have been involved in policy development."

But when asked about the disadvantages of their current access method to law, this same person suggested:

"The system is entirely ad hoc – no planned approach to accessing legal information. I have no legal training. I would appreciate an idiot-proof guide to accessing and understanding legal information"

Section 4 'Wish List' and the Ideal Law Machine

In this section, we look at interviewees responses which outline what techniques for information access might be seen as useful to them,

Adding Value Method	Useful	Not Useful	Not much difference
Knowing what is in force			
Commentaries explaining history/function			
Links from legislation to case law			
Tie European and local law via links			
Access to a discussion list			
'Practical' information			
A help-line			

(Table 1)

and also – following on from that – what their 'ideal law machine' might look like. In order to provide the best overview of the nature of this ideal law machine, we quote quite heavily from the respondents themselves.

Group 1: Lawyers in Practice

Whilst the specialist lawyers welcomed the first of these (Table 1) options, they were mostly sceptical about the latter three. For example, one of the solicitors in our group suggested:

"A discussion list would be of little use – we have to provide specialist advice. (1) We would be worried about the supposed expertise of others (2) we do not want others to obtain legal advice from us more cheaply than by officially instructing us (3) we are worried that other solicitor firms might seek to glean knowledge and expertise from ourselves, without disclosing their identity – do not wish them to profit from our hard labour (4) afraid that someone might rely on any advice/suggestions we

might make – and then try to sue us for negligence."

On the usefulness of 'practical information', this same solicitor suggested that it would not be of much use. In any event, her perception of what 'practical information' was, seemed mainly to be textbooks:

"Not much use - Usually provided by textbooks e.g. Dowling on Planning Law, Turner on Environmental law"

And yet another thought it was case law, which showed how the law operated in practice.

And on a help-line:

"We would not seek an advice-line, as (1) we would seek specialist advice – unlikely that staff will possess sufficient expertise (2) response is unlikely to be immediate – clients require urgent answers."

Only one of the other lawyers in practice thought that these three aspects might be useful or had no reservations. However, this was the person who usually handed over their research query to the research group, so that may have affected their view.

On their ideal law machine, three representative views were:

"A computer system, which provides regular email, updates e.g. from property PLC – which gives summary of High Court Decisions with hyperlinks to full decisions. This provides quick, convenient access to legal information – in a profession where speed is of the essence (e.g. faster than waiting until decision is published in Journal of Planning Law).

We would like easier access to NI Court decisions – have to pay £5.00 per sheet – it is a deterrent factor – which does not reflect access to justice/information. All High Court decisions should be available on the Internet.

If we were to pay for a computer system – we would like information to be consolidated e.g. consolidated versions of legislation – otherwise it is not a financially worthwhile improvement on existing materials.

System much be easy to navigate and user friendly e.g. we recently had a trial of the Journal of Planning law – and chose the print version over the internet version, because the Website was too difficult to navigate."

And the second:

"A one-stop shop – combining all elements I have mentioned e.g. colour-coded way of knowing what legislative provisions are in force. It should have a comprehensive index. It should be fast to load documents, easy to read, and printing different amounts e.g. whole/sections of document should be possible. I would like an on-line copy of legislation to have the same presentation format/layout as a paper copy – it impresses clients. Need to ensure accuracy – I have had problems with on-line legislation where word order has changed/ important word have been omitted. "

And the third (who uses the research group):

"A personal researcher (human).– A machine can't do practical application/interpretation of law.

A computer system must be easy to access (1) user friendly- indexing/searching system. (2) Properly cross-referenced. (3) Regularly updated. (4) Ways of knowing which provisions are in force (e.g.

strike through of amendments). (5) Consolidation of legislation would be an added advantage, especially consolidation of statutory instruments. (6) Ease of printing. (7) It would be great if the system included access to local planning decisions and were integrated with other registers e.g. if building control register were linked with Habitat directive register. I would like the system to support local authorities and government departments in improving access to their information."

Group 2: Commercial Firms involved in Environmental/Planning Issues

One respondent thought that there would not be much difference in usefulness from these (Table1) options. This respondent either used CEDREC or called a contact solicitor instead

"I probably would not use [a help line] as I would prefer to telephone a solicitor/regulatory authority instead".

