

Minutes of Meeting of Licensing Forum

28th January 2009

Met Office, Exeter

Present:

Nick Benson	(Chair & Speaker)	Met Office
Gil Ross	(Speaker)	Met Office
David Humphries	(Speaker)	Intellectual Property Office
Adrian Nuttall	(Speaker)	Environment Agency
Tony Jardine	(Speaker)	Ordnance Survey
Stephen Keightley		Centre for Ecology & Hydrology
Carol Watts		Centre for Ecology & Hydrology
Mark Buckley		Companies House
William Pope		Driving Standards Agency
Chris Jarvis		Environment Agency
Elizabeth Morris		Environment Agency
Anita Evans		HM Revenue & Customs
Michelle Hambridge		Intellectual Property Office
Jane Allen		Land Registry
Averil Fairley		MHRA
Stuart Mathews		Met Office
Michael Robbins		Met Office
Beth Brook		Office of Public Sector Information
David Gordon		Office of Public Sector Information
Tim Padfield		Office of Public Sector Information
John Williams		Office of Public Sector Information
Andrea Buckle		Ordnance Survey
Muriel Adamson		UK Hydrographic Office
Susan Evans		Welsh Assembly Government

Introductory session

- After initial introductions and safety instructions, Nick Benson gave a short presentation on the Met Office and its experiences with regards to licensing its information. The organisation has been a trading fund since 1996, making the concept of 'public task' pivotal to its operations. As a trading fund, around 50% of its revenue is derived from the public weather service.
- Recent developments with implications for the Met Office include the Office of Fair Trading's 2006 Commercial Use of Public Information study, the Information Fair Trader Scheme re-verification of 2007 and the recent Cambridge Review. However, the Met Office has felt that there has been some confusion in policy over definitions of raw data and value-added material, whilst some other trends seem to blur the distinction between commercial activity and material produced as part of the Met Office's public task. The Cambridge Review's impact should be minimal, as it should only affect 1% of the Met Office's income.
- The Owner's Council (operated by the Met Office) has been working on defining the organisation's public task. Despite this activity, it has also been felt by the Met Office that recent statements by APPSI and BERR regarding the revision of the European Directive on Re-Use are moving towards restrictions being placed on Trading Funds, which could prove detrimental.
- After giving this presentation, Nick Benson then introduced the forum's first speaker, Gil Ross (Met Office), who would discuss the INSPIRE Directive

1. Progress in the INSPIRE Directive and the Met Office's Experiences

Gil Ross, Met Office

- Gil began by detailing his personal experience accumulated whilst at the Met Office. He has been a life-long staff member, and has worked on a range of areas ranging from forecasting and research to project management and strategic planning. He has recently been involved in the INSPIRE Directive as part of the metadata drafting team.
- INSPIRE (Infrastructure for Spatial Information in Europe) is the third of three Directives on opening public sector information for re-use. The 2003 Directive on Re-Use and 2004 Environmental Information Regulations have now been joined by this initiative. The first Directive was aimed at commercial re-use, the second for public information and INSPIRE is targeted at European bodies. In addition to this, the Shared Environmental Information System has been established as a portal for environmental data and has some implications for the policy area.
- INSPIRE has four main aspirations. These are to create better information, improve the flow of the information, consider the diversity across regions and member states and ensure that as much information as possible is shared.
- However, there are also some major problems to be addressed here. The main ones include data policy restrictions, a lack of cross-border co-ordination, insufficient standardisation

between member states and the fact that much of the data is, at present, not re-usable.

