



Minutes of Meeting of Licensing Forum

10th September 2007

Environment Agency, Bristol (DEFRA Buildings, Westbury)

Present:

Antoinette Graves	(Speaker)	OFT
Liz Greenland		EA
Will Spendlove		EA
Delyth Davies		EA
Adrian Nuttall	(Chair)	EA
Stefan Carlyle	(Speaker)	EA
Elizabeth Morris		EA
Chris Jarvis		EA
Michele Hambridge		IPO
Chris Lewis	(Speaker)	IPO
Tony Dent		UKHO
Ken Dearman		UKHO
Neil Wilcoxson		Coal Authority
Tracey Jones		CH
Mary Taylor		CH
Carol Watts		CEH
Dominic Murphy		Met Office
Nick Benson		Met Office
Gil Ross		Met Office
Michael Robbins		Met Office
Susan Corrigan		NAS
Sheila Walker		Home Office
Andrew Ryan		QCA
Margaret Fuller		FSC
Frances Law		MHRA
Michael Allen		DVLA
Rhian Doleman		DVLA
Gill Church		BGS
Tony Jardine		OS
Susan MacInnes		RoS
Marcia Jackson		OPSI
John Williams		OPSI
David Gordon		OPSI

Tom Steinberg	(Speaker)	Mysociety
Ena Ginalska		DFT
Alison Murray		CC
Yvonne May		DSA

Introductions

- The Chair (Adrian Nuttall) welcomed everyone to the event and, after some preliminary health and safety information, introduced the first speaker.

1. **The INSPIRE (Infrastructure for Spatial Information in Europe) Directive – establishing an infrastructure for spatial information across the European Union**

Stefan Carlyle, Environment Agency

- The presentation set out the history of INSPIRE and its anticipated uses and impact.
- The directive has been in planning for 7 years. Its inception from the EU was in 2000, and it entered the transposition stage on 14th May 2007.
- Stefan Carlyle has significant personal experience of the directive. He was involved in the group established in 1999 which developed INSPIRE, and also chaired the Extensive Impact Assessment Group.
- Essentially, INSPIRE aims to provide multi-layered spatial information for multiple applications. For example, it could provide information on flood risk zones, the pattern of landfill sites, information on areas affected by foot and mouth issues, and these uses could grow as the sector innovates. It should also help with planning consultations and give local communities the chance to respond online. Indeed, one of the applications (3D Geoinformation Storage) has already been used to win a case on oil pollution concerning the Sea Empress disaster.
- The Public Sector supplies information to a wide range of organisations. There are other Public Sector Bodies (PSB's), Private Sector businesses, and increasing requests from private individuals. The electronic revolution has further enabled access from a range of constituencies. As a result, it was felt that European directives on Public Sector Information (PSI) and environmental information needed some support and modernisation; this was the role of INSPIRE.
- However, alongside these opportunities came confusion. 'Islands of information' were emerging, with no-one aware of what data existed, where it was stored, which information was of higher quality than which and whether different organisations had contradictory records. This lack of co-operation and co-ordination was causing major concerns, with bodies struggling to communicate internally let alone externally.
- The Directorate General (DG) of the Environment in the EU led the drive towards INSPIRE, with sustainable development being the initial thrust. Harmonisation and

collaboration were emphasised as the keys to success, with the International Standards Organisation (ISO) involved.

- 14th May 2007 – 14th May 2009 is the transposition stage. When this period ends, the directive should become law in EU nations. In terms of enforcement, the ‘middle ground’ option was selected; this means that a framework prioritising environmental data will become effective, but the Commission will not stipulate how member states should implement INSPIRE. Another factor which will affect transposition is the level of GIS development in each country.
- The programme is self-financing; it was estimated by the Extended Impact Assessment Group that for every €1 spent on INSPIRE, €8 would be made. The INSPIRE website (www.ec-gis.org/inspire) has the details of this study. In addition, intangible benefits will be accrued.
- In terms of the technicalities of INSPIRE, it covers three forms of information. These are:
 - a) Mapping / Reference
 - b) Elevation
 - c) Miscellaneous (e.g. environmental)

Discussion

- One delegate raised the question of material from before 14th May 2007. Existing data is not covered by the directive; legacy data need not be amended, given that we are at the transposition, not implementation, stage.
- A further question then asked whether this undermined INSPIRE, as much legacy data is vital to present and future climate operations. However, it was felt that applying ISO standards to these data sets would suffice.
- It was also asked whether the UK was likely to be an exceptional case on INSPIRE, given what had been said about countries being allowed to vary their approaches. INSPIRE would very much be the model of the UK’s operations, although no overall vision for 2009 was given yet.
- When asked about the practicalities of the programme, it was said that the EU commission had a 32 person team investigating the pricing implications of INSPIRE.