Another pointed that practical information was very useful to the small firm:

A SME needs to know which legislation affects it, how, and what do they need to do. There needs to be an interrogative database to process this information and inform re legislative requirements – Netregs aims to do this – but their system is not yet perfect.

But that it also mattered who provided this practical help via a help line:

"There is an environmental help line – funded by government – InvestNI. It is well-resourced (full legal team) and useful – they will give specific interpretative help, but people don't trust one government department not to talk to another government department and are afraid to use it. "

The ideal law machines for this group were:

"Ideally a person as a person can always provide more interpretative help. A computer system would need to be interrogative i.e. need to be able to create queries and have computer respond to them. There needs to be a database with filters. Front end must not be overly complicated. Should be able to print whole document or specify which pages you want to print. There should be email updates re pending legislation – we need to be prepared in order to advise companies as soon as legislation is enacted."

"A simplified computer system that provides access to all relevant information, and is cross-referenced in the way indicated [in table]. It should be keyword search based, and not require high levels of computer expertise."

"A search engine with keyword searches and similar style and format to CEDREC. An added bonus would be interpretative summaries of legislation. Access to relevant case law would be useful. I don't like pop-up windows. Documents must be easily printable"

Printing was a topic which was mentioned by several of this group. One noted that pdf format was useful since it meant that information could be kept "in a file". This appeared to imply – as with other interviewees – that they wanted to be able to build up (via cut and paste) their own collection of information.

Overall, the users wanted simplicity, 'no flashing graphics' and the kinds of access methods which were basic but focused on usable information (e.g. email updates, newsletters).

Group 3: NGOs

NGOs members mostly thought that all of the options (Table1) would help them in their work. However, there were a number of comments made, particularly relating to the help line and to the

nature of practical information.

With reference to the help line, there was more evidence of worry that a help line may be used to push a government line: "Whose help line is it? If the government runs it then government will provide the answers that suit its agenda. Great if it was a factual help line. It would need to be impartial." Another thought it would cost too much to run and they would not be able to afford access due to being a charitable organisation.

The idea of what is practical once again seemed to depend upon the background and expertise of the respondent. Those who had a better feeling for law would feel that they knew the formal legislation and case law, but wanted to know how it was being interpreted at a local level:

"Practical = interpretation i.e. what the law means on the ground. For example, enforcement provisions could be practically demonstrated 'thou shall not emit pollution above 6mg/month – to be recorded/monitored weekly/monthly' rather than 'thou shall not exceed pollutant levels'. It should be easy to understand what legislation means to a small business or householder i.e. how they could use it to object to a planning application."

Another suggestion from this respondent was than an email help line would be sufficient – just a few words rather than reasoned opinions – "a pointer in the right direction".

As to the "ideal law machine", there was generally a feeling that the system had to easy to use, subject based and almost all who referred to searching suggested keyword searching was essential. Typical responses were:

"Either a book or a website. A website would probably be better for access and storage than a book. It should be subject based with sub-categories. It should have links to EU legislation, and domestic legislation, case law and explanatory information regarding the intended aim of the legislation. It should have regular updates regarding which pieces of legislation are in force."

"A computer system with a simple portal – Internet databases with integrated solutions i.e. EU legislation linked to Domestic legislation and links to case law. Links to interpretation notes, Dail debates. The website should be navigable on a topic/keyword basis. I would like clarification of court calendars – it is impossible to find out when cases are listed for hearing in EU/National Courts. The system should highlight important provisions of new legislation, possibly through a news service, which advises of pending legislation."

"Computer system with following features: keyword searches, call line to answer queries and provide details of relevant legislation. Topic search facility e.g. wetlands. Within topic search should be able to access (1) relevant directive and previous convention materials e.g. Rio Convention (2) find out details of previous legislation (3) links to national legislation of different countries, different colours to indicate what provisions are in force (5) UN materials (6) comments on changes/amendments e.g. marginal notations of changes (7) links to practical commentary (8) links to county development plans (9) details of cross-border effects e.g. river basin districts/road plans – map links would be useful (10) print out document facility e.g. in one piece, without the need for expensive tools."

