



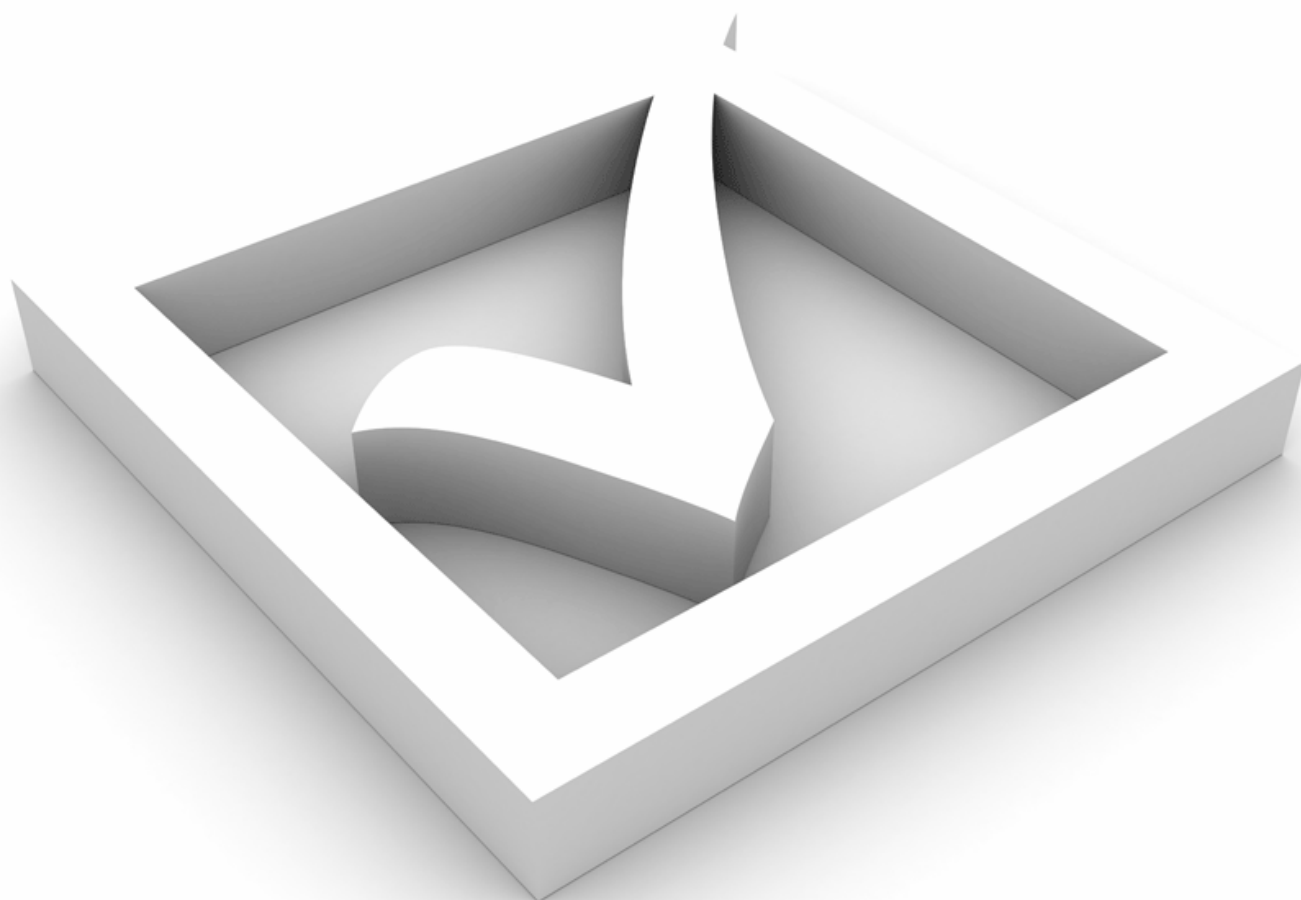
OPSI

Office of Public Sector Information

Information Fair Trader Scheme Report

Ministry of Defence

May 2009



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PART ONE: INTRODUCTION

Information Fair Trader Scheme

1. The Information Fair Trader Scheme (IFTS) is the best practice model for the public sector to demonstrate compliance with the Re-use of Public Sector Information Regulations 2005. IFTS 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 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. The Ministry of Defence (MoD) has such a delegation.

First verification

3. The MoD was first verified in December 2005 and accredited in 2006. There has been regular contact with the Office of Public Sector Information (OPSI) since accreditation.