2. Trade Marks – Theory and Practice

Chris Lewis, Intellectual Property Office (formerly Patent Office)

- Chris introduced the work of the IPO. It adjudicates on which goods, ideas, concepts and patents are valid for registering as a Trade Mark, and which fall short of this evaluation. The work of the IPO is also changing.
- The IPO is based in Newport, and work on the basis of the Trade Mark Act 1994 (available at http://www.opsi.gov.uk/acts/acts1994/Ukpga_19940026_en_1.htm). Some

of the regulations governing Trade Marks are less straightforward than one might expect. For example, the ASDA 'Back Pocket Touch', as seen on the TV advertisements, is a Trade Mark. Equally, they can be re-used; Virgin has 126 registrations, and the 127th on Space Travel is waiting for development.

- Equally, a common misconception is that TM is actually a meaningful symbol, although in the words of the IPO the acronym is 'Totally Meaningless'. Instead, the real sign of a unique product or idea is ®. Equally, a slogan must be sufficiently identifiable to be a Trade Mark. As a result, 'The Best a Man Can Get' falls short, but 'Exceedingly Good Cakes' was registered in 1994. The Direct Line music has also passed this test.
- Essentially, there are two tests something must pass to become a Trade Mark. The first is ABSOLUTE: if an idea is not distinctive, it will fail (like Gillette's slogan, which is just laudatory language). The second is RELATIVE: this means something similar already exists. For example, a company brought out children's building bricks marked '0637', which at first seemed a valid proposition. However, it was raised that this somewhat audacious company knew that, when inverted, these brick would show a logo looking rather similar to 'LEGO'.
- However, the relative grounds are being amended on 1st October 2007. Now, so long as all Trade Mark holders of similar goods agree, the applicant will succeed. However, please note that this is UK, not European Law, and therefore may not apply on the continent.
- Trade Marks cost £200 to register, and last 10 years. Applications are put on the website, and third parties are given the opportunity to see and respond to all proposals. After a Trade Mark has been awarded, there are 3 months for any final objections to be placed, although a charge of £300 will be payable from the complainant. Should this process occur, then there will be 12 months for the parties to negotiate an amicable settlement
- If this process does not deliver a resolution, evidence rounds may be used to break the deadlock. However, both parties need to be aware that should either party be deemed to have been spurious in their case, then financial damages may be claimed by the other side.
- After this, there is an appeals process. The individual heading the appeals body will be a barrister or QC, and their decision should be binding. If one party contests this, then the only option left is use of the court system.
- Despite this, a Trade Mark may be rescinded if enough people protest on valid grounds.
- Government bodies, like other organisations, can protect their intellectual property by registering Trade Marks. However, there has been a slightly worrying lack of rigour in some procedures here (for example, research would have shown that the proposed 'Think! Road Safety ' Trade Mark application would not proceed because of an existing copyright, whilst on the other hand the Road Safety hedgehogs were not the subject of a Trade Mark application and therefore have been plagiarised by other groups).

- These nuances are why companies can often become very defensive of their intellectual property. For example, Hoover complained to the Oxford English Dictionary after the word 'Hoover' had been put in the OED as meaning 'a vacuum cleaner'. Hoover wanted it clarified that their brand was specific, and were worried that other companies may use this definition to start marketing the 'Dyson Hoover' or similar.
- There have also been some recent changes to allow the UK to compete within the EU on similar terms to their co-members. Under the old legislation, any Trade Mark in any EU nation rendered a UK application invalid. Now, however, unless the original holder complains, if the Trade Mark is in a different country, then the Trade Mark may proceed.

At this point, the speaker was warmly thanked for a very interesting and comprehensive presentation, and lunch was taken.