And one didn't really want a machine at all:

"A person – a human can interpret all types of legislation. A computer cannot anticipate all possible questions – and you can't question a computer to the same extent as a person. A telephone hotline/online service would be ideal. It should be a two-tiered service (1) an on-line list of FAQ's and answers (2) send an email/contact a person with specific query. Any Internet based system should also incorporate the features mentioned in [table]."

Group 4: Government

The only resource (Table 1) which was not seen to be useful by one respondent was a help-line, and if read properly, we can see that this interviewee was wanting a help-line, but one that was provided by legal staff:

"Complex legal issues should be referred to our legal department – they may employ experts or counsel."

Notions of the ideal law machine followed the idea that law should be made "coherent" and that any system should be organised by keyword:

"A simplified computer process. A simple, accessible system using keyword search. It should indicate what pieces of legislation are in force and how it has been interpreted or applied. It should provide links to government reports."

"A computer system which is easy to navigate and which has all of the above features i.e. links between EU and national legislation, case law etc.

In the [department] there is a need for greater collectivity of information, expertise and experience. A team of in-house legal experts should support the policy officers. Need for greater, well-constructed training, funding and dedicated staffing. There is a need for greater integration between different government departments' e.g. [department] website is poor and of limited use – though it is linked to [parliamentary] website. For example – I have no (Internet) means to find out how planning decisions were reached – I have to ring the relevant department and place a submission for information. Likewise when person in law reform office is on holidays – no one else can access his or her documents – can make it impossible to amend pending legislation."

The view from a local government official emphasises that local area plans (map based) are an integral part of how they see 'legal information':

"A computerised system properly structured and managed and updated regularly following liaison with users. Need to be able to contact a human administrator for interpretation of legal materials. System should have all [table] features. Developers of system should liase with ICT section of council before they develop a system - to ensure that it is compatible with our existing systems. The system should be a mix of both keyword searches and maps. Maps are particularly relevant for planning issues. There should be cross-referencing of 'family' of planning policy guidance e.g. regional – sub-regional-local and classification by topic order. The system should indicate which information is draft/approved and which sections are relevant – e.g. the metropolitan area plan and transport plans could be easily interpreted and related to GIS and digital layer photography. The system should list all DCANN's, dates, consultation deadline periods and territory covered and a simple guide to what these documents contain. It should also be linked to PAC decisions. The system should be available to and accessible by the public."

Group 5: The Farming/Advisory Community

The respondents were clear that what they wanted was relatively straightforward information, indicating that they wanted all resources (Table 1).

The practical information related to knowing what the farming community should be doing ("lists of 10 things ..."). It was interesting that they wanted practical information from discussion lists and help-lines, but were suspicious about who might be taking part. One suggested that they would only use if a discussion list if they knew the true identities of the other members. Another said:

"It depends on the knowledge and accuracy of others. I would also want to ensure that I would know

the true identity of the other participants as I feel that government departments could use such a forum to circulate their own agenda and influence the proposals or queries of others without revealing their identity."

This same respondent pointed out that a help-line suffers from the same kind of problems relating to government information and perceived 'intrusiveness':

"[government department] have specialists but it is hard to get anyone to take responsibility for providing accurate advice – they are afraid of being held responsible, so they keep passing you on to someone else. Also some of our members are afraid to ring government departments in case they invoke inspections from that department or other departments."

On the question of 'ideal law machines' the group were reasonably cohesive in suggesting, for example:

"A computer system with [Table 1] facilities. I would like email updates on forthcoming or newly enacted legislation. It must be easy to search e.g. a farmer could type in that he is a farmer and farms in a LFA and ask for a list of all relevant legislation – so that he can ensure he complies. There may be potential for a mapping system – especially if it indicates which areas are affected by particular legislation e.g. ASSI – EU Habitats directive. There should be an option of contacting a human as a last resort if you can't find or understand information."

"A computer system with [Table 1] facilities that is easy to navigate. There should be an option of contacting a human as a last resort if you can't find or understand information. This person would need to be an agricultural specialist. It would be useful if we could access information on the implementation of directives in other EU member states. There should be a variety of search methods, probably keyword and topic. Map presentation could be useful – am not sure how it would work – would like to see a demonstration before I comment. Printing must be easy – i.e. whole/sections of document."

