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Dear Minister,

APPSI's response to Ordnance Survey's new Business Strategy

At our last meeting on 8 June, I promised to send you APPSI's response to Ordnance Survey's (OS's) new Business Strategy, which we submitted to meet the deadline of the Shareholder Executive at the end of May. This document is attached at Annex A.

You will note that our response to OS's new Business Strategy sets out the Panel's overall views and also provides details of the key issues, as known at the stage when it was written. I am pleased to tell you that Jessica Skilbeck, Assistant Director at the Shareholder Executive who is leading on the delivery and implementation of OS's new Business Strategy has written to me, asking me to thank the Panel for the *'constructive manner in which the submission was written.'* She also said in her note that *'the response contains interesting "food for thought" for Shareholder Executive and Ordnance Survey in the next phase of the work on Ordnance Survey's strategy. In particular, Shareholder Executive will draw on it around the redefinition of Ordnance Survey's public task and the associated consultation. I also take some important messages about how we communicate the development of the work over the coming months.'*

As I said to you when last we met, it is however difficult to see below the high level concepts articulated in the OS Business Strategy; we expect matters to become clearer as more details emerge. It is obvious to us that much is already mutating within the group of various central government players. For example, it has now become clear that the purpose of the 'NewCo' referred to in our submission to the Shareholder Executive is not as we had initially understood but is primarily to act as a second marketing arm using the OS brand. It is not clear why this is needed, how the two arms inter-relate or how these relate to OS's public task. There is also a need to ensure that the 'NewCo' does not receive favourable treatment, whether directly or indirectly, compared with the wider commercial sector.

One aspect to which I should particularly draw to your attention is related to the definition of OS's public task. Following the publication of OS's new Business Strategy,

both public sector and private sector members of APPSI (and indeed, the comments made by a number of other parties set out on OS's own website) have all expressed a striking similarity of opinion about this matter and its practical resolution. We trust that this will be done in clear accord with the fourth principle enunciated in section 3.8 of the *Operational Efficiency Programme: Final Report* (April 2009) at Annex B. Perhaps surprisingly, there is no division between public and private sector individuals over the significance of this matter (I do not of course speak for Trading Fund representatives on APPSI since they have a conflict in this matter).

Another new development which we welcome is the publication on 24 June (in response to an FOI request on the part of *The Guardian*) of a paper produced for the then OS Minister which provides an international comparison of information trading by national mapping agencies overseas. Unfortunately this is so heavily redacted at present that it does not illuminate the issues very effectively. But, subject to the other organisations agreeing, a less redacted version is promised.

As you can imagine, members of the Panel are continuing to monitor developments as they occur both within government and outside. Jessica Skilbeck and her colleague from the Shareholder Executive will be attending our meeting in September to discuss more specific proposals with the Panel.

Various other developments have occurred of late which raise important points. Those which we wish to bring to your attention are:

- Four APPSI members recently met a French delegation on 23 June including:
 - Mr Alain Bodon, Inspecteur général des finances,
 - Mr Maurice Sportiche, from the General Council for Industry, Energy and technology
 - Mr Patrice Platel, from the Secrétariat général du gouvernement (the French Cabinet Office)
 - Miss Maud Iacomelli, policy officer at the French Embassy
 - Mr Benoit Chevalier, Economic Counsellor of the Ambassador.

The purpose of the meeting was to find out about APPSI's role and the UK's key issues relating to the re-use of PSI, as they are taking forward the French National Plan for Digital Economy, "France Digital 2012", announced by the government last October, which will require policies to be put in place to enable greater access and re-use of PSI. The group was very much in listening mode and appeared interested to hear the different perspectives from the private and public sectors, issues emerging from the pricing of psi re-use in the UK, and how APPSI's composition has helped to drive the information agenda forward. The group met OPSI colleagues the following day.

