

## **Ordnance Survey Consultation**

### **Submission from the Locus Association**

**January 2010**

#### **1. Introduction**

The Locus Association welcomes the chance to contribute to this consultation that the Department for Communities and Local Government (CLG) is holding into Ordnance Survey. Should CLG require any further information or clarification on any of the points raised then please let us know.

Locus would like to take this opportunity to underline its commitment to working with the Government, executive agencies, other Public Sector Information (PSI) holders and regulatory bodies towards the maintenance and development of a vibrant, information-driven UK economy that ultimately works to the benefit of the public sector, private sector and the end consumer.

#### **2. The Locus Association**

Locus was established in Autumn 2005 and formally launched in January 2006. The Association's President is a former Director General of the OFT and Oftel, Sir Bryan Carsberg.

The Association exists to raise awareness of, and promote the development of, a healthy and competitive private sector in relation to Public Sector Information (PSI), including PSI. Locus acts as a forum for exchange of information, keeps its members up to date with latest policy developments, and provides advice and guidance. Our members, which include Infoterra, TeleAtlas, Landmark, Intelligent Addressing and eMapsite, recognise the potential of PSI, but also the benefit of uniting to address some of the challenges and pooling resources to meet them. It is worth noting that the particular nature of the PSI market structure, where individual private sector organisations have limited influence, lends itself to the development of a trade body.

This submission represents the concerns of and makes proposals from the majority of Locus members including TeleAtlas, Landmark, Intelligent Addressing, Getmapping and eMapsite.

#### **3. Consultation Response**

##### Overview

Locus is very pleased to see this consultation taking place, since we have been concerned for some time that the plan for OS introduced in October 2008 was not appropriate for a number of reasons, which we detail below.

However, we do still have concerns about the way in which this process is being conducted, and about government's apparent bias towards OS in this consultation. In particular, John Denham's introductory statement, "It is my desire that Ordnance Survey information is right at the heart of this revolution of underpinning the nation with greater access to data to improve decision-making and create innovation. As an organisation, Ordnance Survey has a long and proud history. It is recognised as a world leader in the collection, maintenance and distribution of the highest quality geographic information and mapping." Locus is very uncomfortable with government manipulating markets to ensure that its own entity plays a key role. At a November European PSI event in Stockholm, Monica Widegren of the Swedish Competition Authority said that it's completely impossible for a government entity to compete fairly with the private sector, which is why they will no longer allow this in Sweden.

Locus is very concerned that this process is focused on ensuring that OS thrives, rather than on ensuring that there is a level playing field in the market, and that OS doesn't thrive through anti-competitive actions. In our view, it's not necessarily OS that should be at the "heart", but the core GI PSI should be at the heart of innovation in the creation of geographical and location-based services. And that any data created for government requirements should then be made available for free use. We are happy to see OS thrive as the provider of that core GI data; anything more runs the risk of favouring OS over other market players.

Locus is also concerned that there is only one mention of Derived Data. **In our view, one of the most important reforms that should come out of this Consultation the removal of the Derived/Associated Data restrictions that currently exist (and this must reform must also apply retrospectively for derived data created in the past).** This is a key issue for our members and many other users of OS data and products. Our view is that while no one should be able to re-engineer OS maps from Derived Data, users should be able to retain and continue to use their own data derived from OS maps without paying OS additional license fees.

Whatever the outcome of this Consultation, Locus believes the following key principles must be applied:

- Fair competition is key;
- Natural Government monopoly data should be made available for PSI;
- Address and Postcode data should become PSI;
- If non-natural Government monopoly data is made available, this should not be made available free of charge as PSI;
- The private sector wants to develop databases/collect data for the public sector but does not then want to find all its data is given away free by Government policy;
- Government must be able to transfer the data it needs between central/local government without hindrance;
- Derived data must be defined;
- There needs to be flexibility in the way policy evolves so there is not upheaval every few years over discussions on OS's future;
- Fully separate accounting/structural separation for OS divisions is essential;
- Locus recognises that OS is a body of value;
- There is a need for regulation to define what is supplied by OS and what is supplied by the private sector; and
- Industry needs certainty so it can plan for the future.