Re-verification

4. Re-verification is important as organisations, and the staff who support them, change and develop. It is also an opportunity for OPSI to ensure that recommendations from the previous verification have been fully implemented. The recommendations made after the December 2005 visit, and the MoD's progress in meeting them, can be found in Part Five of this report.
5. The frequency of re-verification is based on several risk factors. These include: the complexity of the licensing system; how critical the information is, both to the body in question and to the public; the standard of compliance with recommendations from the previous verification; and the degree of policy change required. The Ministry of defence was assessed as being medium risk and as such formally re-verified within 2-3 years.

The Business of the Ministry of Defence

6. The MoD's main objectives are to defend the United Kingdom and its interests and to strengthen international peace and stability.
7. The Defence Intellectual Property Rights (DIPR) team is part of the DG Defence Commercial (DGDC). The DIPR team is responsible for providing comprehensive advice, support and policy development and

guidance for the entire MOD and its agencies. This includes Defence Science Technology Laboratory (DSTL) which was also assessed as part of this re-verification.

8. DSTL is the centre for scientific and engineering research in the MOD.

Licensing and trading in information at the Ministry of Defence

9. The DIPR team has sole authority within the department to authorise the re-use of MOD's intellectual property. It does not handle the licensing for the MOD trading funds. The licensing activity of the MoD deals primarily with patents, trademarks, and copyright.
10. The team's other key activities include: preparing, filing and prosecuting of patents, trademarks and design applications on behalf of the MOD; exploitation of MOD intellectual property such as Crown copyright; providing the supporting financial services such as invoicing; functioning as a source of training and expertise within the Department.
11. The MoD has a delegation from HMSO to license the Crown copyright and database rights in a wide range of its materials. The delegation covers the following categories:
 - Technology (Including technical data)
 - Software
 - Copyright text e.g. training manuals and other graphical works
 - Defence standards
 - Badges, crests, logos and other insignia
 - Medals
 - Articles published in MoD-produced journals
 - Film footage or video clips
 - Still photographs
12. Core information, such as statistics and other written material, is generally covered by the HMSO Click-Use Licence. Core information is defined as being essential to the business of government; explaining government policy; being the only source of the information; setting out how the law, in both UK and EU, must be complied with; and there may be a statutory requirement to produce or issue such information.
13. DIPR also provides advice to other government departments and trading funds on intellectual property issues including the Met Office, Department for Trade and Industry and Office of Government Commerce.

Overall Assessment

The MoD DIPR Team has taken its commitment to IFTS seriously and has achieved a satisfactory level of compliance with the IFTS principles. Its staff have a high level of expertise in intellectual property rights and DIPR have drafted clear policies and procedures for staff to follow to ensure their customers are treated fairly. The MoD DIPR team is open about the information it holds and requests for re-use of information are always dealt with swiftly. DIPR is transparent in the publication of its licences and lets customers know what they can and cannot do with the information.

We would encourage the MoD to continue to maximise the re-use of the information it creates, and in particular to assess opportunities to proactively engage with the market. Furthermore they should seek opportunities to make material easy to locate and re-use via the web.

IFTS Performance Management Framework

The MoD has been re-accredited to IFTS and has scored as a medium-risk organisation when assessed against the OPSI risk criteria. The MoD can therefore expect to be re-verified in 2 to 3 years. Re-verification will focus on implementation of recommendations and key changes to the organisation.

Below is a summary table rating the MoD current position against the IFTS principles. We fully expect these indicators to move in a positive direction as the MoD continues to expand and develop re-use.

Maximisation		Satisfactory
Simplicity		Satisfactory
Transparency		Good
Fairness		Good
Challenge		Good

Innovation		Development area
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Exclusive Arrangements

It was brought to our attention that the MoD has in operation a contract for publishing the official version of details of procurement opportunities through a third party contractor, known as the Defence Contract Bulletin on a sole basis. The contract grants the third party free and sole use of MoD's information for a three month period. The third party then provides a value-added service to customers who pay a subscription.

Although this contract was placed under fair and open competition, with the majority of contract information available through other web portals and details of specific tenders available via the MoD, the contract does restrict the maximisation of re-use. OPSI has concerns about an arrangement that grants rights to publish public sector information on a sole basis, albeit during what is effectively a three month embargo period.