"A computer system comprising the features in [Table 1]. An easy to navigate system e.g. topic and keyword searches. I think maps could be useful, given that many uses on land and legal compliance issues are stipulated by legislation marking them as (Area of Special Scientific Interest) ASSI, (Outstanding Natural Beauty) ONB, Less Favoured Areas LFA's. It would be useful if maps indicated these areas, and linked to relevant legal information. You should not have unnecessary flashing graphics, but there should be tasteful use of colour and attractive presentation, to sustain users interest in site. You should be able to print either whole document or as many pages as you wish. Dislike how you can't copy and paste within adobe documents.

I would like to receive email updates indicating new legislation. I would like a monthly online newsletter, which contained links to relevant articles, legislation, case-law etc.

I would like case studies in NI to be linked to other jurisdictions e.g. be able to see how directive was implemented differently in Portugal, and what cases have arisen there. I would like a layman's guide to legislation – practical interpretation."

"A computer system which operated like a flow-chart – i.e. taking me through layers of information at which point my query is resolved or I am advised to seek further legal advice. A computer system that contains a range of search facilities. A mapping system would be very relevant to Agriculture – particularly if linked to DARD intention to provide digitised maps - especially given ESA's, ASSI's etc. I would want to be able to print information as I see fit – i.e. whole/part of document."

5. Paying for Legal Information

Given such a diverse group of users of legal information, there was – unexpectedly – a divergence of

perspective on what they would be prepared to pay for this information.

Group 1: Lawyers in Practice

All interviewees suggested that they had a budget for legal information provision and that it was either flexible or "probably" flexible. The individuals who decided on what should be purchased were colleagues (and thus practitioners too). As to how much they may be prepared to pay, the general view was a "reasonable fee" and that the measure of what was reasonable was dependant upon the facilities offered.

One, from a large multi-partner practice, suggested that they had been offered access to a system which looked useful but was simply too expensive even for that large practice:

"A 'reasonable' fee depending on facilities – if the system was comprehensive we would probably implement it. Consolidated versions of legislation would be an incentive, as it would give added value, and be an efficiency device. [One person] has contacted us re implementation of a know-how system which would allow the user through one keyword search to access all relevant internal documents and list all relevant internet sites – we have not implemented it since it would cost € 100,000 p.a."

Another – from a smaller, yet still multi-practitioner practice – suggested that some sweeteners would help them look more favourably upon any system:

"A 'reasonable' fee depending on facilities. It would need to be more effective than our current systems, and represent value for money. Free period of usage would encourage familiarity with the system. A fixed flat rate fee would probably be most convenient payment method."

Note that in our interview sample, we were not interviewing lawyers from small, one- or two- person practices. Our group represented something of a specialism, which could really only be found in larger practices. These practices tend to spend much more money on information resources and it should not be concluded that all lawyers would have a similar view. Certainly in past research we have found that many smaller practices purchased a copy of a CD-ROM resource only every two or three years, considering that the law wouldn't have changed that much to require an annual update.

Group 2: Commercial Firms involved in Environmental/Planning Issues

The interviewees from this group either had a flexible budget for legal information or felt that it would be possible to purchase the information. The replies are informative from our three respondents and are outlined here:

Quarrying firm:

"A 'reasonable' fee depending on facilities – we currently pay £225 p.a. for CEDREC. If the system improved interpretation of legal information and offered bullet point summaries of legislation, then we would probably implement it – we would like it to be available on our Intranet."

Waste firm:

"A 'reasonable' fee depending on facilities – ideally we would like something tailored to our specific needs – if so, we would invest heavily."

Advisory Support to firms working in environmental field:

"We're a charity, but if relevant, up-to-date, understandable and reliable information were provided then we would be willing to pay a reasonable fee – as long as we could pass this information on to

businesses that contact us. We would like a trial period to assess the usefulness of the system. We would expect a discounted rate for voluntary organisations. We would prefer a flat rate, fixed fee payment plan."

Which all show different attitudes to payment, and perhaps indicate that in order to calculate what each see as a 'reasonable fee' one must look at the turnover of the firm and the implications that environmental/planning issues have to profitability.

Also, one of our respondents noted that they were really involved in quite a small area of legal information use and that they rely on a smallish subset of the total, and thus would not view themselves as wanting to pay large costs for access to a large system.