**Question 1: What are your views or comments on the policy drivers for this consultation?**

Locus's view is that UK policy on Public Sector Information and Geographical Information in particular has been problematic for many years, mainly because there are a number of inconsistencies in government's position. In 2006, the authors of the Office of Fair Trading "Commercial Use of Public Information" study raised this issue, stating: "We are concerned about the lack of clarity around the objectives of government policy for PSI... PSIHs themselves have told us that they feel subject to conflicting policies."

The European Re-use of Public Sector Information Regulations 2005, the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and the Transformational Government initiative all aim to make as much PSI available as widely and cheaply as possible. On the other hand, the Wider Markets Initiative encourages PSIHs to earn an income from selling or licensing PSI, and Trading Funds, of which OS is one, are required to hit revenue targets. Indeed, many trading funds, in particular OS, have focused on maximizing revenue rather than on maximizing use of their data. Licensing of GI data has in general been very restrictive and overly complex. The licensing regime that resulted from this lack of clarity in government policy has been a strong disincentive to private sector investment, enterprise and innovation. It has also led to inefficiency and overheads for government.

Overall, the current situation doesn't work for government, for commercial entities trying to operate businesses that rely on PSI, or for consumers who wish to use PSI and PSI-derived products and services.

Locus has continuously called for a level playing field in the Public Sector Information marketplace and has had real concerns about recent policy announced that focused on better equipping Ordnance Survey to take advantage of the GI market, over its competitors. The publication of the Operational Efficiency Programme Asset Portfolio in December 2009 was a prime example of this as it focused on positioning Ordnance Survey rather than the private sector to take advantage of new opportunities.

We are therefore encouraged by this consultation on the future of Ordnance Survey and hope it will play an important role in ensuring the creation of a level playing field sector. In addition, the Making Public Data Public (MPDP) policy has recognised GI's importance. Locus is supportive of an open data policy (although as we will discuss later, we would like to see policy focused on providing free data, but not free refined products or services).

In terms of the policy elements presented in the Consultation document, Locus's views are as follows:

- We agree that location is increasingly important and that it should be easier to get hold of government-held Core Reference Data (CRD), meaning data that has to be created as part of OS's (and other government entities') Public Task. Examples of CRD are Boundaries, Street Names, Road Traffic Layouts, Planning Consents.
- We agree that government should work to coordinate its information requirements and not duplicate work.
- We strongly agree that markets must be free and fair. However, many parties in this PSI sector believe that it is impossible to have fair competition between the private sector and government entities, because the government entity will always have an unfair advantage. This doesn't appear to be addressed here.

- We do not agree that government should be pushing to put OS at the heart of the value chain, or at the heart of growth in the GI sector. We are supportive of a policy that places government-created or public sector GI data (and wide, straightforward availability of that data) at the heart of growth in the UK GI sector. We do not believe government should attempt to distort the market by favouring one provider over others.

**Question 2: What are your views on how the market for geographic information has evolved recently and is likely to develop over the next 5-10 years?**

A full review of how the market for geographic information has evolved and is likely to develop in the next 5-10 years could easily be the subject of a large and comprehensive market research study (and many such studies are available).

Locus believes there are a number of factors that have influenced the market and will continue to do so that were not mentioned in the Consultation document; we also believe that some key trends that were identified were misunderstood. This response addresses those gaps and our concerns about the document's misinterpretation of some trends.