The Glover Report¹ recommends that, "by 2010, contract opportunities across the public sector should be advertised electronically [...] through a single, free, easy to search online portal." MoD is now, in conjunction with other Government Departments, looking to set up a new service that will enable the contract opportunity information to be made available free through a Government portal by the end of 2010.

The Re-use of Public Sector Information Regulations 2005 establish a prohibition against exclusive arrangements in most circumstances. Exclusive arrangements may be permissible where necessary for the provision of a service in the public interest. The MoD argues that publication of these procurement opportunities would not otherwise be possible at nil cost to the MOD budget. While other publication solutions may be possible, given the existing plans for change it would not be cost-effective and thus not in the public interest to end the current arrangement early. However, in the event that the portal is not available MoD has agreed to ensure that any future publication agreement will not contain sole or exclusive rights.

In the interests of transparency, OPSI will add details of this arrangement onto its list of exclusive agreements. This is in keeping with a request made by the European Commission.

¹ http://www.hm-treasury.gov.uk/glover_review_index.htm

PART TWO: ACTIVITIES CARRIED OUT BY THE VERIFICATION TEAM

Methodology

1. Building on the success of the Information Fair Trader Scheme since it was originally launched, and in response to policy developments such as the CUPI report, the Power of Information reports and the Trading Funds Assessment, OPSI has reviewed the IFTS process. It has produced a new IFTS Strategy² and Performance Management Framework³.
2. OPSI has introduced three new IFTS principles:
 - **Maximisation** – an obligation to allow others to re-use information;
 - **Simplicity** – facilitating re-use through simple processes, policies and licence terms;
 - **Innovation** – supporting the development of new and innovative forms of re-use.
3. These principles sit alongside the three existing IFTS principles of:
 - **Transparency** – being clear and up front about the terms of re-use, and the policies around it;
 - **Fairness** – applying terms without any discrimination;
 - **Challenge** – ensuring that re-use is underpinned by a robust complaints process.
4. Together with the new principles and performance management framework, the verification team considers the organisation's governance and culture, risk management, re-use policies, licensing, pricing, and approach to customer experience and feedback.

Documentation review

5. The organisation provided documentation in support of the Chief Executive's commitment which was reviewed by the team prior to the onsite verification.

People and Practices

6. In order to see how people in the organisation work and how their work is impacted by the Information Fair Trader commitment, OPSI interviewed a range of MoD staff at all levels who are involved in the policy or practice of providing information.

Licence File Review

7. A sample review of customer files was examined, including both the central MoD and its agency DSTL. The licence file review provides evidence of adherence to corporate policy and the Regulations in actual transactions.

² <http://www.opsi.gov.uk/ifts/ifts-strategy.pdf>

³ <http://www.opsi.gov.uk/ifts/ifts-performance-management-framework.pdf>

Website review

8. A review of the organisation's website was made from the viewpoint of a potential re-user of information – to assess how easy it was to use.

Licence review

9. The terms and conditions of a selection of standard licences were reviewed.

Complaints process

10. The customer complaints process was examined by the team. Consideration of the organisation's complaints process, both policy and practice, indicates how committed an organisation is to meeting customer needs.

Assistance provided by the MoD DIPR team

11. The team appreciates the co-operation and assistance of DIPR staff. Interviewees showed an awareness of the principles of IFTS and a comprehensive set of licences were provided to us in advance of our visit. Once on site, any supplementary documents that were requested were provided promptly.

PART THREE: KEY CHANGES

8. Since verification in 2005 the DIPR team has been renamed inline with internal reorganisation within the MOD. At the time of the initial verification in 2005, the DIPR team was known as the Intellectual Property Rights Group (IPRG) and sat within the Defence Procurement Agency (DPA). The change of name has not affected the day to day business of the team or its personnel.
9. Also since the first verification, the DIPR team has taken on Crown copyright licensing activities for DSTL, an executive agency of MOD. The level of Crown copyright licensing for this research body is minimal, concentrating mainly on patents. The centralisation of licensing does, however, reflect the DIPR team's experience.
10. The licensing of DSTL material is also indicative of an increased workload facing the DIPR team since the last verification. There have been some reductions in the overall number of personnel and the team has had to adapt working practice to cope with the increased demand.
11. The DIPR team have also developed a robust internal 'offsetting' policy to calculate the Public Relations value of Crown copyright material for the MOD and this is discussed in the next section of the report.

PART FOUR: HIGHLIGHTS AND AREAS FOR IMPROVEMENT

Maximisation

‘An obligation to allow others to re-use material.’