Group 3: NGOs

Only one of the individuals worked with an NGO where there was a set budget for legal information. This was an umbrella organisation which supported other NGOs and thus could be expected to see information provision as an important element of its budget. The other interviewees all suggested that there was no budget but they did suggest that purchase of information would not be completely impossible and that a decision could be taken by a senior member of the organisation to provide this.

Most agreed with the notion of 'a reasonable fee depending on facilities' but of course this would imply – since most are not well-funded – a figure which is less than that of a commercial firm. One group suggested a fee of £1,000 pa for access for their staff (volunteers and local regional staff).

The general feeling on payment seemed to be towards a lower figure. A representative from large animal welfare charity suggested:

"I think there should be discount for voluntary organisation. I also think that a 3-month trial period at a modest fee would be essential to allow us to assess our potential usage, before we would make a long-term financial commitment."

Another interviewee, a local wild animal society, suggested quite a low figure:

"Not much more – but I would need to test the system and assess it's potential value before I would make a financial commitment. We pay £100 pa to Ordnance Survey for digital maps – perhaps we would use a system if it cost around this amount. I would anticipate that our usage of the system would be low-level, so we would probably prefer a pay per use payment method. We also feel that there should be a discount available to voluntary organisations."

The conclusion must be that while this group are amongst the heavy users of legal information, they put a relatively low price on it. £100 p.a. is less than the cost of four Guardian newspapers per week. Of course the number of such organisations appears to be high, and a system which complemented or replaced their use of interpersonal information sources may well increase their workload (through reducing the time spent educating/advising other NGOs).

Group 4: Government

The views in this group suggested that there was no set budget which was used to cover information provision. There was a complaint that most departments – even policy departments – had no suitable library facilities, though some departments have collections of papers which might be relevant.

The typical method of agreeing to buy in resources appears to be through lobbying senior management who may or may not have a legal background. All interviewees suggested that if the system was useful, they would be prepared to pay a 'reasonable fee' for this and would lobby within their departments for this service to be allowed.

The feeling from the interview material generally, is that this is a group who are under-informed with respect to legal information (apart from one in particular – who has an academic background) and that they would be a target audience for a system which 'added value' in a coherent manner. There does appear to be funding available for information purchase, but that in order to access this funding, there needs to be clearly shown an advantage and utility in the information provided. One noted this would be particularly useful – and thus value for money - if this meant fewer expenses on solicitor's advice.

Group 5: The Farming/Advisory Community

This group was equally divided between those who didn't know about their budget and those who did. Only one had an existing budget. All of them appeared to feel, though, that money could be made available if the system was useful enough and was seen to be value for money. The diverse views on method of payment are represented by:

"I would lobby the department of introduce system at a reasonable fee if its usefulness were demonstrate. A flat fee per annum charge would probably be most effective." (Lecturer)

"A reasonable fee depending on usefulness of system. I think we should get a discounted payment rebate because we would attribute the source of information and generate publicity for the system. A per-per-view/print-out scheme would probably be the most suitable payment method" (Farming press).

6. A potential Marketplace?

The general conclusion is that there is potential for an expanded market in legal information. Moreover, as Granat posits

"the trend toward disintermediaiton, client-centred service and self-help will continue to accelerate because of the power of information technology to enable access to the law in ways that a non-lawyer can comprehend and use effectively in a widening spectrum of situations and cases."[9]

Thus, careful thought is needed as to how best to build tools to encourage present users to use the system more frequently and also how best to build tools to attract new users from the potential groups outlined herein. Bruce is correct in his assessment that

"We have been slow (and too much of the time to find out) what it is that people really do with the information we provide, we have been even slower to ask what it is they might be thinking and expecting of us. ... usability of our system must be expressed at least partly in terms of their capacity to serve a public that approaches them with (often erroneous or naïve) beliefs about how law is structured and what it can do for them."[10]

Thus, the findings of the interviews present an invaluable source of information regarding user requirements and expectations. The interviews demonstrate that lawyers and non-lawyers alike require access to a wide range of primary, secondary and 'related' legal information. Additionally, the interview responses indicate a need to develop systems and tools which meet user needs in order to promote and encourage use of such systems, and for some users this may mean the provision of GIS systems as opposed to traditional full-text database searches. Furthermore, the interviews suggest that the legal marketplace will expand with the availability of added value information e.g. through the provision of summarised judgements, interpretative guidance and up-date alerting facilities.

