



Note of Meeting of Licensing Forum
30 March 2007
OPSI, London

Present:

Dr Jean Alexander	BGS
Margaret Fuller	Fire Service College
Antoinette Graves	OFT
Peter Hill	OFT
Marcia Jackson (Chair)	OPSI
Kerrie Reidy (Speaker)	OPSI
Tony Jardine	Ordnance Survey
Liz Parr	Ordnance Survey
Tracey Jones	Companies House
Janice Knight	HM Land Registry
Mike Westcott-Rudd (Speaker)	HM Land Registry
Sushma Acharya	HM Land Registry
Alison Draper	HM Land Registry
Dominic Murphy	Met Office
Tim Padfield	National Archives
Rob Smith	BGS
Carol Watts	CEH
Helen Munson	OPSI
Andrew Ryan	Qualifications & Curriculum Authority
Shernet Johnson	Qualifications & Curriculum Authority
Frances Law	MHRA
Ela Ginalska	Department for Transport
Daphne Prail	Highways Agency
Muriel Adamson	UKHO
Tony Dent	UKHO
Sue Warrington	HM Treasury
Adrian Nuttall (Speaker)	Environment Agency
Chris Jarvis	Environment Agency
Susan MacInnes	Registers of Scotland
Steve Smith	DTI
Melanie Young	Driving Standards Agency

1. Introductions

- The Chair welcomed everyone to OPSI and introduced the first speaker.

2. The Commercial Use of Public Information (CUPI) Market Study and the Government Response

Introduced by Steve Smith, Department for Trade and Industry

- The study was officially published on the 7th December 2006 and is still awaiting the government response.
- The delay has been due to the predicted effects of the report and therefore lengthy discussions between DTI and Treasury have taken place around the impact of the new terminology and its definitions such as Refined and Unrefined.
- Ministers felt that they needed a little more time to absorb firm information on the impact of the 20 recommendations. They are currently still assessing what will be the major benefits to the UK economy or if in fact there will be any at all.
- The speaker explained to the members that until the government response is officially published he was limited as to what he could actually say.

Discussion

- Due to confidentiality restrictions on the speaker, discussions concentrated on the member's interpretation of the CUPI report and the likely impact on their organisations should the recommendations be implemented.
- Members stressed the difficulty in aligning the generic recommendations made in the OFT report to their wide ranging and diverse organisations, for example commercial and non-commercial organisations, large and small and the differing natures of their business.
- Members were able to explore key issues such as charging and the confusion around full cost recovery and meeting the market minimum price. They also looked at the contentious issue of dividing their activities and products into the categories of refined and un-refined data. Members were able to discuss these issues with representatives from OFT attending the forum, who asked members who still had

queries following these discussions to write to OFT so that they can give more consideration to members concerns.

- Members queried if the recommendations were accepted by the Government would they then translate into fixed rules that could not be adjusted to acknowledge their differing circumstances. Members were concerned that their statutory purposes could conflict with certain recommendations if there was not a certain amount of flexibility in the recommendations. The speaker suggested that treasury does not yet know what form the recommendations would take if they are accepted by the Government, they could possibly be just guidelines but nothing can be confirmed just yet.
- Members queried what type of training and guidance they will be offered when the government response is released. The speaker answered that that is difficult to say as there is still no clear idea what the government response will be yet but if action is needed by the members, guidance and training will be developed in conjunction with all those involved.

3. CUPI Report – Land Registry’s Response

Introduced by Mike Westcott-Rudd, Head of Corporate Legal Services, Land Registry

- The speaker gave a brief background on the origins of Land Registry, starting with the 1862 Act – Fixed Boundaries to the current position whereby they register land and properties throughout England and Wales. They gained Trading Fund status in 1993 and in 2003 this was established as ‘The provision of services in wider markets...relating to the registration of titles to land and to the management and marketing of information relating to land and property.’ The speaker explained that Land Registry does not have a separate commercial account and so they do not feed back into Treasury but into their own Trading Fund Account.
- Since becoming a Trading Fund, Land Registry has had many highlights such as becoming IFTS accredited and they have expanded their commercial activities to such an extent that the total current value since Jan 04 is £2.5million. The speaker outlined their future business plans such as the planned E-Conveyancing project which will allow members of the public easy access to a matrix of activity up and down the property purchasing chain.
- The speaker then went on to discuss the CUPI report which Land registry broadly welcome but as with other organisations their main difficulties lay around the subjective interpretation of the terminology used in the report. The speaker specifically mentioned the distinction between refined and un-refined data. The land registry register is superficially unrefined as it is

- at its most basic, data transferred straight from a registration form but much technical work went into creating the register and there has been considerable input from Ordnance Survey. Therefore there is also a case for the register being Refined. The speaker concluded that there was further discussion needed between Land Registry, OFT and OPSI.
- A further concern which the speaker identified was that the information held by the land registry which the OFT report is encouraging them to exploit commercially is sensitive information which could give rise to data protection issues. They are currently very careful to not put biographical data in the market place but are also concerned that their current strategy may need further developing in line with increased commercial activity.
 - The speaker then briefly summed up other key issues, Land Registry is concerned about the lack of central guidance in this field, and for example they would like to see updated treasury guidance. Land registry also feels that current regulatory framework is diluting the expertise in OPSI, they would therefore like to see the OFT recommendation for more funding for OPSI accepted by government. The speaker also stated that there was a need for the re-use regulations, the OFT report and other European initiatives to be careful not to contradict each other.
 - The speaker concluded that the Land Registry broadly welcomes the OFT report but there needs to be clarification on terminology, safeguards for organisations working with sensitive data protection controlled data, up to date Treasury guidance and individual work with each PSIH so that their varying needs are taken into consideration.

