



## *APPSI Secretariat*

The National Archives Kew Richmond Surrey TW9 4DU  
Tel: 020 8392 5330 ext: 2252 Email: [secretariat@appsi.gsi.gov.uk](mailto:secretariat@appsi.gsi.gov.uk)

Jessica Skilbeck  
Assistant Director  
Shareholder Executive  
1 Victoria Street  
London  
SW1H 0ET

29 May 2009

Dear Ms Skilbeck,

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

The Advisory Panel on Public Sector Information (APPSI) welcomes the opportunity to respond to Ordnance Survey's (OS's) new Business Strategy. Our response provides:

- An overview of APPSI
- APPSI's overall response to OS's new business strategy
- Key issues emerging from OS's new business strategy, as known at this stage.

### **APPSI overview**

APPSI is a Non-Departmental Public Body of the Ministry of Justice. Its members are drawn from a wide variety of backgrounds including: information providers; re-users and consumers of public-sector information; experts from academia and industry; representatives of producer and consumer groups; and representatives of the devolved administrations. Its role is:

- To advise Ministers on how to encourage and create opportunities in the information industry for greater re-use of public sector information;
- To advise the Director of the Office of Public Sector Information and Controller of Her Majesty's Stationery Office about changes and opportunities in the information industry, so that the licensing of Crown copyright and public sector information is aligned with current and emerging developments;

- To review and consider complaints under the Re-use of Public Sector Information Regulations 2005 and advise on the impact of the complaints procedures under those regulations.

### **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).<sup>1</sup>

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..."*

---

<sup>1</sup> [http://www.shareholderexecutive.gov.uk/publications/pdf/oep\\_final\\_report\\_210409\\_pu728.pdf](http://www.shareholderexecutive.gov.uk/publications/pdf/oep_final_report_210409_pu728.pdf)

- 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.

**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 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 CUI 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 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 investor<sup>2</sup> 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.

---

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

- 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 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.

If you wish to discuss any of the points set out in our response to OS’s new Business Strategy, please do not hesitate to contact me. APPSI will of course continue to monitor developments, make constructive proposals and advise Ministers as required under our remit.

Yours sincerely,

Grazia Zaffuto  
APPSI Secretariat

cc. Vanessa Lawrence, Chief Executive, Ordnance Survey  
Carol Tullo, Director, Office of Public Sector Information