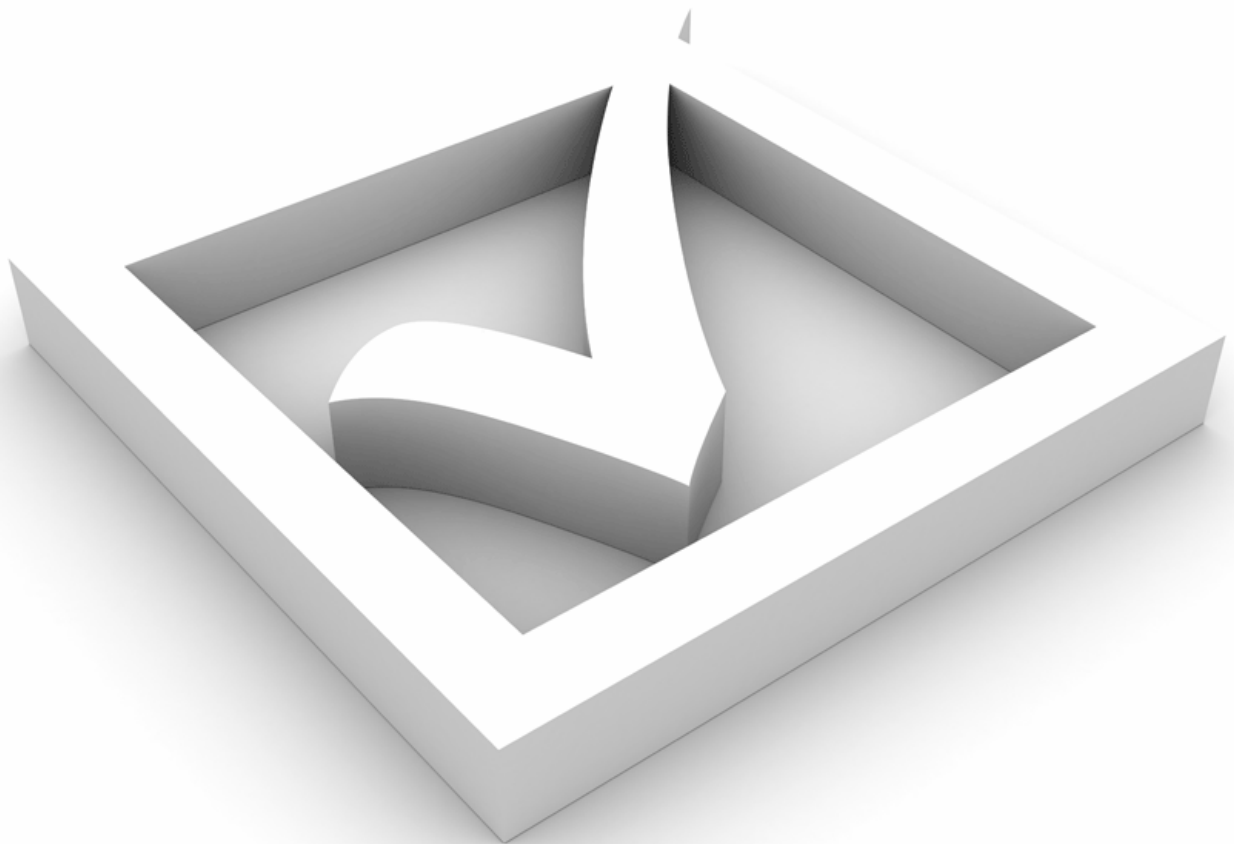


Information Fair Trader Scheme Report

Central Office of Information (COI)

July - September 2008



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Visit: July to September 2008
Report Published: November 2008
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PART ONE: INTRODUCTION