The DIPR team at MoD is performing against the Maximisation principle at a satisfactory level. The significant increase in workload within existing resources has impacted the team’s ability to maximise re-use. There has been an increase in the volume of licensing as well as having absorbed responsibility for financial services and invoicing.

Recommendation 1: In order to maximise re-use of MoD material the MoD should consider resourcing levels within the DIPR team.

The team can be commended for championing re-use across MoD and increasing the licensing of MoD Crown copyright. The DIPR team have brought its services up to full cost recovery, even in light of the pressure on resources.

The team also endeavour to provide comprehensive support to new licensees and all responses to requests to re-use MoD copyright are responded to within the 20 working days prescribed in law. In fact, the DIPR team achieve a licence turn-around time of around 2-3 working days. This is an example of best practice for the principle of maximisation.

The development of the new offsetting policy for re-use is an example of good practice in maximising access to MoD Crown copyright. The policy provides a calculation tool for offsetting the public relations value of licensing information against its commercial value. This increases the reach and potential of re-use while ensuring fairness with regards to abatement. This new process is a cross team initiative between DIPR and Defence Public Relations.

Recommendation 2: Adequate training and awareness raising is provided for front line public relations staff responsible for applying the offsetting policy to ensure compliance with the IFTS principles.

There are limited exceptions for re-use. One of the exceptions which does apply prohibits alteration of images, e.g. cropping or rotating. However, staff appear to have different understandings of the reason for the ‘no modification’ exception, including a perception that modification might in some way displace Crown copyright in MoD images.

Recommendation 3: Staff understanding of the exception prohibiting alteration of images needs to be consistent. The exception should be qualified and the reasons for it clearly explained in published guidance.

Simplicity

'Simple policies, processes and licences.'

DIPR has performed satisfactorily against the principle of simplicity. While some areas have achieved a good standard of compliance, others require further attention.

The number of licences for different uses could be rationalised. For example some closely related uses have different licences. As standard practice, the team regularly review individual licences based on customer feedback. However the licensing model itself would also benefit from review.

Recommendation 4: The licensing model should be reviewed to rationalise the number of closely related licences.

As mentioned and reflected in the licence review in Appendix 2 of this report, the licence documents are clear and can be easily understood in plain English. This is good practice and some minor adjustments have been suggested in the contract reviews which the team should take into account when reviewing the licensing model.

Transparency

'Transparency of licensing charges, conditions and procedures.'

The DIPR team has achieved a good level of compliance against the Transparency principle. Information, including standard terms & conditions and charging schedules, is available to re-users on the website. The team offers considerable support to licensees during the application process.

OPSI's review of the MoD website can be found in Appendix 3 of this report. The MoD passed the website assessment with a reasonably strong score. While there is clear, easy to follow information for potential re-users, the key area for improvement is how this information is initially located. The search function on the website could be improved and this would substantially increase the access to the information held in the licensing pages as well as better linking of these pages.

Recommendation 5: The DIPR team should consider the points raised in the website review to increase transparency of the licensing information held there.

The MoD has a clear charging policy which is consistently applied and customers are properly informed of the charges and calculations made. However, the offsetting policy, on which DIPR calculates whether a licence application warrants any discount for public relations value to MoD, is not currently available to the public. This means similar applications could

receive different treatment, particularly given advice on the MoD website which could be seen as conflicting with the contents of the policy.

Recommendation 6: The offsetting policy should be made available to the public alongside other key charging documents and terms & conditions.

Fairness

'All re-users must be treated in a non-discriminatory fashion.'

The DIPR team has met the principle of Fairness with a good standard of practice. Re-users of MoD Crown copyright can be assured of a high level of fairness in treatment when licensing Crown copyright. The team are also fair in the application of policies such as exceptions.

The development of an offsetting policy, which provides a process for applying discounts to licensing fees based on the public relations value of the re-use, is a positive step within the principle of Fairness. As noted above making the policy publicly available would improve transparency and consistency of application.

There is adequate standardisation with the terms and conditions of different licences as evidenced in the licence file review conducted on site. Due to increased pressure on resourcing, file management has not been given priority and this should be considered in future to ensure standard processes are maintained and an appropriate audit trail retained.

Re-users can be confident in non-discriminatory licensing practice when licensing MoD Crown copyright. There is also a sophisticated understanding of the PSI regulations and other relevant legislation such as the Competition Act within the team. This legal knowledge informs licensing practice.