Over the past 10-15 years, the GI market in the UK has evolved from one in which consumers used maps on paper and highly-trained professionals used map data and GI software licensed on a per-terminal or per-seat basis for commercial or government applications to one where consumers and professionals alike have access to easy-to-use mapping services provided on the web and on mobile phones. While paper maps and sophisticated software are still used, web-based services have changed the way the majority of the population accesses and uses geographical information. It has also made it relatively straightforward for groups such as OpenStreetMap to create their own maps and GI resources with very little investment comparatively speaking.

This large shift in the market has come about through changes in technology (cheaper computers; growth of the internet; greater broadband coverage; falling prices for bandwidth; more sophisticated mobile phones; mobile operators' opening up location information on phones; the creation of Application Programming Interfaces; the development of satellite and aerial imagery; smaller, cheaper GPS devices); through innovation from start-ups (including a number of Locus members) and large players such as Microsoft or Google; through increased user awareness of the new range of options; and through wider availability of map and other GI data from a variety of suppliers. Section 2 of the Consultation document unfortunately misses a number of these market developments, which have been very important in the UK.

Further, while we understand the desire to use a value chain in an attempt to explain how a market and its players fit together, we consider the model used here to be flawed, in that it misses out a number of key players (such as other providers of cartography), products, and services in the UK market, and misplaces others (please see individual Locus members' responses to the Consultation for further information).

There are also incorrect statements, such as paragraph 2.3.2, which says: "Leading international players in the B2C market are becoming increasingly active in the B2B market. They have launched a range of products that are aimed at business in areas such as contextual mapping, visualisation and tracking of mobile assets." In fact, most of the players in the B2C market have always been players in B2B services market as well; this is not a new trend.

There are also several flaws in the logic presented in this section. First, it should be noted that growth in the usage of services or products based on GI data does not always equal growth in market size measured in revenue terms. If anything, recent activities such as Google and Nokia providing navigation software on their phones for no charge, or Google Maps offering websites free mapping, will likely lead to many more users of navigation and internet mapping services, but a smaller market in terms of money spent on the GI value chain.

Locus is also concerned with the way the Consultation document appears to argue that a) competition with OS for the creation of GI data is new, which it is not (although it is increasing), and b) that OS has traditionally been the main supplier of all GI data in the UK, which it has not been. There have always been other providers of map and other base GI data in the market, including providers of aerial imagery, height data, and addressing. It is more correct to say that over the past few years OS has seen opportunity in markets created or grown by other players, and has started to move into those markets, even when that means it is competing with its own customers and channel. And that several organisations, having seen the frustration many users face in attempting to use OS mapping, have seen a market opportunity in creating a competing product.

Further, Locus members believe that the Consultation document completely misses one very important factor in the development of the UK GI market, and that is the way in which OS's actions, including its pricing and licensing policies, have limited data availability and therefore constrained development of the market. As an example, for years OS insisted that use of its data on mobile phones was of greater "value" than use of its map data on the internet; its prices for data used in mobile applications were ten times the prices for use of OS data on the web. OS was also slow to change with the market, and inflexible in its approach. The result was that a number of innovative UK-based companies looking to provide mobile LBS failed completely, or barely survived. Other players ceased development of mobile applications, since it was clear that their potential revenue from these services wouldn't cover the cost of the OS data used. Rather than supporting UK innovation in GI services, OS blocked this market's growth. Apple and Google Maps are now the leading providers of mobile mapping in the UK, and even they are unable to launch certain applications in the UK because of the flow-through restrictions that OS imposes on the chain. In general, competitors that do not use OS data can react more quickly and serve the market in a more timely manner, even if they are offering products that are not as high quality.

It is also the experience of many Locus members that some GI users, including government and commercial users, now aim to avoid using Ordnance Survey data if possible. This is due to a combination of restrictive OS pricing and licensing policies, as well as, in the commercial sector, concern that OS will become a competitor, and will gain competitive knowledge through its supply of data.

Locus believes that OS has had much too great an influence on the development of the UK GI market, and that in many respects that influence has been negative, and has acted to constrain rather than grow the market. Great care must be taken to ensure that the market as a whole thrives in the future, and that the government does not a) diminish competition by supporting OS as a government-funded monopoly and b) constrain competition by enabling OS to have undue influence on the rest of the market.