Information Fair Trader Scheme

1. The Information Fair Trader Scheme (IFTS) is the best practice model for public sector bodies wishing to demonstrate compliance with the Re-use of Public Sector Information Regulations 2005. IFTS accreditation ensures that re-users of public sector information can be confident that they will be treated reasonably and fairly by public sector information providers.
2. IFTS is also the mechanism by which the Controller of Her Majesty's Stationery Office (HMSO) regulates those Crown bodies with a delegation to administer their own licensing. All such bodies with a delegation must remain accredited to the Scheme. IFTS is also open to most public bodies to join voluntarily.
3. The Central Office of Information (COI) is a Trading Fund and is granted a partial Delegation of Authority. This means the licensing activity at COI is limited to specific datasets; in this case a film library and the Activity Database.
4. Accreditation is aimed at major public sector information traders and trading funds. It is based on a full audit of information trading activities and is intended for bodies that wish to meet a very high standard of compliance with IFTS principles and the Re-use of Public Sector Information Regulations 2005.
5. To be recognised as an accredited Information Fair Trader, a public sector body will:
 - Make a commitment to fair trader principles;
 - Have the commitment independently verified;
 - Investigate complaints that the commitment has not been met.
6. Once a Chief Executive has declared the commitment, the underlying administrative and decision-making processes of the organisation are examined to verify that they do in fact support the Information Fair Trading commitment of the Chief Executive.
7. COI was not accredited following the first verification in 2005 and re-verification in 2006. However since then COI has continued to work

towards IFTS full accreditation and to raise standards in licensing practices.

8. This report shows the findings and conclusions of the OPSI IFTS re-verification of COI in which commenced in July 2008 and concluded in September 2008.

First verification

9. COI underwent its initial verification in January 2005. At this time, OPSI identified some areas where the commitment to IFTS needed to be strengthened before COI could be accredited.

Re-verification

10. Re-verification is important as organisations change in structure, personnel and practices. It is also an opportunity for OPSI to ensure that the recommendations of the previous verification have been fully implemented. The frequency of re-verification is based on several risk factors including the complexity of the licensing system, how critical the information is and the standard of compliance at the first verification. As COI was assessed as high risk it was re-verified in 2006.
11. At re-verification in 2006 many of the recommendations had been implemented but those still outstanding were vital to achieving IFTS accreditation. Eight further recommendations were also made meaning OPSI were unable to accredit COI to IFTS at re-verification.
12. Since 2006 COI has made substantial progress and regularly updated OPSI on implementing all outstanding recommendations. This progress is outlined in Part Four of the report. At re-verification 2008 COI has been accredited to IFTS and is assessed as being medium risk in the future. Re-verification will therefore be scheduled in 2-3 years.

Licensing Activity at the Central Office of Information (COI)

The business of COI

13. COI was set up in 1946 to join up communication services across government. It became an executive agency in 1990 and a Trading Fund in 1991, reporting to the Minister for the Cabinet Office.
14. COI offers expertise across government and the wider public sector on delivery of marketing and communication programmes as well as procurement of communication services. This can include:
 - Press releases;
 - Marketing campaigns involving different media (i.e. TV, radio, print, internet);
 - Brand management;
 - Internal communications;
 - Conference organisation;
 - Design consultancy; and
 - Exhibitions organisation; and many other services.

Main types of information

15. The main types of information produced or held by COI are:
 - Marketing material commissioned or produced for other government departments and organisations;
 - Photo and film archive libraries held externally;
 - The Activity Database;
 - Photo archive held internally; and
 - Market research, other research and statistics.

Licensing

16. Licensing activity at COI is limited to the Activity Database (ADB) and a film library reflecting the partial delegation held by COI. The governance of licensing is managed centrally at COI headquarters in London, however the film library is housed at the British Film Institute (BFI) and the ADB is licensed from a satellite COI office in Leeds.
17. The external photo library previously managed by 'Stockwaves' is currently being transferred to The National Archives as public records

and will be licensed as part of The National Archives existing Image Library.