Challenge

'A robust complaints process in place to reconsider licensing decisions.'

DIPR has achieved a good standard of practice against the Challenge principle. There appears to be a good standard of satisfaction amongst existing customers, as evidenced in the on-site file review. Customer feedback is taken into account when reviewing licence clauses. While the team demonstrate a good standard of practice with regard to Challenge OPSI would encourage further measures to enhance the user experience.

Recommendation 7: The gathering of customer feedback to inform business decisions should be formalised to further enhance a high level of user-centric service.

The DIPR team can be commended for maintaining a dialogue with OPSI outside of formal verification. This means OPSI can advise on any particular issues and are kept abreast of key developments.

Innovation

'Public sector information, and the licences for it, should be available in forms which facilitate innovation.'

Some development is needed in the MoD's performance against the principle of Innovation. The innovation the team has been able to facilitate is commendable in these circumstances, however much more could be done to fully maximise the potential of the intellectual property the DIPR team license.

Access and discovery are perhaps the most important development areas. While large numbers of MoD photographs are available online, re-users searching for other material, such as video or music, are unlikely to be able to source it from the web. Information on where to locate hard copy resources can also be difficult to obtain.

Recommendation 8: In order to foster innovation, improved methods of information discovery and access are needed. DIPR should seek further opportunities to make Crown copyright material easy to locate and use via the web.

There is a need for strategic thinking on the future challenges to Crown copyright management and exploitation at MoD. Such an approach could have assisted the development of video on-demand licensing policy. Future innovation would also be enhanced through consulting key stakeholders and re-users on policy and practice development.

Recommendation 9: DIPR must factor into its business planning the need to develop policies and practices which satisfy developing market demands and the needs of new technologies.

PART FIVE: PROGRESS

Recommendations of previous verification and if they have been met.

Principle	Recommendation	Progress	Status
Openness	Clearly state on the MoD website what information cannot be re-used (e.g. images of the wounded) and ensure that any refusals for re-use are clear.	The IPR team have done a fundamental website review, reorganising key licensing pages and links.	complete
	Promote requests for re-use of technological information by publicising this on the MoD website.	The IPR team are working with the publication scheme to link access requests with re-use	ongoing
	Update IAR to include all information available for re-use.	Upgrades to the Defence Image Database have improved discovery and access to MoD images. Discovery and access issues are subject to a further recommendation in this report.	ongoing
Fairness	Ensure discounts are applied fairly. Ensure that customers are made aware of discount policy for positive publicity, e.g. by publicising this on the MoD website.	This first stage has been completed, with a new offsetting policy being put in place. The second stage is subject to a further recommendation in this report.	ongoing
	Ensure that there are documented policies for charging and that these are published on your website.	Part of website review	complete

Transparency	Review policies on determining artistic merit.	This was completed as part of database review	complete
	Make necessary changes to website	Website review	complete
	Make necessary changes to licences.	There have been two reviews of the standard terms and conditions since the last verification	complete
Compliance	The exceptions list (e.g. full face images, images of the wounded) is published on the website, in addition to information about discounts.	Part of web site review	complete
	Consider Crown copyright training for key staff. OPSI would be willing to provide assistance for this	MOD will continue to ensure staff involved in licensing are aware of Crown copyright and re-use policy as well as IFTS responsibilities. However the key licensing function is carried out by the IPR team directly.	ongoing
Challenge	Ensure the policies are clearly published on the relevant MOD intranets and are distributed to complainants whenever there is a disagreement	Completed as part of website review	complete
	MOD publishes on its website the reasons for charging for re-use of Crown copyright information	As part of website review- MOD have simplified the information on the website and given links to the DIPR team directly for any queries.	complete

APPENDIX 1: SUMMARY OF RECOMMENDED ACTIONS

Principle	#	Recommendation	Priority
Maximisation	1	In order to maximise re-use of MoD material and to continue managing licensing on behalf of MoD, the DIPR team need an appropriate level of support.	H
	2	Adequate training and awareness raising is provided for front line public relations staff responsible for applying the offsetting policy to ensure compliance with the IFTS principles by all staff.	M
	3	Staff understanding of the 'no modifications' exception needs to be consistent, the exception should be qualified and the reasons for it clearly explained in published guidance.	M
Simplicity	4	The licensing model should be reviewed to rationalise the number of closely related licences.	M
Transparency	5	The DIPR team should consider the points raised in the website review to increase transparency of the licensing information held there.	M
	6	The offsetting policy should be made available to the public alongside other key charging documents and terms & conditions.	M
Challenge	7	Gathering customer feedback to inform business decisions should be formalised to further enhance a high level of user-centric service.	M
Innovation	8	In order to foster innovation, improved methods of information discovery and access are needed. DIPR should seek further opportunities to make Crown copyright material easy to locate and use via the web.	M
	9	DIPR must factor into its business planning the need to develop policies and practices which satisfy developing market demands and the needs of new technologies.	H