4. Licensing a Chain of Data Users; The Issues, The Problems and a Possible Solution

Introduced by Adrian Nuttall, Head of the Information Law Unit. The Environment Agency.

- The speaker began with a brief explanation of a chain of users, 'when a licensee is passing on the product to other people and is usually one of two principle scenarios; firstly the same product is passed onto one or more different people but the product does not change and secondly one or more of the steps in passing on involves changing the product to something derived from it.'
- The speaker identified 4 key issues in this topic. The first being should a chain of users be approved and licensed? To highlight this issue the speaker outlined the Environment Agency's position. Essentially they want the profit from their licensing activities but they have to consider wider interests for example their statutory purpose, public interest and competition with their products. Therefore they impose certain restrictions such as value must be added and (in respect of the first scenario of a product that is not being subsequently changed) all chains are limited to 3

- links. Where restrictions are placed and licences not approved, explanations are offered and decision making transparent.
- The second key issue is how far down the chain can an organisation charge? This is affected by how controlling a contract can be made and then adhered to, whether IP can be relied on for a licence, for example can Intellectual Property Rights ever become exhausted? Lastly is it practical for an organisation to fund the resources needed to licence all the way down a chain? The speaker explained that the Environment Agency only charged at the first link but that this charge might reflect uses down the chain.
 - The third issue is how should a chain of users be charged? The speaker talked through the pros and cons of fixed charges and percentage (of the sales profit) charges and then applied this to an explanation of the Environment Agency's pricing policy which uses a mixture of these two approaches. For example a fixed charge could potentially be restrictive to a smaller start up organisation but would be less resource intensive and cheaper for the Environment Agency to administer. A percentage charge is complex to assess and could be lacking in consistency but could also be seen as fairer than a fixed charge and potentially bring in more revenue.
 - The fourth and final issue concerns fairness and consistency. An organisation needs to find a solution which is fair and consistent and yet still provides adequate revenue. The speaker believes that the Environment Agency has found a workable approach which suits their organisation but he believes that as each organisation is so varied they may need to strike the balance a little differently when finding their own workable solution.

Discussion

- The discussion centred on the varying perceptions the members had of Crown Copyright, intellectual Property Rights and their implications. There was lengthy discussion on whether or not copyright can ever be exhausted. For example can it be exhausted after a certain amount of time or by changing beyond recognition through a chain of users?
- Various members explained how their own organisations dealt with this problem. The representative from British Geological Survey (BGS) explained that they do not sell their data but they do charge for the re-use of it through licensing. They charge a royalty based on the percentage of BGS data used. They then have made the decision that it does not make sense to continue licensing all the way down a chain and so only charge as far as the second user, but the second user is charged the same amount as the first user. Although they then stop charging a royalty at this stage they still request that their IPR is acknowledged all the way down the chain, thereby protecting their copyright.

- Due to the differing opinion, thoughts and ideas expressed by members throughout the discussion they felt that they would all benefit from hearing an expert speak on the subject. Therefore Tim Padfield, an Information Policy Consultant for The National Archives has agreed to speak on the topic of Copyright at the next Licensing Forum.

5. PSI Best Practice Guide

Introduced by Kerrie Reidy, Standards Adviser, The Office of Public Sector Information

- The speaker explained that the purpose of the presentation was to inform members of a project currently being undertaken by OPSI to create a Best Practice Guide for those working in the Public Sector Information licensing industry. It's purpose being to guide practitioners through the possible repercussions of the government response to the OFT CUIPI report, to act as a knowledge and guidance sharing portal, raise industry standards in both the UK and Europe and promote constructive debate.
- The speaker explained that a current lack of up to date guidance and the pace at which the industry was evolving meant that it was timely to now introduce a Best Practice Guide. It was explained that the guide would be an organic document, in that it would be published in electronic format so that it could be constantly updated to keep up to date with the evolving industry.
- The guide itself will contain anecdotal/case study evidence of policies and procedures followed by licensing practitioners in their daily work, focusing on four key areas; Licensing, charging/pricing policies, complaints and websites. It was also clarified that bad practice would not be included as that aspect is focused on in IFTS verifications and this guide is intended to be a celebration of the good work currently undertaken in the industry.
- The speaker went on to explain that OPSI intends to collect the information needed to inform the guide by sending out a questionnaire to practitioners requesting their suggestions for policies and procedures they currently follow in their own organisations or have witnessed in other organisations that they believe constitute Best Practice. It is also OPSI's intention to continue collecting evidence of Best Practice when on IFTS verifications to add to the guide.

Discussion

- Members welcomed the idea of a Best Practice Guide, and were able through discussions to add lots of useful ideas which will be able to shape the final publication into the most useful document for them.
- It was suggested that the focus of the guide remained on licensing practitioners and therefore it should strive to keep legal requirements and

practical policy advice separate. By this it was meant that the guide should include a list of the relevant legislation and guidance documents available the industry but this should be contained in a small summary paragraph and not take up a huge section of the BPG.

- Members also requested that the BPG contain a glossary of terms which looks at terminology for example raised in the OFT CUPI report, members felt it would useful for the purposes of clarity to see how other organisations are interpreting these terms. The UKHO's representative told the members that he in conjunction with other members has already been working on compiling a similar document and would be happy to contribute to OPSI's BPG.
- The next meeting will be held 23rd May at the Environment Agency in Leeds

Kerrie Reidy OPSI
30 March 2007