The Activity Database (ADB)

18. The ADB is a briefing, design and commissioning tool for both new-build and refurbishment of healthcare buildings. It is an integrated textual 2D and 3D graphical database licensed by COI on behalf of the Department of Health. The Department of Health (DH) works collaboratively with COI in the development and management of the ADB. However, COI have sole responsibility for licensing the ADB, which is conducted by a small licensing team.

British Film Institute (BFI)

19. The licensing of the main film library is managed by the British Film Institute (BFI). This contract replaces 'Film Images' which previously managed the film footage. BFI took over licensing the film library in December 2007 following open tender. The licensing activities of the BFI were assessed during the re-verification.

Photo library

20. The COI photographic library was previously managed by 'Stockwaves', although this contract had lapsed at the time of the last re-verification, which led to subsequent recommendations. COI has worked closely with The National Archives to find the best solution to this issue. The photo library was assessed by the National Archives with regard to meeting the required standards for preservation and access as public records. As such a number will be transferred to The National Archives Image Library for permanent preservation and access.

21. COI does receive some requests for other internally held information such as non-archived photos and market research data. COI has begun to work with HMSO to ensure these requests can be licensed, and has set up an internal process to manage and govern this. HMSO will undertake the licensing of these requests on behalf of COI.

Licensing Income at COI

22. COI will not receive any income from the licensing of its film library by BFI until year four of the contract, as this is initially covering housing and licensing cost while the practice is bedded in. The ADB, which is co-funded by DH and COI, also does not generate any income for COI as this also covers running and capital costs.

Overall Assessment

23. Since the first verification the Chief Executive has made a commitment to IFTS, but the team was unable to thoroughly test this commitment during the re-verification in 2006. Since then, COI have made a dramatic step towards good IFTS licensing practice through implementing several new internal policies, processes and infrastructures. Of special note, IFTS is now part of the corporate governance remit emphasising the increased priority put on IFTS responsibilities.
24. The previous main area for concern was the lack of transparency within COI. While there is still room for improvement, COI have demonstrated compliance with IFTS standards at this re-verification thanks to the increased level of commitment and formalisation of procedures.
25. At re-verification in 2006 the OPSI team expressed concern over the transparency of the licensing and re-use of the ADB. At re-verification 2008 the OPSI team investigated this thoroughly including in-depth interviews with all levels of ADB licensing staff and an in-depth review of the invoicing files and template contract. Again while there is still room for improvement, the transparency of the licensing practice has been improved since 2006.
26. Overall COI have worked hard to raise standards in its licensing practice and information management. OPSI will work closely with COI in the future to ensure this good work is continued and the recommendations are implemented to increase good practice.

Acknowledgements

27. The team appreciate the co-operation and assistance of COI and BFI licensing and management staff during re-verification.

PART TWO: KEY CHANGES

28. COI has implemented the majority of recommendations made during the previous verification. The level of licensing activity has not increased. There have been no significant changes to key licensing staff.

29. IFTS, licensing and PSI management has been centralised as a corporate governance objective. However, the delivery of licensing continues to be managed by organisations better placed to house and license the information such as BFI and The National Archives.

30. The current review of the Trading Fund model has raised the priority of IFTS as a strategic objective catalysing the improved practice in this area and increased commitment across the organisation.

PART THREE: HIGHLIGHTS AND AREAS FOR IMPROVEMENT

Openness

31. COI has made considerable progress for the principle of openness, meeting the IFTS responsibilities. The recommendations will improve this good practice further.

“In principle, the Chief Executive expects that all information created by the organisation will be licensed for any use, by any customer. While there might have to be exceptions to this, whether limiting the material licensed, prohibiting uses or limiting the customer base, the Chief Executive will be reluctant to allow exceptions and will explain why they are necessary.”