**Question 3: What are your views on the appropriate pricing model for Ordnance Survey products and services?**

Locus is concerned that Sections 3 and 4 of the Consultation document do not provide a truly objective discussion of different pricing models. The document clearly seeks to sway the reader to favouring the “retail minus” model. We also believe that it is misleading to present information about revenue models for “information businesses,” since the purpose of this consultation should not be to try to work out the best way for OS to revenue maximise. In addition, it is surprising that this section makes no reference to the fact that the EU PSI directive favours a cost plus model for PSI, as do the OFT and the Cambridge Study.

There have been many issues with OS pricing policies in the recent past. As noted in our response to Question 2, many of our members believe that OS has often over-charged for its data, or created inappropriate pricing frameworks, therefore constraining the growth of new or developing market sectors. It is frankly absurd for the Consultation document to state, as it does in paragraph 4.5, that OS’s traditional pricing methodology has “enabled the development and growth of, for example, internet services and satnavs, in parallel to the more traditional business use of the same data.” In reality, OS pricing inhibited the development of these sectors, and most players in these two markets today go out of their way to use data from providers other than OS. Companies like Multimap and Streetmap, the first companies to use OS data on the web, can provide numerous examples of ways in which OS was obstructive rather than enabling, including delaying making data available; withdrawing data for use on the internet; and changing pricing of data in such a way that it was no longer economically viable for these companies to use OS data (such as Address-Point) on their websites.

When it comes to future pricing of OS services, Locus believes it is somewhat premature to address this question until the role and organisation of OS have been determined.

However, given the way in which the Consultation is being conducted, our view is that the question of pricing needs to be considered in two ways: first, what is an appropriate pricing model for OS (or government-provided) GI data/PSI; and second, what is an appropriate pricing model for OS refined products and services that are based on that data?

Locus members are generally in favour of unrefined GI PSI being made fully available under a marginal cost regime, as advocated in the PSI regulations and in the OFT CUI study. This would apply to data that it is a genuine government monopoly (such as Code-Point and BoundaryLine).

If OS is to charge for any products and services, then our members believe first and foremost that the charges should be fair, and that OS should be working in a manner based on the following key principles:

- There must be structural separation between OS’s wholesale and retail, or upstream and downstream activities. The retail entity must pay the same fees for unrefined (or refined) data as OS partners or competitors pay. If, for example, OS wishes to provide a commercial version of OpenSpace, then the retail entity providing this service must pay the same fees for use of Code-Point and raster maps as OS charges other providers such as Streetmap or Google Maps. This is consistent with the PSI regulations, which say that PSIHs *should separate clearly and fairly commercial activities from data collection activities*. The lack of structural separation leaves the door open to cross-subsidization and anti-competitive trading by PSIHs.
- Prices for products must be based on the production cost of the relevant activity, plus a reasonable margin. The Consultation suggestions that OS has difficulty with

direct cost attribution. However, this is something that any commercial entity would do as a matter of course, and something that OS has claimed to be capable of achieving when responding to Parliamentary Questions about the cost of products.

- There should be no cross-subsidisation of one product by another.
- We accept the continuation of commercial pricing; however, we believe prices should be either be set by an independent body, or that regulation/governance rules should require OS to justify a given pricing model prior to releasing data.
- Where unrefined data is charged for, OS should not be allowed to recover the costs of selling and marketing the products.
- While some of our members support a differential pricing model, others are concerned that allowing OS to price according to "...the market value of their end product," as the Operational Efficiency Programme report suggested, would mean a continuation of the market problems we've seen in the past, where OS believes its products have a certain value, but the market does not (such as maps on mobile phones, as discussed above).