- INSPIRE sets some general rules to establish an information infrastructure, and has a deadline for transposition in May 2009. It has several components, which are metadata, interoperability, network services and data / service sharing. However, on the third of these themes, the Met Office uses some non-internet systems for some of its material, which may cause some difficulties.
- The Directive also lists 34 'spatial data themes' to demonstrate its remit. These can be found on page 5 of the document located at http://www.agi.org.uk/SITE/UPLOAD/DOCUMENT/policy/inspire_intro.pdf. Of these, the first 13 in annexes a) and b) have especially stringent specifications, whilst the other 21 can often be far less well defined.
- Although the Directive has to be transposed into UK law by 15th May, actual implementation is staged for different themes with the deadlines between 2011 and 2019.
- The Directive mandates organisations to make electronic data available, in particular anything relating to its public task and the environment. It also states that data must be available for regions where the UK Government has authority; however, this may be a moot point with regards to oceanographic material or anything concerning atmospheric conditions, whilst the Met Office's aviation information is used across the globe and may also prove difficult to legislate. The Directive also states that data where the UK or related agencies hold intellectual property rights should be made available, but many of the Met Office's databases contain joint rights.
- However, the Directive cannot dictate how member states and their agencies should implement this, as a result of subsidiarity. In addition, the question as to whether data which is already available for re-use needs to be changed to bring it into line with INSPIRE standards has yet to be resolved. Although there are some security exemptions in the Directive, these do not frequently apply to the Met Office, and it is bound to commit the Met Office to releasing more of our material for re-use and sharing.
- Thematic working groups have been established to specify a User Requirement and data specification for environmental data within the theme. In terms of the Met Office, there are questions regarding the re-use of data and the requirement for free access to view data along the lines of 'Google Maps' may cause some problems. However while there are constraints on the Member State in the Directive, these are upon the representative department (DEFRA). What constraints and penalties there may be on individual authorities will depend on the transposition to UK Law. At this point it looks like the UK Law will have "a light touch", without specific penalties for non-compliance.
- Also, some concerns over the potentially prescriptive nature of GIS standards have been raised. At present, it does give specifications as to the forms of GML or XML which can be used; even with the formal data specification created by the Thematic Working Groups, there may still be considerable development effort involved to create a workable data exchange format for each theme.

- Licensing implications are being reviewed by the Data Service Sharing Drafting Team. This has recently published its draft implementing rule which will be reviewed by 13th February 2009. The chair of the team is Claire Hadley (Ordnance Survey).
- EU organisations can dictate the information they would like to access. Where no licence currently exists, then there are two template licences which are provided by the EU. The 'Free Data' licence has many parallels with the creative commons model, whilst data purchase provisions have more limitations and restrictions. Once they have obtained it, the EU may be able to make data freely available to the public.
- It is presumed that restrictions will not be invoked where possible, and any which are put in place can only be drawn from a prescribed list. At present, the Met Office has a series of bilateral and multilateral agreements within the World Meteorological Organisation in which the agreements ought to be reflected in allowable INSPIRE restrictions.
- While this Licensing policy is still in draft form, many of the requirements seem to be in conflict with PSI constraints, and it is important to have the draft Implementing Rule properly reviewed.

2. Public Sector Intangible Assets

David Humphries, Intellectual Property Office

- A range of initiatives and reviews, such as "Lyons" have highlighted the significant potential within the public sector for maximising the impact of their intangible assets.
- The Trading Fund Review is due to report shortly as is the Power of Information Review. The Information Fair Trader Scheme and the Treasury's Operational Efficiency Programme.
- The objective of the project is to develop a cross Departmental framework to enable the public sector to maximise the impact of the intangible assets it generates or owns. The aim of this is not necessarily to promote commercialisation of intangible assets in the public sector but to consider how best to maximise the impact for the benefit of the United Kingdom as a whole. The IPO chairs a steering group which is driving the project forward. Membership is drawn from the policy Departments such as HMT, Cabinet Office, the Shareholder Executive, OPSI, and the Intellectual Property Office as well as some delivery Departments such as Department of Health and MoD.
- Many public sector bodies are unaware of their intangible assets, and the potential they have across society or indeed within their own organisations. If an organisation doesn't know what it owns or controls, it can't even begin to manage its assets. The Government spends approximately £8 billion per year on research, so there is significant public sector investment in intangibles. The Office of Fair Trading (OFT's) CUIPI report estimated that the value of public sector information could potentially double to around £1 billion (2007). PIRA have calculated a possible €68 billion of economic potential (2000). Important to emphasise that this is information only, which is a sub-set of the intangible assets definition.
- Intangible assets have a range of forms, including Crown copyright, research, know-how, trademarks, reputation and designs. This creates a wide range of issues across a wide range

of assets. However, they have a great deal of importance, particularly in terms of policy development and delivery, wider social and economic benefits and risk management.