Information Asset Register (IAR)

32. The biggest highlight in Crown copyright management at COI is that a full information audit for the whole organisation has been completed. This has enabled clarification of what information held by COI can be licensed and also enabled the creation of the IAR. The management of subsequent re-use requests will be channelled centrally through the corporate governance team while actual licensing will occur at the Leeds office, BFI or by HMSO in some cases. This new corporate structure and formal process is commended as a solid foundation on which COI can continue to improve the re-use of information it holds.
33. Following creation of the IAR, COI has also developed a list of exceptions for re-users. The exception list created by COI is an example of good practice, having only four clearly explained reasons why a licence would not be legally possible.
34. **Recommendation: COI should continue to populate the IAR and add further detail to the description of the assets, such as COI consultancy reports, film and TV archives and historic radio material to aid re-uses and identify information easily.**

‘Stockwaves’ Film library

35. Due to complications outlined in the previous re-verification report, the collection of photographs previously managed by Stockwaves has been unmanaged for some time. This was restricting re-use and therefore a serious concern for IFTS. While this is still being finalised,

OPSI are satisfied that the current arrangement to transfer this collection to The National Archives will be successful. The National Archives is an accredited IFTS member, and will ensure that these photographs are accessible to the public in a fair and transparent manner. While this had not been completely finalised at the publication of the report, this had been agreed and was near completion.

36. Recommendation: COI to finalise the transfer of the ‘Stockwaves’ collection to The National Archives as a priority.

Licence review

37. The COI licences were found to be accessible overall and in plain English with few drafting errors. The full licence reviews can be found in Appendix three of this report. The BFI contract is quite a long document and the review found some onerous detail, which OPSI would encourage to be reviewed for better ease of use for licensees. In the review of the ADB licence, an issue affecting openness was raised for the confidentiality clause possibly restricting re-use. This is considered a wording issue rather than one in practice.

38. Recommendation: The wording of the ADB contract confidentiality clause to be clarified to ensure greatest understanding and no conflict of meaning with re-use.

Fairness

39. COI has several examples of good practice for the principle of fairness across in-house processes and policy to licensing practice by the ADB and BFI teams.

“All applicants and licensees should be treated alike for the same type of licence. The organisation should not use its market power to compete unfairly.”

40. COI has a clear policy to treat customers fairly. All interviewees were aware of this policy and why it was vital to treat customers the same for the same type of re-use. When interviewing BFI, OPSI were impressed that this policy has been so readily adopted by the organisation and found examples of good practice in the file review. As BFI settle into new licensing arrangement for Crown copyright, the principles of IFTS fit with the existing ethos of BFI. OPSI were also impressed with the

enthusiasm shown by the BFI licensing team and willingness to improve practice further.

41. The licensing process undertaken for the ADB is straightforward process, with no evidence to suggest that there is any unfair treatment. However the verification team did come across some legacy issues when conducting the licence file review, which are being addressed during the current internal changes to the delivery of ADB licensing. The licensing team were already aware of these historical issues relating to multiple licences.

42. Recommendation: The legacy issues regarding pricing of multiple licenses and regional licensing agreements should be addressed as part of the ADB review.

Transparency

43. Transparency was a key concern at the last verification and COI has done considerable work on improving this, particularly on the website and in the new contractual arrangements with BFI. COI meet the principle of transparency and continue to improve its practise inline with its IFTS responsibilities.

“Applying for a licence, not only the process, but prices, the considerations influencing price policy, and any exceptions to the principle of openness, should be explained clearly and simply in accessible public statements. Licensees and applicants for licences should be given reasons for decisions and the reasons should be consistent with public statements and Information Fair Trader principles.”

44. The significant work undertaken by COI on the website can be found in Appendix two of this report. COI have also put a link direct to the re-use policy and licensing section of the website on the front page of the COI website which maximised publicity and access to this information.

45. The exception list based on information audit is easily accessible on the COI website and clearly explains the justifiable reasons for refusing a licensing or access to information.