The Consultation document says: "The main implication of pricing at marginal cost for certain datasets would be that another revenue source would have to be found to cover fixed and common costs. This could be government or another charging model – for example a levy on those who cause the changes to the database." Locus would support the idea of charging a levy on those who cause changes to the database, or other mechanisms. However, we also do not believe that it would cost that much to maintain the data that the country requires (rather than the data, products, and services that OS has decided it should offer). Please see our response to Question 6 for further details.

***Question 4: What are your views and comments on public sector information regulation and policy, and the concepts of public task and good governance as they apply to Ordnance Survey?***

Locus fully agrees with paragraph 4.33 of the Consultation document, "Government will need to set a new public task for Ordnance Survey depending on the policy proposal adopted as a result of this consultation. In doing this it should also set out a mechanism by which this public task is revised and at what interval." However, we believe that many respondents to the Consultation will not be clear that this means that this Consultation is their opportunity to provide input on the subject of OS's Public Task. We and others had expected that there would be a separate Consultation on OS's public task, and that a discussion of OS structure, pricing, licensing, and free data would follow on once there was clarity about OS's role in the UK GI sector.

Given the approach taken by the Consultation, Locus has prepared a separate paper stating our majority views on what OS's public task should be; how OS should be structured in the future; and what roles currently played by OS should be assumed by other entities. This paper can be found at Appendix A.

Locus's view of public sector information policy in the UK is, as discussed in our response to Question 1, that there have been a lack of clarity and an abundance of conflicting goals for some time. Regulation has been so light as to be almost non-existent. While it is true that the IFTS regulations "encourage the re-use of information and reach a standard of fairness and transparency" (as noted in Box 4 of the Consultation document), in practice OS pricing and licensing did not achieve these standards, and the Office of Public Sector Information could do little more than continue to "encourage" OS to improve.

Locus considers it concerning that the Consultation document takes up the OS position that the OFT did not find any of OS's practices anti-competitive in its CUPi Study. First, this is really not the purpose of a broadly-based Market Study such as CUPi. Also, while it is true that (thusfar) no investigation has taken place, unusually for a Market Study, the OFT singled out OS for strong criticisms to the point of describing part of OS's strategy (CUPi para 6.4) as being on the "outer limit of Competition Law".

Another concern for Locus paragraph comes in paragraph 4.16 of the Consultation, which says, "Ordnance Survey is different from many businesses that are regulated in that it is fully owned by government. This gives other levers for ensuring successful policy outcomes that might avoid some of the downsides of economic regulation." It should be clear that if those other levers actually worked as they should, this Consultation (and most of the many market studies before it) would not be happening. Existing public policy and government ownership have thusfar not been successful when it comes to growing the use of GI in the UK.

Further, while Locus can understand Government's desire to "to avoid the need for economic regulation of Ordnance Survey by another public sector entity", we do not believe that there are currently adequate safeguards in place. We do not believe that Government can "achieve these more effectively by acting as a strong and responsive customer of geographic information, as well as a clear and transparent owner of Ordnance Survey." It is clear from discussions with the Shareholder Executive, and from the introduction to this Consultation, that Government Ministers and other representatives are seeking to make OS a strong player in the market, and to give it an unfair advantage, rather than to create a competitive and fair marketplace. In this case, it cannot be the case that Government can be reasonably expected to regulate fairly in this manner.

We believe there are several options that should be considered, which would be more effective than existing policy, but which needn't cost a great deal to put in place and maintain:

- OPSI (which already exists/is funded) should be strengthened and given greater oversight of OS.
- Create a fully-independent GI council or other third party which draws its members from government and industry. Members could be volunteers, or paid a small stipend for participation;
- Create an oversight panel such as the one used by BT, which consists of representatives from OS, government, OS customers.

There is a definitely a need for a regulatory body with teeth.

***Question 5: What are your views and comments on the products under consideration for release for free re-use and the rationale for their inclusion?***

Locus's majority view is that any data that will be made available free of charge as part of OS Free must pass a "genuine government monopoly" test first. Without this test, government runs the risk of making the taxpayer fund the creation of data or products which would otherwise be created by the private sector in a normal competitive market.