3. The Power of Information Review

Tom Steinberg, founder of mySociety.org

- The speaker began by outlining his personal history in the area. The Government had asked him, alongside Ed Mayo (Chief Executive of the National Consumer Council) to work on an external review on PSI policy.
- In this endeavour, he used his experience as the founder of mySociety.org to consider the implications of the electronic revolution. Access to information can give simple but tangible benefits to users, and the Number 10 petition website (petitions.pm.gov.uk) was initiated as part of this drive towards citizen interaction.
- The 'Power of Information' review was commissioned in 2007 to examine:
 - a) New developments in the use of information by citizens
 - b) The role of Government in facilitating this.

As a result, the document is of an unusual nature. Instead of investigating an ongoing problem, it is offering opportunities for positive action and experiences. It is intended that this should tie in with the INSPIRE directive.
- The size of the e-revolution was emphasised. In 1990, the Internet did not exist; now, 69% of people use it. The average Internet user will spend more time there on average than in front of a TV, and is as likely to use a search engine to find out information as ask a friend.
- Equally, net communities have been a massive growth area. In terms of parenting, netmums.com and mumsnet.com have both become arenas for major sharing of ideas and information, whilst the site moneysavingexpert.com has some 4 million messages on its system. These specific sites, alongside the more general facebook, second world and similar show how the area has mushroomed and shows little sign of shrinkage.
- In addition, the Government is experiencing significant growth in its exploitation of the Internet. Ordnance Survey estimates that the information used from its information is converted into £100 billion of economic activity per year, and estimates vary (some lower, but also some higher). Equally, more and more people are accessing the

information on the net, and are re-using or combining data to innovate. This gives some real opportunity for new ideas to emerge from unexpected sources.

- Also, the internet is becoming increasingly personalised. For example, [igoogle \(www.google.com/ig\)](http://www.google.com/ig) is expected to usurp google, and offers the user the opportunity to create their own homepage. This will mean that every time they log on, they can immediately see the BBC website headlines, weather and air pollution in Slovenia, travel updates from Dubai, a selection of games or other options from an extensive list. This demonstrates how great the opportunities for information exchange on the worldwide web are.
- However, not all is healthy at the moment. Of the socially excluded, only 25% have access to internet at present. This means that further divisions in society could be erected. The example of Jobcentre Plus (www.jobcentreplus.gov.uk), which is the most used Government website, demonstrate how useful the extension of provision could prove.
- There have also been some major advances in the area of health. Breast cancer and HIV self-help sites have helped patients, both in terms of self-reporting their conditions and reducing treatment costs. In Los Angeles, the sharing of food hygiene information (which had always existed, but in separate areas) led to a cut in food poisoning of 13.3%. Finally, 'wired communities' (those with shared internet areas) seem to have more knowledge about their neighbourhoods than others.
- Despite this, there have been some concerns that the Government is not yet committed to these ideas. NetMums complained that, after holding 20 meetings with the Government, no relationship was established as their work did not fit the standard template.
- The remainder of the talk centred on 4 recommendations from the 'Power of Information' review. These are recommendations 4, 6, 8 & 10, which can be found in the appendix to these minutes.
- Recommendation 4: The Trading Funds, alongside OPSI, need to promote the development of the non-commercial re-use of PSI. Even a relatively small charge for PSI can be a barrier to internet initiatives from citizens.
- Recommendation 6: Government has a significant bank of highly useful information, but at present tends each for only one purpose (e.g. MP voting records kept as a simple list). However, web users have devised numerous ways of utilising information (for example, mySociety.org uses voting records to record most and least loyal party MP's, attendance percentages and other similar criteria). This innovation is best achieved if as many individuals as possible have access to PSI.
- Recommendation 8: PSI can be stored electronically in a variety of formats. This raises accessibility questions, as not all users may have the required software or websites. Some US states (e.g. Indiana) have specified formats for recorded PSI, this may not be practicable in the UK but PSB's should be responsive to public requests. The upcoming

PSI Bill should request that PSB websites have an area on them where users can ask for a piece of information to be converted into the format they require.

- Recommendation 10: In 2000-01, the Treasury clarified its stance on PSI, stating that it should be available at a marginal cost price (with the exception of Trading Funds information). A government study into the charging of information has been commissioned and is due to report by the end of the year.