- The launch of a commercial competitor to Ordnance Survey's large scale mapping. This is being produced by a small UK firm which has created a new product (UKMAP) which is apparently free of all Crown copyright and the licensing terms for which are designed (it is stated) to avoid the complexity of the OS terms. This has been created by about 100 people, with much work out-sourced globally and using high technology. The important point to draw from this is that the availability of such technology reduces the 'entrance price' to new

organisations. Unsurprisingly, UKMAP will only cover urban areas out to the edge of the relevant Local Authority boundaries.

- The announcement on 29 June that NASA and the Japanese Ministry of Economy, Trade and Industry had released a free map of the world derived from 1.3 million stereo images collected by a Japanese sensor on board a NASA satellite. Though the detail of this is much lower than the most detailed OS mapping, it is certainly useful for some purposes and is entirely free from any licensing constraint. We can expect increasingly refined products of this sort in future.
- We noted the comments in the OFT Board papers (on the web) to the effect that they still had concerns that their recommendations on Trading Funds had not been implemented to their satisfaction in the government's announcement at the time of the Budget.
- We have also noted that the EU is taking infringement actions against Italy, Poland and Spain in regard to public bodies not being in alignment with the PSI re-use framework. These actions relate to meteorological and cadastral organisations. There is a school of thought amongst APPSI members that the UK is also vulnerable on this score.
- We have noted the speech by the Leader of the Opposition's on 25 June also making a strong commitment to opening up re-use of public sector information.

I regret the length of this letter but wished to keep you up-to-date. If you wish to follow-up any of the points raised above or in the attached submission, I would be delighted to talk again with you at your convenience.

Yours sincerely,

A handwritten signature in black ink that reads "David Rhind". The signature is written in a cursive, slightly slanted style.

David Rhind
Chair of APPSI

Annex A

APPSI's overall response to OS's new Business Strategy

The OS Business Strategy is considered within the context of the Operational *Efficiency Programme: Final Report* (OEP).¹

As widely acknowledged within government and outside, OS needs a new business strategy which is straightforward to manage, designed to support its customers, and which allows the organisation to grow confidently and build value on a competitive level playing-field. It is also essential that the new Strategy is such as to end the time-and effort-consuming friction which has existed in recent years between Ordnance Survey and the commercial sector; this has been in the interests of neither party – and certainly has not benefited innovation or enhanced services to the public. Based on this view, our overall response is two-fold:

- To welcome and acknowledge the principles enunciated as underpinning the Strategy and their importance in facilitating resolution of one of the longest running and most distracting issues in the public sector information world;
- To highlight many of the issues which need to be resolved before any Strategy can be realised and make some constructive comments on these.

Key issues emerging from OS's new Business Strategy

We welcome in particular the following:

- The Government's acknowledgement that the present Ordnance Survey business model is not working and requires reform.
- The OEP's clear commitment to the following public sector information principles:
 - "...information easily available – where possible at low or marginal cost;*
 - clear and transparent pricing structures for the information, with different parts of the business accounted for separately;*
 - simple and transparent licences to facilitate the re-use of information for purposes other than that for which it was originally created; and*
 - clearly and independently defined – with input from customers and stakeholders – core purposes ("public tasks") of the organisations..."*
- The Government's commitment to public consultation on the Ordnance Survey public task.
- Increased commitment to good governance by involving the OFT and OPSI in emerging governance structures.

¹ http://www.shareholderexecutive.gov.uk/publications/pdf/oep_final_report_210409_pu728.pdf

We highlight the following areas which require clarification or resolution:

LEVEL OF DETAIL

- The new OS Business Strategy is clearly work in progress; much is as yet undefined. We recognise this and, since its success and widespread acceptability depends crucially on these details, urge that progress is made as rapidly as possible.