Licensing process

46. As COI cannot store film footage in house, when the Film Images contract expired the contract was tendered and awarded to BFI to take over the licensing of this data. BFI already has strong licensing processes in place and are experts in managing film footage. The licensing staff at BFI are enthusiastic to comply with IFTS as this fits with existing BFI good practice. COI consulted OPSI on the contractual arrangements with BFI to ensure IFTS responsibilities were explicitly outlined.
47. The licensing process at BFI is straightforward, standardised and delivered within a short time frame. There is a clear pricing policy based on industry standards, which is accessible to licencees. The standard contract terms and conditions for BFI are not directly accessible on the COI website.
48. **Recommendation: To add a link to the BFI standard terms and conditions and Pricing policy on the COI website to maximise transparency for this relationship.**
49. For the ADB the licensing process is straightforward with a standardised pricing policy fairly applied. Both the standard contract and pricing policy are accessible on the COI website which is an example of good practice. The licensing process for the ADB is being reviewed to become further automated and this will further increase the transparency of the process for licencees.

Re-use policy

50. At COI much work has been undertaken to improve the transparency of the information it holds for potential re-users and to formalise the processes and policies. The increased understanding of Crown copyright was also evident and the centralisation of the function in the corporate governance team will further increase the audit trail for licensing decision-making and delivery.
51. **Recommendation: COI to continue to work closely with OPSI to further develop re-use and licensing policy as part of the corporate government agenda.**

Compliance

52. With the significant work done by COI to fulfil its responsibilities under the IFTS commitment, it has met a good level of compliance with the

principles of IFTS. There is still opportunity to improve as detailed in recommendations made but overall COI can be commended for the distinct improvement in Crown copyright licensing management.

“Chief Executives agree to test their organisations by an independent verification to find out whether they have the infrastructure to deliver their commitments to openness, transparency and fairness. The verification tests whether the administrative processes are actually followed in practice.”

53. COI has worked with BFI to ensure IFTS principles are met in working practice and OPSI found several examples of good practice at BFI on site in interviews and file review. BFI meet a high standard of compliance with IFTS principles. One area raised at verification which OPSI would encourage COI to monitor, is breaches in Crown copyright where film footage is appearing on the Internet without licensing. OPSI is aware of the difficulty in monitoring this and is encouraged that BFI are experts in managing digital media and the accompanying inevitable risks.
54. The COI ADB team based in Leeds are currently reviewing the licensing process undertaken, including contractual and pricing arrangements. The ADB licensing complies with the standard of IFTS principles, with opportunity during the review process to further develop practice inline with the principles.
55. **Recommendation: It is recommended that any changes to ADB licensing and pricing policy are reviewed in line with IFTS principles. OPSI would encourage consultation during this process to maximise good practice.**
56. During interviews, all staff across all teams and positions were aware of the commitment to IFTS and the meaning and implication of Crown copyright on licensing and use of information. It is important that COI ensure business continuity for IFTS responsibilities and to cement this good practice.
57. **Recommendation: COI should develop mechanisms for capturing licensing and re-use knowledge, internally and externally, to ensure the ongoing commitment to IFTS is met in the future, regardless of staff changes.**

Challenge

58. OPSI encourage IFTS members to seek feedback from licensees and investigate complaints to improve practice. To date COI has not received any formal licensing complaints.

“The organisation has a complaints process empowered to reconsider incorrect licensing decisions. OPSI can investigate the organisation's licensing decisions if they appear to be wrong.”

59. COI has implemented a complaints procedure, the details of which are published on its website. It also mentions the right to refer the complaint to OPSI, which is good practice. COI are open to dialogue in how to improve its practice and OPSI would encourage COI to maximise this through licensee feedback mechanisms.

60. Recommendation: COI need to ensure re-users accessing Crown copyright through the BFI and ADB websites are aware of the information on IFTS and the OPSI complaint route. Therefore COI must ensure that BFI and the ADB websites have a clear link to the COI home page with this information.