APPENDIX 2: LICENCE REVIEW

Review of Ministry of Defence Standard Fee Film Footage Licence

Evaluation Criteria

1. Clarity of licence terms

1.1.3 The term 'all media' would normally be taken to mean what it says. The use of such an all-embracing term to encompass only a few media is unclear and unhelpful, especially as the paragraph ends by excluding 'all other media'. The only media that are in fact allowed are broadcasting, on-demand transmission and showing on board aircraft.

2.3 See 3 below.

7.2 See 3 below.

2. Comprehensiveness of licence terms

9.2 The licence should allow for the continuing validity, even after termination, of licences properly issued by the licensee under 8.2.

3. Fairness

2.3 Who decides whether a programme includes 'derivatives, sub-standard or reject items'? It is unclear what these exclusions mean in practice and they could be unfair, for instance if the licensee chooses to be critical of MoD and MoD then decides the material is sub-standard. More expiation would clarify this.

7.2 Does this mean that the Licensor accepts liability for infringement of copyright in material it has supplied or not? Lack of knowledge about who is the owner of copyright is not a legitimate defence. It would be unfair to seek to exclude liability, so the two parts of this clause need to be made so that they are not contradictory and are fair to the licensee.

4. Consistency

4 These two sub-clauses bear no relationship with the heading and are in the wrong place. They should be moved to clause 2 and the heading should be deleted.

5. Practical Arrangements

3.1 This fee is a fixed one which bears no relationship to what is actually used. It would be interesting to consider the effect of instead charging a royalty based on what is actually used not what is licensed to be used. The minimum payment should be 'for 30 seconds' not 'of 30 seconds'.

5.1 It would seem sensible that the invoice should be sent special delivery to ensure receipt the following day and to provide evidence for both sides of receipt.

6. Restrictiveness of terms

2.5 'In perpetuity'. 'For ever' is a very long time, and would not be permitted by, for instance, the Freedom of Information Act under which a duty of confidence declines with time. The courts would also not accept a perpetual duty of confidence.

7. Additional Comments

7.1 1st line, add 'the' before 'Programme'

7.2 This should be re-written as suggested in 3 above, but in the current text, begin with: 'To the best of the Licensor's knowledge and belief he has good title to the licensed material and he...'

Review of Ministry of Defence Standard Film Footage Licence: BBC Public Service Rights

Evaluation Criteria

1. Clarity of licence terms

The terms of this licence are the same as the 'standard fee footage' licence, with an additional clause relating to the BBC, reviewed below

2. Comprehensiveness of licence terms

No comment

3. Fairness

There appears to be a serious risk of unfairness to others with these terms, which are additional to the standard licence and apply solely to the BBC. The intention is to deal with the BBC's special remit for public service broadcasting, but it is not the only public service broadcaster; Channel 4 has significant public service responsibilities and ITV still has some. The admitted difficulty is that the other broadcasters are permitted to fulfil their public service responsibilities in a commercial context whereas the BBC is not, so it is possible to express the additional 'public service' terms as applying solely to non-commercial activities. This should to be done consistently across all public service broadcasters in a non-commercial context.

Some but not all of the additional terms are described as exclusive, which is intrinsically unfair to any body that wishes to seek to provide similar non-commercial services, even if outside the scope of a Royal Charter. The MoD and the BBC should be called upon to justify every instance of this exclusivity.

Not all of the additional terms can strictly be ascribed to the BBC's public service role, and so should be made available to other broadcasters. The BBC is permitted for instance to show the programmes at festivals and to use the licensed material in promotional material and in publicity for its broadcasts.

The New Media Rights are all exclusive and appear to relate to the BBC's current web-based services but with the intention that they should also apply to future services using media yet to be available. This means a very broad definition of what is included within public service broadcasting and the services appear to be in direct competition with similar on-line services offered by others, including presumably non-broadcasting bodies. Certainly there is

direct competition for the BBC in the supply of broadcast material by downloads and streaming on the internet, and the internet services offered by the commercial broadcasters are not in themselves obviously commercial.