THE PUBLIC TASK

- Unless the Ordnance Survey's public task is properly defined, the complaints which have made the present situation so difficult (and in particular, those complaints relating to cross-subsidy and unfair competition) will continue to bring further problems. Government's information policies will remain muddled and there will be enhanced exposure under competition law. Furthermore, without this definition there can be no clear separation of the public body and the 'Newco' ("Ordnance Survey will establish a wholly-owned subsidiary company") as set out in the Strategy. We accept that there will need to be periodic review of the definition of the public task as government's needs and commercial capabilities evolve and new technology is developed.

GOVERNANCE

- Given that the OS model will continue to be a fundamentally commercial one, there must be a Regulator with strong and direct powers to enforce fair trading. The existing powers, such as they are, do not appear to have been reinforced although several of the Government's own (and government-sponsored) reports pointed to the need to do so. We welcome the recommendation for "enhanced oversight" to be provided by the Office of Public Sector Information (OPSI) but clarification of what is intended is essential.
- Since there is currently no clear definition of OS's public task and how this will be different from that of the putative 'NewCo' we welcome the invitations to public consultation in this area. We also welcome the involvement of OPSI and the Office of Fair Trading (OFT) in setting this fundamental definition from which many other issues devolve.

PRICING AND RELATED MATTERS

- Government has committed itself to a paid licensing model for the provision of OS data:

"Government has decided that a model where a user pays a licence fee for Ordnance Survey data continues to be the most effective way of balancing the need to increase the availability of geographic information

to the wider UK economy and society whilst maintaining the quality of Ordnance Survey data.”

The bulk of APPSI members have supported the argument that UK PLC might be better off if data was licensed at purely marginal cost (as recommended in the OFT’s CUIP Study and the Cambridge Study). In line with past government practice it would be very sensible for government to publish the basis on which it has concluded that the existing model should continue; this could enable the public and the commercial sector to satisfy themselves that the decision was made on sound grounds and minimise unfruitful debate. We therefore welcome the statements by the Shareholder Executive and the Minister for Ordnance Survey that the evidence underpinning the policy will be published.

Some APPSI members remain puzzled why it is appropriate for the bulk of government information (e.g. all official statistics) to be made available at marginal cost whilst some other information is charged for. They suspect that this arises simply from being a legacy issue or because of the current financial crisis and the resulting state of the nation’s finances. Under the continuation of the present charging policy, however, other members remain convinced that there are three principles which should be followed (but which may not be followed on the basis of our current understanding). The first is that that OS licensing of data or otherwise providing support to its own commercial aims must only be done on terms which are identical to those offered to other organisations. The second is that prices should not be set higher than production cost of the relevant activity plus a reasonable profit otherwise innovative use will be inhibited. Whilst recognising that spinning off products from a common database complicates the attribution of costs, these members are concerned that OS will be free to determine the product price according to their own categorisation of use and the risk of product cross-subsidisation will continue. The third principle is that there should be a basic right to use data without constraint whether the re-user is in competition with OS or not.

SEPARATION OF “UPSTREAM” AND “DOWNSTREAM” BUSINESSES

- APPSI members were surprised to read and hear different descriptions of the OS ‘NewCo’. Our interpretation of the initial announcements of the new OS Business Strategy were that this company was to be a downstream sales and marketing enterprise; on this basis, defining its relationships with the rest of OS would be complex but manageable. We have since been told that its primary purpose is to foster innovation and that it is not part of an upstream/downstream split (analogous to the petroleum industry). It seems clear to us that much more thinking and debate on this is required to produce a rational sustainable and defensible model.
- In any event but especially if the end objective is to separate out the OS business in this upstream/downstream fashion, we stand ready to contribute to any third party review of how to make ‘Newco’ work effectively. Clearly, no ‘monopoly data’ should be transferred to the downstream body, upstream and downstream sales infrastructures and branding would need to be de-coupled and the licensing activities, being part of the public task, must remain within the upstream body, though separately accounted for so that appropriate costs may be passed on to customers.