Most of our members therefore support the free provision of unrefined components of map data that are genuine government monopolies. This would include data such as electoral boundaries, postcodes, sites of scientific interest, names of roads, etc. The OS products

that fall into this grouping are Code-Point, the 1:50,000 gazetteer, and BoundaryLine. The release of this data would satisfy most of the requirements of users seeking to mash-up geographic and location information, or create innovative new location-based services.

However, Locus members are generally not in favour of releasing any refined products or services. Maps themselves are already value-added products which depend on other non-government data such as aerial photography, height data, coastlines, natural features, etc. over which the government has no natural monopoly. In particular, the release of raster mapping is unnecessary, could undermine innovation and reduce revenues. It would also destroy the market for a number of private sector players.

We also have grave concerns about the inclusion of any type of "service", such as access delivery, or a mapping API, as part of any OS Free option, for the following reasons:

- It would undermine the existing OS Partner channel;
- It would create additional costs for OS and government;
- Such services go well beyond anything that should be considered part of OS's public task.

Whatever data is released for free, if any, government must satisfy itself that Ordnance Survey is creating data and products cost effectively; any new products or product adaptations should be competed to ensure government receives value for money. This should be considered as part of each review of the OS Public Task.

***Question 6: how much do you think Government should commit to funding the free product set? How might this be achieved?***

We do not believe that Government should commit any funding for products that are not explicitly part of the Ordnance Survey Public Task (which must first be defined). Any funding would inevitably provide Ordnance Survey with a competitive advantage over alternative suppliers, and also prevents new players from entering and investing in the market.

Government should not subsidise the creation of a data or service platform, nor should it encourage OS to provide services like OpenSpace. Instead, existing market players should be encouraged to make the data available through their own services or platforms.

According to the Consultation document, Government currently pays 46% of Ordnance Survey revenues, which equates to about £54 million per annum. If OS only creates data that government requires, and then releases that data as free PSI, rather than as refined products, there should be no additional funding requirement at all.

***Question 7: What are your views on how free data from Ordnance Survey should be delivered?***

Locus believes any free data should be provided as a simple download from the data.gov.uk website, via partner/third-party websites, or on CD. We do not believe government should pay OS to create any form of service to provide free data; no money should be spent to build up infrastructure for "an online public viewing service" or "a web-based Application Programming Interface (API) service." Locus believes that wholesale distribution of OS products can be more efficiently handled by third parties in the private

sector. If the government funds OS to create sophisticated delivery mechanisms for OS Free then this will create another barrier to fair competition from the rest of the market.

Downloads should be free but media and postage could be charged for off-line delivery.

The provision of OS data under a Creative Commons licence appears a sensible and viable solution, as long as users of the data are able to onward licence their own products and services without having to give those creations away for free.

***Question 8: What are your views on the impact Ordnance Survey Free will have on the market?***

Locus's views on the impact of Ordnance Survey Free will ultimately depend on which data or products are provided as part of the Free package. We therefore believe that:

- **Release of Addressing and Boundary data would be very positive.** Locus believes the release of this data would generate many opportunities for innovation, and if the data included Code-Point, would address most of the requirements of users looking to mash-up geographic data with location information.
- **Release of raster mapping and other refined products would be adversely disruptive** and would skew the marketplace. Their release raises serious and fundamental concerns regarding market fairness and regulation, consumer choice as well as data quality. There would also be consequences for tax revenue and employment.

***Question 9: What are your comments on the proposal for a single National Address Register and suggestions for mechanisms to deliver it?***

Locus **strongly supports** the proposal for the creation of not only a single National Address Register, but also a single National Postcode Register, both of which would be provided as free PSI. This would be a definitive dataset and deliver critical benefits for Britain's economy.