4. Consistency

No comment

5. Practical Arrangements

No comment

6. Restrictiveness of terms

No comment

7. Additional Comments

Review of Ministry of Defence Standard Crown Copyright Licence Letter
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Evaluation Criteria

1. Clarity of licence terms

The permission does not specifically spell out what rights are granted: it simply refers to the letter of application. This could result in ambiguity as to what has been granted. It is not clear whether the letter would also spell out what photographs are covered

It is not clear what the process of notification that a breach has taken place is.

2. Comprehensiveness of licence terms

It is common practice in the publishing industry to use permission style licences in the form of letters but it could be preferable to use the standard licence framework. This is because in the letter framework there is not the same scope for inclusion of provisions such as governing law and termination that you would find in a typical licence.

3. Fairness

No comment.

4. Consistency

Not everybody is required to pay VAT.

5. Practical Arrangements

The arrangements about payment look as though they could be protracted in that following issue of the permission a purchase order must be raised and then mod must raise an invoice and then the payment must be made. The point at which the licence comes into effect is not clear. It is assumed that most applicants would want to be able to use the material quickly. For example the licence coming into effect when issued. This also means that there is a lack of clarity as to how long the licence lasts for because there is no firm start date.

6. Restrictiveness of terms

If it is necessary to request a copy of publication in every case this would be restrictive. For example with web based publications a subscription could be required.

7. Additional Comments

Rather than mention the licensor could add clarity by referring to the MoD.

Review of Ministry of Defence Software Licence

1. Clarity of licence terms

I found the language of licence to be very legalistic, with some incredibly long and convoluted sentences, which makes it hard to follow and understand.

The **Records, payment and accounts** clauses were particularly hard to follow. More use of plain English is strongly recommended.

Clause 4.3 could be replaced by something as simple as, "All payments will be subject to VAT at the appropriate rate." This is OPSI licensing practice and takes into consideration cases where VAT would not be payable (e.g. by foreign licensees were there to be any).

2. **Comprehensiveness of licence terms**

No significant omissions noted. No unusual terms either.

3. **Fairness**

No comment.

4. **Consistency**

No comment.

5. **Practical Arrangements**

The majority of the practical arrangements were straightforward and easy to understand although the legalistic language is a concern, in that people unused to such language may struggle. The main concern, as mentioned before, was that it took several reads to understand the **Records, payments and accounts** clause.

Clause 9.1 raises the question as to whether MoD clearly identifies what, if any, third party material in the Licensed Material. This would be helpful to the Licensee so that they know what is excluded from this licence and where to go to get permission should they wish to include the third party material in their products.

6. **Restrictiveness of terms**

The definition of **Authorised End-users** seemed restrictive to me as MoD have to approve end-users of the Licensee's products created under this licence. This may be appropriate depending on the nature of the software licensed under this agreement but without that knowledge the need for authorisation of end-users is unclear.

7. **Additional Comments**

- a) Clause 3.3 is an example of a convoluted sentence that is hard to follow. The intention of the clause is not clear.
- b) At Clause 6.1bii and 7.3 in the copy of the licence I was given to review there is some text highlighted in red which seems to be drafting comments that need to be finalised or removed.

- c) Clause 13.2 – BERR no longer exists so references to BERR and contact details will need to be changed.
- d) Clause 17 **Dispute Resolution** should there be reference to the OPSI/IFTS/APPSI? That may depend on whether the material covered by this licence is considered PSI under the PSI Regs.
- e) Clause 18.2 is it worth considering notice being given by email as well?

APPENDIX 3: IFTS WEBSITE ASSESSMENT

Organisation: Ministry of Defence

Site available at: <http://www.mod.uk/DefenceInternet/home>

Date assessed: 30/04/09

- 1.1 Does the website have an Information Asset Register? (Yes)
- 1.2 If yes, how many clicks is it from the homepage? (4+)
- 1.3 How long did it take to find? (4+ minutes)
- 1.4 If there is no IAR, is there other guidance on what information is available? (Yes)
 - 1.1) <http://iar.mod.uk/>, contents are in need of updating and filling out.
 - 1.2 & 1.3) accessible through external search engine rather than website navigation.
 - 1.4) FOI publication scheme

- 2.1 Does the PSB use standard licences? (Yes)
- 2.2 Are these published in full on the website (Yes)
- 2.3 If yes, how many clicks are they from the homepage? (4+)
- 2.4 How long does it take to find? (2-4 minutes)
- 2.5 How many standard licences are there? (3-5)
- 2.6 Is there an explanation of what different licences are for and is it clearly understood? (Yes)

Click-Use PSI, photographic images, film footage. The navigation to the licences could be improved and consolidated.