- To inform the project, the IPO commissioned Deloitte to undertake a review of UK accountancy guidelines for intangible assets. This review uncovered that international accounting rules (IFRS) are being introduced in the new financial year. The new guidelines place a responsibility on organisations to consider the valuation of intangibles on the balance sheet. Whilst finance directorates knew of this change, policy divisions within the public sector were largely unaware of the changes.
- A perceived barrier to exploiting intangibles are the HMT rules which state that public bodies can only retain 20% above their forecast commercial revenue. Any surplus has to be reported to HMT. There is therefore little incentive to successfully commercialise intangible assets. The project is working with HMT to see whether there is any scope for all commercial revenues to be retained and reinvested in the delivery of the public task.
- So far, the project has completed some initial horizon scanning around the identification and valuation of intangible assets, has undertaken some awareness raising exercises and looked at the barriers and incentives to recognising intangible assets. The draft report we are producing as part of the project is aiming to highlight areas of best practice and we were grateful for the contributions from members of the Licensing Forum including the Environment Agency and Driving Standards Agency.
- The IPO organised seminars with the public and private sectors to inform the project and to raise awareness. The private sector meeting was chaired by Richard Allen of the Power of Information Review and attracted 20 senior delegates. It was noted that the private sector did not clamour for free access, but wanted greater clarity on the assets available and how they could be accessed.
- The public sector event attracted nearly 80 delegates and discussed issues around policy adding value, and the barriers and incentives.
- The Public Sector Intangibles project aims to report to David Lammy (Minister for Intellectual Property and Higher Education) at the end of February 2009, and to feed any recommendations into the budget process. These will focus on how we influence current policy initiatives and the development of practical steps to managing intangibles.
- We hope to identify around 5 public sector organisations as a pilot project to take them through a discovery process in order to appraise their intangible assets.
- Some questions were raised by delegates. Firstly, it was asked whether the public sector intangibles project would help tackle the barriers highlighted in Nick Benson's presentation. In response, it was noted that there were positive signs as HMT were actively engaging in this project.
- The issue of valuing intangible assets was raised and whether the project would aim to provide guidance on this issue. In response, it was highlighted that HMT were currently in the process of finalising their IFRS accounting guidelines. The Deloitte study had also given some guidance on how to value intangible assets. The aim was to publish these shortly and

for Licensing Forum members to be kept informed. The proposed pilot projects also aimed to take organisations through the valuation process and any lessons learned and best practice could then be circulated.

3. Assessing Datasets for Re-Use

Adrian Nuttall, Environment Agency

- The Environment Agency has a systematic approach to the process, with licensing forming part of the wider information request procedure. There are two stages; the data is assessed, and then the request itself. There is a formal procedure for pre-assessing data to be placed on the Information Asset Register, with a secondary procedure for where no formal assessment has taken place. Whilst there is generally significant room for discretion in the process, with public sector bodies having the ability to decide on information available for re-use, the Environment Agency has sought to increase transparency by minimising the element of discretion.
- 50 datasets have now been evaluated by these means, with another 50 currently undergoing appraisal. However, requests for other datasets can force us to move quickly in individual cases. The process involves a flow chart, with relevant action being taken depending on the answer to questions and the appropriate licence and charge being evaluated. The title of 'approved for access' granted at the end is a phrase that developed historically when the concept was applied initially to pre-assessing datasets for use in information requests only. Now that the term has a wider application, covering access, proactive supply and re-use, there may be differences the outcomes of approval for re-use and approval for freedom of information requests, even for the same material.
- There is a form used to evaluate the request, which covers both the legal questions and the practical issues of delivering the material. Each item of the dataset is appraised using a series of checks; these include whether the information is already on the public register, if it is legally safe to disclose the material e.g. taking into account privacy and commercial confidentiality or prior rights. Whilst the question of national security of disclosure may sound unusual, the Environment Agency have been told that giving out all information on the location of reservoirs and other aspects of potable water supply points could be problematic. There are also questions over whether the material is too subjective in tone (e.g. checking that flood defence works inspections are based on principles and specific criteria rather than a simple guestimate visual inspection), and whether there are legal concerns such as enforcement and the potential to prosecute. Finally, any questions of confidentiality, even if intellectual property rights themselves are not at stake, are considered.
- If a customer requests information they do not already hold, which is also not on the publication scheme and has not been published previously, then the assessment is required immediately. If a decision not to give access to the information is given, then a refusal is given in relation to access and it is not considered necessary to then consider re-use. However, if it was available under the freedom of information act, then the Environment Agency will either determine whether the information is on the information for re-use register or carry out an information licensing assessment in conjunction with the information owner.