We recognise that the creation of these registers would require collaboration between a number of organisations and departments (particularly Royal Mail, Ordnance Survey, Local Authorities), but consider it essential that government find a way through the current licensing barriers and ownership issues. Ordnance Survey could perhaps distribute the resulting free National Address Register and National Postcode Register in conjunction with the other Public Sector Information it creates. Code-Point, Royal Mail's PAF and Address Layer 2 could then be included in OS Free.

***Question 10: What are your views on the options outlined in this consultation?***

Locus does not consider any of the options shown in the Consultation document to be ideal, although we are supportive of a number of elements of the proposals. Our preferred way forward appears at the end of this section. Following are our views on each of the models proposed:

**Option 1: Current Business Strategy**

Locus believes that Option 1 as outlined provides only minor improvements over the current situation with Ordnance Survey. In general our view is that the way mapping and address data is currently managed between OS, Royal Mail, Land Registry and Local Government is highly wasteful and inefficient, and that a re-think is required. To leave the organisation running as it does, with its restrictive licensing terms, monopoly supply, and strict control over derived data is a poor option.

This option does very little to address the key problems with the current business model:

- Unfair/unwieldy licensing regime;
- Manipulation of markets through high products prices;
- Lack of separation between OS upstream/downstream activities;
- Anti-competitive behaviour by OS;

Further, we do not believe that the current model has achieved government goals related to information sharing, re-use and innovation (as indicated in paragraph 6.27); if anything, innovation and re-use have been very much constrained.

Locus is supportive of some elements of OS Free, as noted earlier: most members believe that only core geographical elements, or natural government monopolies, including but not necessarily limited to Code-Point and Boundary Layer, should be available for free.

However, the release of mapping/refined products free of charge would be a retrograde step as it would diminish competition for independent mapping and this in turn would leave the main government and private users with poor choice and high prices.

## **Option 2: Release of Licensing Constraints on Large Scale Data**

Locus members have several concerns with Option 2 as described in the Consultation document:

- It in effect renationalises the creation of the base mapping of Britain and entrenches Ordnance Survey as a monopolistic large-scale map producer. This would have a negative impact on competition.
- It would be a major backwards step to pay DataCo to collect aerial photography and height data — both these markets are now fully competitive with great benefit to the customers. The result would likely be to put commercial providers of aerial photography, height data, and large-scale mapping out of business.
- The Consultation document appears to support the concept of a spun-off ProductCo having an advantage in the marketplace; any government support or favouritism of this entity would be anti-competitive.

However, a number of Locus members believe that with a small change to the scope of the data provided by DataCo, Option 2 could become more attractive:

- Government, in consultation with UK PLC, should specify which products it requires from DataCo on an ongoing basis; this data is then made available as Public Sector Information.
- The task of DataCo would have to be to work with the 'owners' of GI PSI to assemble the data and not to re-survey what already exists. In other words DataCo would become in effect a collector and integrator of all the GI PSI collected by different Local Authorities and other government departments.

- DataCo should make the data available in unrefined form to any interested party — government, public, industry and ProductCo so that refined products and services can be developed.
- ProductCo could be spun off/sold; however, it would be essential that government not set it up to have an unfair advantage in the marketplace. For example, this entity should not use the name “Ordnance Survey”.

### **Option 3 - Staged transition from the current strategy**

As proposed, Option 3 contains a number of elements that are of concern to Locus members, including issues raised with Option 1. As with Option 2, it may be made into a more palatable Option if a number of changes are made; our concerns with this Option are:

1. **OS Free:** As noted above, we are in favour of OS Free if it includes unrefined data identified to be part of OS’s Public Task only (GI PSI); we are in favour of releasing Code-Point and BoundaryLine for free, but not refined products and services. We are not in favour of government paying additional sums to support the creation of free data, or of creating infrastructure to deliver the data.
2. **Tariff re-balancing:** Locus is not in favour of simple tariff re-balancing such that OS charges government more so that these prices match its private sector pricing. However, we are concerned that right now OS has an advantage over the commercial sector when bidding for government contracts such as the PGA and MSA because of its pricing policies. This unfair competitive situation must be addressed, but government should not have to pay for this.

