

REVIEW OF THE OFFICE OF PUBLIC SECTOR INFORMATION'S INVESTIGATION OF A COMPLAINT

The Advisory Panel on Public Sector Information (APPSI) reviewed the Office of Public Sector Information's (OPSI) investigation of a complaint made by Intelligent Addressing against Ordnance Survey. APPSI's published report can be seen at <http://www.appsi.gov.uk/review-board/review-SO-42-8-4.pdf>

OPSI has studied APPSI's findings. There are three main areas where OPSI has fundamental differences with APPSI's findings. These are:

Public Task

APPSI concludes that the production of Ordnance Survey's Address Point product does not form part of Ordnance Survey's public task and therefore falls outside the scope of the Regulations on the Re-use of Public Sector Information (SI 2005/1515) (the PSI Regulations)

<http://www.opsi.gov.uk/si/si2005/20051515.htm> OPSI is concerned that despite the parties being in agreement that the supply of Address Point formed part of Ordnance Survey's public task and despite OPSI's own conclusion in line with that of the parties, APPSI proceeded to make a directly opposing finding without inviting representations on the point.

OPSI is concerned not only with this procedural aspect of the decision, but also its effect. The PSI Regulations were created to regulate and encourage the release of public sector information. OPSI believes that Ordnance Survey's public task extends beyond maintaining its fundamental geographic databases. APPSI, in taking a more restrictive view, would remove a considerable amount of important public sector information from the scope of the PSI Regulations.

Third Party Intellectual Property Rights

APPSI states that Address Point falls outside the scope of the PSI Regulations because it contains copyright material that is owned by a third party, namely Royal Mail. OPSI considers that, applying a purposive interpretation of the PSI Regulations, the presence of third party rights does not preclude the application of the PSI Regulations where there is no question of such third party rights being infringed. This is the situation in the case of Address Point where Royal Mail has granted Ordnance Survey the right to sub-license the postcode data within the context of Address Point. Again OPSI is concerned about the effect on the release of important public sector information if such a literal interpretation, as is adopted by APPSI, is accepted.

Relationship between OPSI and OFT

APPSI states that various aspects of the complaint raised competition issues which were more appropriate for the Office of Fair Trading to investigate. OPSI discussed this matter with OFT at the time the complaint was received under the terms of the Memorandum of Understanding between OPSI and OFT: <http://www.opsi.gov.uk/advice/psi-regulations/disputes-resolution/opsi-oft-memorandum-of-understanding-2005-08.pdf> and our joint assessment was that this matter properly fell within OPSI's responsibilities. One of the purposes of the PSI Regulations is to address competition issues and OPSI cannot, consistently with its statutory responsibilities under the Regulations, refuse to consider such complaints.

It is important that we now work with all the key bodies to resolve these issues and concerns while reinforcing the progress being made on the government's re-use agenda.