NEW LICENCE MODELS

- We warmly welcome the intention to introduce a new licence model. The complexity of OS's standard licence terms has the effect of providing a barrier to re-use when in fact we should be looking encouraging re-use. APPSI also welcomes the direct involvement of OPSI in developing a new licence model for OS given OPSI's track record of developing simple transparent licences such as the Click-Use Licence. The challenge is to establish a licence framework that is transparent, simple, fair and enabling.

LICENSING APPLICATIONS TO NOT FOR PROFIT ACTIVITY

- We have two observations on Goal 1 ("Promote innovation for economic benefit and social engagement") of the Strategy viz. the OS Open Space Service. This provides for the favourable licensing of applications to

"individual developers and organisations such as commercial companies, local community groups, national special interest groups and smaller charities that will be able to develop applications as long as there is no direct commercial gain from the specific application itself."

- Our first observation is that this will be very difficult to define and to implement; and the second is that it is not clear whether this is the upstream (public task) part of OS which is doing the licensing, or the downstream (publicly owned but operating as a commercial company). APPSI members generally believe that OS should be doing the licensing; but if not, then that decision should be made by the Shareholders.

"THE CREATION OF AN INNOVATIVE TRADING ENTITY" (Goal 5)

- There is no reason why the creation of an innovative trading entity cannot be achieved. Nor is there any reason why the resulting profits could not contribute to the public task of the upstream body. However, the dividing line between basic public task activities and the value enhancing activities of a trading entity will be complex to define and police.
- We have heard of concerns about these changes damaging OS's ability to continue to produce high quality products. However we believe that there is a considerable investor² comfort to be derived from the "stickiness" inherent in long-standing public sector relationships. These will inevitably be retained within the upstream and downstream organisations. An example of this is The Stationery Office (TSO) which has lost only a handful of (and none of its principal) major public sector contracts since privatisation in the mid 1990s.
- Of great importance will be the issue of brand – and again, we would point to the gradual mutation over time of Her Majesty's Stationery Office (HMSO) into upstream HMSO/OPSI and into the downstream The Stationery Office (TSO) as

² In this case, the Shareholder Executive on behalf of Government but in the future possibly including private investors.

a relatively successful example of retaining sufficient brand association to add value and generate additional revenues.

Finally, and perhaps more fundamentally, APPSI members have been considering whether there are more radical economic approaches to revenue generation than the (modified) licensing mechanism. We have briefly reviewed the possible approaches to securing true valuations for public goods and the role of competition economics. Such alternative approaches may well have been considered in the government's own review. We would however be happy to discuss such embryonic thoughts.

Annex B

3.8 In carrying out the studies there has been close tie-in, where relevant, with the Trading Funds Assessment (see Box 3.A).

Box 3.A: Trading Funds Assessment

The first phase of the Trading Fund Assessment considered how a number of Government businesses could open up the information they create or hold as a result of carrying out their core public duties. The businesses were Met Office, Land Registry, Ordnance Survey, Companies House, Driver and Vehicle Licensing Agency and UK Hydrographic Office. Availability of the information produced by these Trading Funds generates opportunities for innovation, added-value and growth in both the wider economy and society. Accurate and easily available information enables the better delivery of public services and increased accountability of government.

The Assessment identified key principles of good practice relating to information produced by all Trading Funds. These principles are:

- information easily available – where possible at low or marginal cost;
- clear and transparent pricing structures for the information, with different parts of the business accounted for separately;
- simple and transparent licences to facilitate the re-use of information for purposes other than that for which it was originally created; and
- clearly and independently defined – with input from customers and stakeholders – core purposes (“public tasks”) of the organisations.

The Office of Public Sector Information will provide enhanced oversight and governance to ensure application of these principles across the Trading Funds that create significant amounts of information.

A new business strategy for Ordnance Survey has been developed (see Box 3.H) which also will ensure easier and simpler access to high-quality information.

Further work on the future business plans and models for specific Trading Funds - as well as consideration of the effectiveness of the Trading Fund model – will now be incorporated into the Operational Efficiency Programme.