In addition, OS policies of aggregating all their costs together and pricing their products according to whether they are monopoly or non-monopoly offerings creates great unfairness and is strongly considered by some of our members to be unlawful. Whether lawful or not, it is economically inefficient as, to reflect a conclusions of the Cambridge Study, it may encourage “gold-plating” and can distort the market.

3. **Greater customer centricity:** Locus does not consider this a major issue in the context of other problems with Ordnance Survey. In a competitive market all suppliers need to ensure that they are close to their customers.
4. **Accelerated transition plan:** Locus does favour an approach where OS or government is bringing forward investments to make OS a stronger player in what should be a fair, fully competitive market. However, if OS’s role were limited to collection/aggregation of genuine GI PSI and it is not able to cross-subsidise upstream and downstream activities, then we have fewer concerns.
5. **Enhanced Ownership function:** Locus members do not believe that stronger or “enhanced” ownership is the answer to regulating OS. Any owner will act as CLG and the Shareholder Executive have: to promote the interests of the entity that they own, rather than to ensure that the entity is acting fairly and that there is a level playing field. Locus believes that fundamental changes must be made to the environment in which OS operates, instead:
  - OS must not be the government advisor on mapping and GI for the short and medium term. In this position it is able to manipulate the market to suit its own ambitions.

- OS should not be allowed to manage its own competitions for the provision of GI services. We believe that OS has manipulated competitions to strengthen its own position in relation to their competitors
- There must be a quick and simple process for any company or customer to raise a complaint about OS behaviour and have it investigated and resolved quickly. At present the complaint procedure almost never resolves a problem and the complainant is left with the option of going to court or backing down. Some form of real regulation will be required.

This Option also represents a move in precisely the wrong direction from OFT recommendations on un-refined/refined data and PSI Re-Use regulations, thereby strengthening OS's position against competition.

Finally, the costs associated with Option 3 are not entirely clear but the Consultation document (para 9.28) infers that OS would need an additional contribution from Government of up to £40 million to cover the elements of providing free data and support the "move towards consistent pricing". That OS should cost the public sector a total of £94 million in a single year for the provision of data (only some of which would be free) is astonishing; there is no doubt that the private sector could meet all of these government requirements/desires for much less. Locus would welcome the opportunity to contribute to an open discussion of the costs of data provision.

As noted above, Locus does not consider any one of the Options in their current stated form to be ideal; our preferred way forward would include the following actions/points:

- First define Ordnance Survey's Public Task.
- Provide free access to all **unrefined** data that government requires; this would likely include Addressing and Boundary data. These datasets should be definitive and authoritative if at all possible.
- All other mapping and refined products/services should be chargeable and the market should be fair and competitive.
- There must be full structural and accounting separation between an OS DataCo and ProductCo or unrefined/refined business.
- Locus is supportive of recent discussions to change the OS licensing model, as outlined in the Consultation document and in previous OPSI communications, and believes that work on these changes should continue whichever model is chosen:
  - rationalisation of specific use contracts;
  - simplified and shortened licences;
  - some price reductions; and
  - less restrictive licences (especially in relation to derived data).
- OS should not continue to have a price advantage over its channel when dealing with government as customers. Government should ensure that tendering for supply contracts is fair and does not advantage OS.
- We would prefer to see OS restructured to be an organisation focused on data collection, specification, procurement, quality control, and channel management.

**Question 11: For Local Authorities: What will be the balance of these proposals on your costs and revenues?**

NA

**Question 12: Will these proposals have any impact on race, gender or disability equalities.**

Locus does not believe that they will.

#### **4. Conclusion**

For further information, please contact:

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