PART FOUR: PROGRESS since verification 2006

Principle	Recommendation - It is recommended that:	Priority	Status
Openness	COI conducts a full information audit and catalogues the information to ensure customers are aware of what is available for re-use. Once this has been done, COI will be in a position to clarify the licensing arrangements.	High	Complete
	COI should familiarise itself with the licensing practices of the archive to ensure that customers are treated fairly and comply with IFTS and the PSI Regulations.	High	Complete
Fairness	COI should familiarise itself with the licensing practice for the Activity Database and ensure that it is satisfied that customers are treated fairly.	Med	Complete
	COI should bring its licensing activity back under internal control. If this is not possible, it should work closely with OPSI to ensure that the contract covers the necessary clauses, such as the importance of adhering to IFTS principles and allowing OPSI the right to conduct onsite audits of the company contracted to manage and administer the licences.	High	Complete
Transparency	COI conduct an information audit and expand its IAR to cover all material available for re-use.	High	Complete
	It is recommended that COI update its website in line with comments made in the website review.	Med	Complete
	It is recommended that COI publishes a copy of its standard licence on its website, as well as the charges encountered. It is recommended that COI amend its licences in line with the comments in the licence review.	Med	Partially complete

Compliance	COI should aim to increase the level of transparency in its licensing activity, including with relation to Film Images.	Med	No longer relevant to Film Images
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APPENDIX 1: SUMMARY OF RECOMMENDED ACTIONS

This is a summary of the 9 recommended actions to:

- Remedy the weakness identified; and,
- Strengthen the commitment to Information Fair Trading.

Principle	Ref	Recommendation	Priority
Openness	34	COI should continue to populate the IAR and add further detail to the description of the assets, such as COI consultancy reports, film and TV archives and historic radio material to aid re-uses and identify information easily	Med
	36	COI to finalise the transfer of the 'Stockwaves' collection to The National Archives as a priority	High
	38	The wording of the ADB contract confidentiality clause to be clarified to ensure greatest understanding and no conflict of meaning with re-use	High
Fairness	42	The legacy issues regarding pricing of multiple licenses and regional licensing agreements should be addressed as part of the ADB review	Med
Transparency	48	To add a link to the BFI standard terms and conditions and Pricing policy on the COI website to maximise transparency for this relationship	Med
	51	COI to continue to work closely with OPSI to further develop re-use and licensing policy as part of the corporate government agenda	Med

Compliance	55	Any changes to ADB licensing and pricing policy are reviewed in line with IFTS principles. OPSI would encourage consultation during this process to maximise good practice	High
	57	COI should develop mechanisms for capturing licensing and re-use knowledge, internally and externally, to ensure the ongoing commitment to IFTS is met in the future, regardless of staff changes	Med
Challenge	60	COI must ensure that BFI and the ADB websites have a clear link to the COI home page with the information on IFTS and complaints	High

APPENDIX 2: IFTS Website Assessment

Organisation: Central Office of Information
Site available at: www.coi.gov.uk
Date assessed: 29th September 2008

- 1.1 Does the website have an Information Asset Register? **Yes**
Added in August 2008 as part of IFTS; now clearly signposted
<http://www.coi.gov.uk/information.php?page=79>
- 1.2 If yes, how many clicks is it from the homepage? **1**
- 1.3 How long did it take to find? **Less than 1 minute**
- 1.4 If there is no IAR, is there other guidance on what information is available?
N/A

- 2.1 Does the PSB use standard licences? **Yes**
- 2.2 Are these published in full on the website? **Yes**
For example, Activity Database details available at
<http://www.coi.gov.uk/information.php?page=94>
- 2.3 If yes, how many clicks are they from the homepage? **2**
- 2.4 How long does it take to find? **1-2 minutes**
- 2.5 How many standard licences are there? Unclear, as inventory not published. However, main forms available (e.g. Film & TV Archive), clearly labelled.
- 2.6 Is there an explanation of what different licences are for and is it clearly understood? **Yes**