Nevertheless, it seems that for some potential users the issue of cost is an obstacle, particularly in the voluntary sector. Further research might examine the cost issue to see whether the subscription costs,

hardware costs or training expenses are the main obstacle. It will be interesting to incorporate the results of similar interviews to be conducted in the Netherlands, as this will identify any user anomalies that exist within the different legal systems. The results will be reflected in the demonstration models developed for testing in the UK and Netherlands.

7. The Proposed Directive on Re-Use of Public Sector Information

There was much debate in the early 1970s concerning the way that information retrieval systems were moving. The issue was perceived to be a conflict between the constitutional right of the population in a democratic state to access and know the law versus the role of governments to act as stewards of public property. Governments were disinclined to become involved in the costly new provision of electronic legal information, even though that information was legislation which emanated from them. Pressure on the Government from legal sources, two or three decades later, finally persuaded it that the constitutional right was a higher-order obligation than its stewardship of the public's intellectual property and that the latter should be sacrificed to the former.[11] Arguments in the 1970s suggested that there should be national law libraries, funded in part by governments and in part by the professional users were supported by assertions that it was wrong for a country's legislation to be only available and controlled by a provider in another country. The target of such comments were in the UK situation, of course, Mead Data who owned LEXIS and who were seen to be primarily US-oriented, with a UK 'add-on' service which was not viewed as central to their concern.

The original demand in the US was for a 'National Law Library' where the legislation and case law of a country would be easily available to the lawyer. The changing circumstances brought about by the new electronic publishing media have now meant that many of the original reasons for Government declining to take on the task of electronic provision of their own legislation have been overcome. Governments are now much more prepared to be active in this kind of role. For example, the Irish Government prepared an electronic version of its Statute Book which is makes freely available. UK case law, though, is only now – with agreement with BAILII from the start of 2003 – beginning to be handled in any real, centralised manner.

The pressures for access to law were similar to the growing pressures to access all government information 'freely' – that it is 'public', paid for by the public purse, and that making it freely available would encourage use, and develop new groups of users.

It is into this context that the proposed Directive on the re-use of public sector information has entered. The aim of the proposed Directive (which arose from the Green Paper on Public Sector Information in the Information Society (January 1999) and "eEurope 2002: Creating a EU Framework for the Exploitation of Public Sector Information") is to build an information marketplace which is based upon government information. Governments will not be able to restrict re-use of documents through asserting their copyright in materials, and will not be able to enter commercial agreements which limit the ability of other companies to enter the re-use/added value marketplace utilising these materials. During the committee phases, the idea of replacing 'documents' by 'information' has been suggested, demonstrating that there is a will within the European parliament to widen access as far as possible.

Of course, there will still be much information which will not be available, but should the Directive be implemented, it will cover a wide area of public documentation – including GIS as well as legal materials. The proposed Directive is targeted at building a marketplace to compare with a current marketplace of legal services or printing:

"The sheer size of the economic value of public sector information in the European Union shows the potential of this area: the value has recently been estimated at around € 68 Billion. This is comparable to the size of industries such as legal services and printing. A better use of the economic potential of public sector information will lead to increased activity and job-creation in the digital

content industries. Many of these jobs will be created in SMEs." [12]

The proposed Directive will radically alter the current information marketplace. No longer will government departments be enabled to use their copyright in raw information to limit external usage of this, and to limit competition. For example, the restrictive agreements which we have seen in the provision of legal information will not be allowable – Smith Bernal, for example, has had until recently an agreement relating to Court of Appeal judgements. If this agreement had been made under the proposed Directive, both the terms of the agreement would have to be made public [13] and also it could not be used to discriminate against competitors. [14]

The width of the proposed Directive in terms of what is a 'public sector' organisation appears to be wide, and would appear to include Tribunals.

The provision of information is to be at cost plus 'reasonable return on investment'. This follows the model utilised in the US Federal system. [15] The main difference between the US and European systems will be formal: under §105, Title 17,[16] copyright protection "is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise". In Europe copyright will remain with the individual government or agency, but most of it will not be enforceable.