- 3.1 Is there any charge made for licences? (Yes)
- 3.2 Is there an explanation of the charges? (Yes)
- 3.3 Is there an explanation of how charges are drawn up? (Yes)
<http://www.mod.uk/DefenceInternet/Copyright/FeesForUseOfModOriginCrownCopyrightFilmFootage.htm>
- 4.1 Is there an IFTS commitment on the website? (Yes)
- 4.2 How many clicks is it from the homepage? (4+)
- 4.3 How long does it take to find? (1-2 minutes)

<http://www.mod.uk/NR/rdonlyres/B4FA25F0-F376-4BB6-AB8D-BD0B1396BC5E/0/IFTScommitment.pdf>

- 5.1 Is there clear and precise information on how to apply for a re-use licence? (Yes)
- 5.2 Are there a variety of methods for applying for licences? (Yes)
- 5.3 Is it possible to apply online for a licence?(Including emailing a form (Yes)
- 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)
- 6.2 How many clicks is it from the homepage? (3)
- 6.3 How long does it take to find? (1-2 minutes)
- 6.4 Does it mention that if the complainant is unhappy they can refer to OPSI or APPSI? (Yes)
<http://www.mod.uk/DefenceInternet/Copyright/ComplaintsProcedure.htm>

- 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)

The MoD partial delegation covers a wider range of materials than are discussed in the main copyright policy section. It would be informative to have more information on these assets, what access is available and how they can be re-used.

- 8.1 Does the website outline any exceptions to normal licensing policy? (Yes)
- 8.2 If Yes, does it explain why that exception has been made? (No)
- 8.3 How many exceptions are there? (3)

Some of the exceptions are reasonable given potential Data Protection/Human Rights implications. Others are less so, for example: the exception regarding reversing of images should be explained, as it is difficult to conceive what implications are envisaged where an image was mirrored. The reasons for these exceptions should be detailed further.

<http://www.mod.uk/DefenceInternet/Copyright/UseOfCrownCopyrightImages.htm>

- 9.1 Does the website have a Crown Copyright notice? (Yes)
- 9.2 Is it linked to from every page? (Yes)
- 9.3 How many clicks is it from the homepage? (0-1)
- 9.4 How long does it take to find? (<1 minute)
- 9.5 Is OPSI/HMSO mentioned, with contact details? (Yes)
<http://www.mod.uk/DefenceInternet/Copyright/>

- 10.1 Does the website have an electronic search facility? (Yes)
- 10.2 If yes, how many clicks is it from the homepage? (0-1)
- 10.3 How long did it take to find? (<1 minute)
Reasonable search facility, although notably does not pick up <http://iar.mod.uk>. Possibly as this is a sub-domain.

- 11.1 Is the material available by electronic means? (Some)
- 11.2 Is it possible to download direct from the website? (Some)
- 11.3 If data is not available electronically, is there an explanation of how to obtain it? (N/A)

- 11.4 If data is sent via email, is there a specified timescale for delivery? (N/A)
- 11.5 If yes, what is the timescale (In working days)? (N/A)
<http://www.defenceimagedatabase.mod.uk>
- 12.1 Does the PSB outline its responsibilities under IFTS on their website? (Yes – most)
- 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? (No)
- 13.1 Does the PSB outline its policy towards its trading of PSI? (No)
- 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? (No)
- 13.4 Does the website explain what Crown Copyright is? (Yes)
- 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? (N/A)

Key Points:

Some key issues:

- Missing links between mod.uk and the information asset register iar.mod.uk.
- The IAR is sparse and out of date.
- Further information and links to other information assets are needed.
 - The MoD delegation covers more materials than are reflected in the MoD copyright policy pages. More information is needed to bridge this gap.
- The justification for some exceptions is unclear, e.g. no reversing of images. Re-users may find it difficult to understand why this exception exists.

“We do not provide details as to the identity of the copyright owner of non Crown copyright images,” This could conflict with regulation 9(4) on obligation to inform applicants of the identity of a relevant third party intellectual property owner, where known ([link](#)).