- 3.1 Is there any charge made for licences? **Yes**
<http://www.coi.gov.uk/information.php?page=94>
- 3.2 Is there an explanation of the charges? **Yes**
<http://www.coi.gov.uk/information.php?page=94>
However, an explanation of the rights of users, rather than a granular itemised description of the charges incurred.
- 3.3 Is there an explanation of how charges are drawn up? **Yes**
For example, Activity Database details at
<http://www.coi.gov.uk/information.php?page=94>

- 4.1 Is there an IFTS commitment on the website? **Yes**
<http://www.coi.gov.uk/information.php?page=78>
- 4.2 How many clicks is it from the homepage? **1**
- 4.3 How long does it take to find? **<1 minute**

- 5.1 Is there clear and precise information on how to apply for a re-use licence? **Yes**
<http://www.coi.gov.uk/contact.php?contact=32>

- 5.2 Are there a variety of methods for applying for licences? **Yes**
- 5.3 Is it possible to apply online for a licence? **Yes**
<http://www.coi.gov.uk/contact.php?contact=32>
- 5.4 Does it specify a timescale to grant licences? **No**
- 5.5 If yes, what is that timescale (in working days)? **N/A**
- 6.1 Does the PSB have a procedure for complaints regarding licensing decisions? **Yes**
<http://www.coi.gov.uk/information.php?page=93>
- 6.2 How many clicks is it from the homepage? **2**
- 6.3 How long does it take to find? **<1 minute**
- 6.4 Does it mention that if the complainant is unhappy they can refer to OPSI or APPSI? **Yes**
- 7.1 Does the website explain what information is not available? **No**
- 7.2 If Yes, does it explain why? **N/A**
- 7.3 How many items are listed? **N/A**
- 8.1 Does the website outline any exceptions to normal licensing policy? **Yes**
Details available at <http://www.coi.gov.uk/information.php?page=199>
- 8.2 If Yes, does it explain why that exception has been made? **Yes**
- 8.3 How many exceptions are there? **4**
- 9.1 Does the website have a Crown Copyright notice? **Yes**
<http://www.coi.gov.uk/information.php?page=18>
- 9.2 Is it linked to from every page? **Yes**
- 9.3 How many clicks is it from the homepage? **1**
- 9.4 How long does it take to find? **<1 minute**
- 9.5 Is OPSI/HMSO mentioned, with contact details? **Yes**
- 10.1 Does the website have an electronic search facility? **Yes**
- 10.2 If yes, how many clicks is it from the homepage? **0**
- 10.3 How long did it take to find? **<1 minute**
- 11.1 Is the material available by electronic means? **Yes**
- 11.2 Is it possible to download direct from the website? **Yes**
- 11.3 If data is not available electronically, is there an explanation of how to obtain it? **Yes**
- 11.4 If data is sent via email, is there a specified timescale for delivery? **No**
- 11.5 If yes, what is the timescale? **N/A**
- 12.1 Does the PSB outline its responsibilities under IFTS on their website?
Yes
<http://www.coi.gov.uk/information.php?page=78>

- 12.2 Does the website explain what IFTS is aiming to achieve? **Yes**
- 12.3 Are the benefits of IFTS explained? **Yes**
- 12.4 Is the PSB using IFTS logos on their website and actively mentioning they are a member of the scheme? **Yes**
- 13.1 Does the PSB outline its policy towards its trading of PSI? **Yes**
<http://www.coi.gov.uk/information.php?page=77>
- 13.2 Does the PSB explain how it arrives at decisions? **No**
- 13.3 Does the website have an explanation of what re-use is? **Yes**
- 13.4 Does the website explain what Crown Copyright is? **Yes**
<http://www.coi.gov.uk/information.php?page=18>
- 13.5 Does the website explain why licences are sometimes needed to re-use information? **Yes**
- 13.6 Does the website explain the difference between FOI and re-use? **Yes**
- 13.7 Does the website explain what a trading fund and delegated authority is? **Yes**
<http://www.coi.gov.uk/documents/framework.pdf> However, this document dates from 1998, therefore not strong on IFTS or PSI Re-use Regulations.