8. Conclusion: What Future of the Legal Marketplace?

We have shown that there does appear to exist a legal marketplace, and we have shown, too, that the proposed Directive could radically alter the landscape of legal information provision – with companies being encouraged to provide novel and innovative tools to make use of public sector information. The question must be, how radical, and how might they add value to their systems?

It seems clear that the provision of raw legal information which has been the backbone of some providers will not in future produce a profitable return. The raw information will be easily available through services such as BAILII which governments will utilise to service requests (presuming that departments will prefer to use low cost systems rather than undertake provision of access themselves). This leaves the legal publisher having to emphasise the true publishing element of their task: that is adding value to information and making it more understandable/useful/cohesive – just the kind of tasks which the eContent programme is directed at.

To take the example of planning/environmental law, we can think of systems which link together information from central government and local government to provide a system which details a history of planning in any particular area together with allowable developments all tied together with map-based data. Thus details of planning consents already provided, planning appeals, individual applications, etc. etc. can all be linked and information provided by a simply click on a web map.

For those who are pro-privacy advocates, there are some potential worries. For example, information which relates to court-based information is covered by this proposed Directive, and although the text suggests that respect should be given for the data protection Directive [17] there is much information which is legal, public and which might provide a marketable supply of information for innovative companies. In the US, some innovative firms offer software which promises, amongst other things, to determine:

1. Has your fiancé been married before, perhaps even been to jail?
2. Where in the world is your lousy, cheating "ex" hiding assets?
3. Learn whether your potential business partner, surgeon or contractor has ever been sued
4. Discover who owns the car that sideswiped you, or that's parked in your neighbor's driveway every night
5. Check whether relatives have unclaimed assets you can inherit

6. That stranger who turned up out of nowhere, is he a fugitive? Find out now! [18]

One of us is relaxed about the use of such systems and certainly sees them as being of substantial benefit[19] but when we begin to think of innovations in the legal marketplace, these perhaps are the systems which the users may find the most valuable of all.

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[1] COM(2002) 207.

[2] "Europe and the global information society: recommendations to the European Council", 1994.

[3] eContent web site at: <http://www.cordis.lu/econtent />

[4] Further information at <www.addwijzer.org>

[5] Add-wijzer is a Dutch pun relating to 'adding knowledge'.

[6] Bruce, T.[2000] "Public Legal Information: Focus and Future" The Journal of Information, Law and Technology (JILT) Issue 1 <http://www.law.warwick.ac.uk/jilt/oo-1/bruce.html> p. 16

[7] Leith, P & Hoey, A, [1998] The Computerised Lawyer: 2nd Revised Edn 1998 Springer-Verlag pp. 110-112

[8] They also provide information and limited legal advice to farmer members, provided that it does not cause a conflict of interest in respect of another farmer member, in which case they would advise both parties to seek independent legal advice.

[9] Granat, R. S. "From Legal Services to Information Services" The Digital Legal Applications Center <http://www.granat.Committee/legalservice.html> p.6

[10] Bruce, T. [2000] "Public Legal Information: Focus and Future" JILT Issue 1 <http://www.law.warwick.ac.uk/jilt/00-1/bruce.html> p.15

[11] See transcript of 'Free the Law' campaign meeting held at the Institute for Advanced Legal Studies , London, 8th Nov. 1999 <http://elj.warwick.ac.uk/jilt/00-1/free_the_law.html>

[12] $4, Explanatory Memorandum, Proposed Directive

[13] Article 10, Prohibition of Exclusive Arrangements.

[14] Article 7, Non-discrimination.

[15] Love, James P.[1995] "Pricing Government Information." Journal of Government Information. Vol. 22 Issue No. 5 pp 363-387 for a discussion of the various cost models for accessing Government Information.

[16] "Subject matter of copyright: United States Government works"

[17] Directive 95/46/EC

[18] NetDetective Software. < http://www.netdetectivestore.com>

[19] Leith, P. "Confidentiality, Privacy and E-Government: clarifying the notion of 'public space", Workshop on Teaching of e-Government: Legal, Economical and Technical Aspects Albarracin, Spain, 2003.