- The Environment Agency will also determine whether the usage of the information has already been permitted, and if so whether any significant differences are present in this request. If an information licensing assessment is undertaken, then the question as to how the user will apply the information technically will be considered. These questions check the use against defined tests such as misleading to the end user or detrimental impact on the environment or the Environment Agency or its policies
- In terms of internal re-use, any concerns which are present will not lead to refusal but will be dealt with via appropriate warnings. Only in relation to external supply – usually by a value added reseller will refusal be considered.
- Despite the possibility of exercising discretion, the Environment Agency has accordingly sought to standardise its policy as much as possible. In terms of assessing the risk of allowing re-use, the risk is assessed. In general terms, a risk of 1 in 1,000 is perceived as usually being a safe risk to handle; however, 1 in 100 is unacceptable in terms of clearing a dataset for automatic re-use. With this level of risk a dataset must be assessed in relation to the specific request

4. Ordnance Survey 'Benefits of Licensed Data (BoLD)' Campaign

Tony Jardine, Ordnance Survey

- Tony started by establishing the content of the presentation. The main themes were defining the target for the campaign, factors influencing the development of BoLD, the end products resulting from their activities and how success was measured.
- One particular aspect that Ordnance Survey was hoping to address was that of the so-called 'Grey market'. Here, users were exploiting Ordnance Survey material without seeking full licensing terms and conditions in advance. There have been a range of estimates as to the revenue lost by Ordnance Survey through this activity; they tend to range from £1 – 5 million. Therefore, Ordnance Survey sought to establish the extent and nature of the grey market, reasons as to why people were acting in this fashion and how this market should be tackled through communication.
- Five land and property sectors were researched - architects, surveyors, planning consultations, engineers and environmental consultants. The Land and Property sector was chosen as there was a noted imbalance between use of Ordnance Survey material and revenue generated in this sector. Intelligence was also provided by Ordnance Survey's own market specialists, its Partners and Mapping and Data Centres.
- Users were asked a range of questions on the matter of licensing, including their reactions to statements such as 'I used to know the licensing terms and conditions but have not checked recently', 'it is not my responsibility to check if others have resolved their licensing matters' and 'I have more important things to do'.
- The responses showed some interesting trends. In 57% of cases, the person answering the questionnaire was the staff member responsible for licensing, but 15% of respondents either did not know who to contact or thought that no-one covered this matter. In general, it would

seem to be apparent that licensing is the responsibility of 1 or 2 staff members for each organisation.

- The research suggested most users are aware of existing licensing arrangements, and that they have some responsibility to comply; however, knowledge of specific terms and conditions can be limited. In addition, matters can become lax when information from Ordnance Survey is being received via a third party. There also seems to be some apathy about ensuring compliance with licensing arrangements, and that there is also a perception that these matters are not policed.
- As a result, the Benefits of Licensed Data campaign was launched. It is a three year programme, and intends to increase awareness about licensing responsibilities and the need to use properly licensed data. The campaign was launched in April 2008, and intends to promote the idea that this is about enabling users, not punishing them. Ordnance Survey wishes to change the culture in this market so that peer pressure will lead others to 'want to do the right thing'.
- Local authorities, professional bodies and other organisations connected with land and property services have been involved in BoLD. Best practice is an area of particular interest to Ordnance Survey. The campaign has sought to educate and inform professionals about the legal requirements to use licensed data, and provide clarity as to the types of licence available. The benefits, rather than the forfeits, were to be stressed; tone was identified as vital in this. A heavy-handed approach was quickly seen to have a counter-productive effect by the market research, and it was imperative to avoid such an impression.
- In particular, two messages emerged as particularly pivotal. Firstly, the individual's responsibility in ensuring that arrangements were properly observed, and secondly an appeal to professional integrity in their licensing activity. A unique brand needed to be established for BoLD, with the website using different aesthetics to the Ordnance Survey site. This website can be found at www.bestpracticemakesperfect.co.uk, whilst email and letterhead templates also stressed the new identity. A related media plan was constructed, including full page advertisements in the specialist press, and also a marketing toolkit was distributed to mapping and data centres, alongside land and property partners. Third parties were also allowed to sell the paper map copying licence. Finally, the Royal Institute of Chartered Surveyors and the Royal Institute of British Architects were amongst the organisations targeted by BoLD.
- In terms of evaluating success, sales will be monitored (in particular for new licences). Campaign awareness will also be measured, as will market research into professional attitudes. Finally, feedback from account managers, partners and other stakeholders will be assessed.

5. Arrangements for Next Meeting

Companies House (Cardiff) would kindly like to invite delegates to the next Licensing Forum. The event will take place in late May, and potential delegates will be notified once arrangements are confirmed.

John Williams, OPSI, 17 February 2009