The website has undergone some extensive and commendable construction work. A prime example is a comprehensive and clear Information Asset Register. The material available for re-use is now clearly labelled and explained, as are the potential exceptions to this policy and charges made for re-use licences. As a result, this now allows users to access the relevant information quickly and precisely. This means it should prove productive for potential licencees, both those with IT experience and those new to electronic media. The remedial work requested by OPSI has been undertaken and is exemplary in many respects.

APPENDIX 3: LICENCE REVIEW

REVIEW OF STANDARD LICENCE TERMS AND CONDITIONS

1. BRITISH FILM INSTITUTE CONTRACT

Evaluation Criteria

1. Clarity of licence terms

The contract is excessively long with some drafting issues such as several typographical errors, redundant clauses that are declared ineffective elsewhere and references to clauses, which do not contain the relevant information. The passage on the expiry of Crown copyright is unclear and there are some unnecessary details in some areas.

2. Comprehensiveness of licence terms

The contract contains no break clause, enabling either party to seek termination voluntarily on mutually agreed terms.

The contract should be free standing and understandable without knowledge of the operations of the parties. Terms should therefore be explained and information given on where to find more detail if required. There are too many unexplained and undefined terms.

3. Fairness

Several clauses are one-sided, imposing obligations on the licensee with no, or a much lesser, corresponding obligation on the licensor. The extent of obligations should also be clear and fair, avoiding subjective terms such as 'inadequate' unless there is a proper definition of what they mean and how performance against them is to be fairly decided. The licensor would not have an exclusive and arbitrary right to vary the contract.

4. Consistency

The clauses referring to Crown copyright first acknowledge that some materials (notably some films) are no longer in copyright and that others are in 3rd party copyrights, but subsequently demand that all titles give an acknowledgement of Crown copyright.

5. Practical Arrangements

There are no points to note on practical arrangements

6. Restrictiveness of terms

Any variation to the contract should be as a result of negotiation, on the terms and on any consequent change in the contract price. No change should be enforceable until agreed.

7. Additional Comments.

No further comments

2. ACTIVITY DATABASE LICENCE

Evaluation Criteria

1. Clarity of licence terms

The licence is written in plain English and it's meaning is clear.

2. Comprehensiveness of licence terms

The licence lacks an explicit grant of rights. Without this it is unclear what the licensee is allowed to do in terms of re-using the ADB.

3. Fairness

The licence does not appear to contain any clauses which would discriminate unfairly between user groups or which are unfair.

4. Consistency

There seems to be an inconsistency between sections 3.1.1, 5.2 and 5.3. 3.1.1 restricts use/copying to just that expressly provided for in the document and 5.2 says that where such rights are used they must be accompanied by a copyright statement. However, as previously stated, there is no explicit grant of such rights. The inconsistency emerges where 5.3 explicitly requires that all ADB data be treated as strictly confidential, and not be disclosed directly or indirectly. This would appear to curtail any of the reproduction permissions alluded to previously.

5. Practical Arrangements

The payment schedule is clear and the document includes contact details for the officers responsible.

6. Restrictiveness of terms

3.1.2 prohibits several activities which effect re-use. The most relevant are those on the modification or creation of derivative works based on the ADB.

As discussed previously the confidentiality clause restricts the disclosure, and hence re-use, of any ADB data directly or indirectly. Additionally there is an undeleted editorial comment in 5.3 which could reinforce a negative reading. Revision of this comment is recommended.

7. Additional Comments

We would suggest the inclusion of a grant of rights, stating positively how a licensee is able to re-use the ADB and/or the data it contains. This would clarify the elements of the licence which deal with re-use.