Discussion

- One delegate asked how PSB's could police this system to ensure that information was not just being traded for profit. Tom Steinberg responded by stating that yahoo and similar search engines pass on information having already paid for it; if enough people have access to information, then it will be pointless for businesses to try and exploit such readily available PSI. He also said that licence enforcement departments could be pivotal in this.
- However, a delegate raised the possibility of users by-passing the application process for PSI, simply accessing it without prior warning. Also, was there not a difference between non-commercial users and those using PSI for commercial exploitation, as their motives for requesting access were entirely different? Tom Steinberg responded by saying that Trading Funds may change radically, but only if the benefits to the British economy can be proven to outweigh the loss of revenue any change may cause. He also quoted the example of the BBC 'backstage' project (www.backstage.bbc.co.uk), where internal information was given out to help volunteers create innovative websites.
- On the question of 'BBC Backstage', a delegate asked if there will be a smooth transition from the free use of data to a situation where companies and websites will be charged for information which has helped them expand? Tom Steinberg noted here that definitions can be blurred; for example, does a free access site which also runs advertisements count as non-commercial? At present, there is no functioning Government definition on this question, and a Treasury decision will be needed to resolve this matter. Another issue is the precise definition of 'public task', although OPSI will be trying to help in these deliberations, with the Forum being part of the consultation.
- The 'Power of Information' is available at www.commentonthis.com/powerofinformation, and provides users with the option of commenting paragraph by paragraph. The speaker then concluded by speculating on future progress. By 5 – 10 years, he hoped that PSI would be seen by citizens as a vital generator of information with a wide range of uses that was powering an information revolution. He also hoped that the Government would be more open and accessible, and would reach out to citizens via the internet; for example, a Defra spokesperson speaking for the department through a facebook entry or similar.

5. Office of Fair Trading CUIPI Update

Antoinette Graves, OFT

- The Government has now responded to the OFT's CUIPI report, and has accepted all but two recommendations. These two recommendations concerned the distinction between refined and unrefined data and the funding of OPSI. Both recommendations are currently being given further consideration.
- The OFT will work with the Treasury on improved pricing guidance. The document 'Managing Public Money' (www.documents.treasury.gov.uk/mpm/mpm_intro.pdf) sets out high level principles across a range of Government services. The document 'Charges for Information: When & How' (www.hm-treasury.gov.uk/about/open_government/opengov_charging.cfm) is being redrafted.
- In terms of Ordnance Survey, there remains a process of on-going constructive dialogue between OS and the OFT to resolve the issues highlighted in the CUIPI report.
- On the question of distinguishing refined and unrefined data, the 'Power of Information' has had significant influence here. Research on charging is currently underway in a government-sponsored study, and the findings are due in November 2007. Marcia Jackson stated that the Treasury are to present the findings at the next Licensing Forum.
- The question was asked as to whether PSB's should draw up formal action plans by Christmas 2007, as per one of the recommendations. Antoinette recommended that members take the issue up with BERR. Marcia Jackson will do so on members' behalf. She also felt that action plans would have to be specific on the extent of non-commercial re-use of information by licence.

6. Closing Statements and Date of Next Meeting

- Marcia Jackson introduced a new OPSI team member (David Gordon, Standards Adviser) to the Forum. She also requested that any agenda items delegates wished to see included should be emailed either to her or David Gordon.
- After discussion, it was agreed that the next Forum should take place in **January 2008**. No date was agreed upon, although some delegates did ask that it should not be a Monday, as this proves hard to attend.

David Gordon OPSI
10th September 2007

APPENDIX: RECOMMENDATIONS 4, 6, 8 & 10, POWER OF INFORMATION REVIEW

Recommendation 4.

To encourage innovation in the re-use of information by non-commercial users, UK trading funds should, in consultation with OPSI, examine the introduction of non-commercial re-use licences, along the lines of those pioneered by the BBC's Backstage project and Google Maps.

Recommendation 6

To promote innovative use of public sector information, the Department for Transport, with the support of the Chief Scientific Adviser's Committee, should complete the partially undertaken scoping and costing of a 'data mashing laboratory' and advise the Cabinet Committee of Science and Innovation on appropriate next steps.

Recommendation 8

To improve government's responsiveness to demand for public sector information, by July 2008 OPSI should create a web-based channel to gather and assess requests for publication of public sector information.

Recommendation 10

To ensure the most appropriate supply of information for re-use, government should consistently apply its policy of marginal cost pricing for 'raw' information to all public bodies, including trading funds, except where the published economic analysis in recommendation 9 shows this does not serve the interests of UK citizens.