



House of Commons
Communities and Local
Government Committee

Ordnance Survey: Government Response to the Committee's Fifth Report

**First Special Report of Session
2007–08**

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Communities and Local Government Committee

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The current staff of the Committee are Huw Yardley (Clerk of the Committee), David Weir (Second Clerk), Sara Turnbull (Committee Specialist), Clare Genis (Committee Assistant), Gabrielle Henderson (Senior Office Clerk), Kerrie Hanley (Secretary) and Laura Kibby (Select Committee Media Officer).

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First Special Report

1. On 2 February the Committee published its Fifth Report of Session 2007–08, as HC 268, on Ordnance Survey. The Government's response, in the form of a memorandum to the Committee was received on 9 April.
2. The Government's response is published as an Appendix to this Report. Headings and paragraphs given in bold are taken from the Committee's initial Report. Numbered paragraphs are Government responses to individual recommendations made in that Report.

Appendix: Government response

Public information, private competition

Ordnance Survey costs the taxpayer nothing. Indeed, it fulfils its role as the national mapping agency while returning an annual profit to the Treasury. We recognise that the fact that Ordnance Survey is required to fund both its Public Task and commercial work entirely from its own revenues makes it difficult to define precisely where its public duty ends and its competition with private operations begins. (Paragraph 13)

1. Ordnance Survey is the only organisation to provide maximum long-term reliability in the mapping of all of Great Britain - from the most densely populated cities to the remotest corners of the country. While most customer demand comes from dynamic locations of change such as urban and suburban sites, transport corridors and development areas, Ordnance Survey applies nationally consistent specifications across all areas whether or not they would be commercially attractive to map. In keeping the most detailed mapping of remote areas up to date in the national interest, it provides information that is absolutely vital for public administration, emergency response and other essential services.
2. Many Government respondents to the Committee underlined the importance to them of Ordnance Survey data maintained to high levels of currency, reliability, consistency and completeness. These needs are reflected in the new Ordnance Survey Public Task document, approved by Iain Wright MP in July 2007, which sets out the boundary of Ordnance Survey's "public service and national interest work". Ordnance Survey is required by statute to conduct all of its activities under the Trading Fund model, thereby funding its public task activity by generating revenue from licensing data and paper mapping sales, from which it must cover all operating costs, investments in efficiencies and data enhancements to meet user needs, and provide a dividend to the Department.
3. In the Budget Report, the Government announced an assessment of each of the Trading Funds, including Ordnance Survey, to be undertaken by HM Treasury and the Shareholder Executive. This work will look at governance, business plans and future development strategies of the Trading Funds in support of departmental asset management strategies.

Ordnance Survey is the only major public service information holder that does not distinguish in its annual accounts between the costs of and revenues from operations primarily conducted in pursuit of its public and its private tasks. Our predecessor Committee recommended as long ago as 2002 that Ordnance Survey should account separately for its commercial activities. In the interests of transparency, particularly given Ordnance Survey's dominant market position, we recommend that it seek to distinguish as clearly as possible in its annual accounts between the activities it undertakes purely because it remains a quasi-governmental national mapping agency and those it conducts on a firmly commercial basis. We accept that the absence of public funding and the requirement wholly to fund itself place Ordnance Survey in a unique position, which will make a total separation of its activities difficult to achieve. (Paragraph 16)

4. We agree that further clarity would be helpful. The Office of Fair Trading (OFT), as part of its Commercial Use of Public Information (CUPI) Study (December 2006), recommended an accounting separation between Ordnance Survey's "monopoly activities" ('unrefined' information) and "competitive or contestable activities" ('refined' information). This is not however the same as a distinction between "public" and "commercial" activities. OFT recognises that Ordnance Survey needs to charge for unrefined information in order to fund unrefined information activities. Further, some Public Task activities may fall in Ordnance Survey's refined information activities.

5. However, we believe that the OFT's recommendations and those in the Committee's Report would in practice have fairly similar implications, by providing greater transparency about the funding of Ordnance Survey's activities and improved confidence that it competes fairly in the marketplace. Ordnance Survey has been discussing possible accounting separation with OFT and OPSI, and expects to consult with private sector stakeholders on this issue in due course, in order to develop an acceptable way forward.

Licensing data

We recognise that Ordnance Survey's need to fund itself almost entirely from income obtained from licensing re-use of the information it holds requires it to protect as stringently as it can in those licences the intellectual property rights in its base data. International experience suggests that any diminution in its funding levels could affect the quality of the information it provides to its customers. That said, Ordnance Survey should work co-operatively with the private sector in the field. (Paragraph 17)

6. We welcome the Committee's recognition that rigorous licensing activity is necessary, in the public interest, to maintain funding levels and hence the quality of Ordnance Survey's data. Ordnance Survey aims wherever possible to work co-operatively with the private sector, and in recent years has built up an extensive Partner programme. Over 500 private sector organisations are already working with Ordnance Survey as licensed Partners or are trading Ordnance Survey information in some way. Current arrangements for Partners include:

- A Developer Programme which enables innovators and developers to access a range of Ordnance Survey data, technical and business advice for a modest annual fee;

- A Partner Accreditation programme which enables Licensed Partners to access a range of technical and business support including sales, marketing and promotional activity, in addition to having a nominated account manager as a first point of contact with Ordnance Survey;
- The recent launch of OS OpenSpace, an innovative applications programming interface which provides users who do not have a deep knowledge of geographical information systems with free access to Ordnance Survey map data on the Web, and enables them to start experimenting and using the information within non-commercial applications. The service also provides web forums for developers and innovators to ‘meet’, share, discuss and help each other; and
- A pricing and licensing regime (the Specific Use licence model) which enables Ordnance Survey data to be priced and licensed differently for different end uses, in response to the different market environments in which Partners trade.

7. In addition a significant number of wholesalers and retailers benefit from trading Ordnance Survey paper mapping through both on-line trading and via the more traditional “high street” book trade.

The fact that Ordnance Survey has included clauses in licences that effectively require competitors not to compete with it or to complain about it provides a clear example of why both private sector and governmental organisations sometimes perceive it to be acting uncompetitively and unfairly. No such condition should again be included in any licence. (Paragraph 20)

8. We accept the Committee’s recommendation, though there may be some misunderstanding on this point. With reference to “non-compete” clauses in licenses, Ordnance Survey’s contracts or agreements have never included clauses which prohibit competition or complaint against Ordnance Survey. However, during 2006, Ordnance Survey included some comments on its web site relating to Licence Exceptions. These Exceptions were published as part of Ordnance Survey’s obligations under the OPSI Information Fair Trader Scheme (IFTS). As the Committee acknowledges, following representations from OPSI and OFT the Exceptions were removed or amended to the satisfaction of those bodies.

9. Ordnance Survey has never sought to inhibit complaints and has a well developed Complaints Procedure, which has been reviewed and cleared by OPSI as part of the IFTS re-accreditation process. Ordnance Survey welcomes constructive feedback on all aspects of its performance.

We are concerned that public sector organisations charged with carrying out vital public services sometimes find Ordnance Survey’s licensing conditions too complex and inflexible. Even the Ministry of Defence, whose predecessor created the national mapping agency two centuries ago, is uncertain about what use it may make of the data it buys from Ordnance Survey. This is a serious indictment of the standards of clarity achieved in the licences Ordnance Survey offers some customers. (Paragraph 21)

It is incumbent on Ordnance Survey, particularly given its special status within the geographical information market, to make the licences it offers partners and

competitors as simple, cost-effective and appropriate to the user as possible. It is essential that licences contain conditions that fit the needs of individual partners and competitors while yet protecting Ordnance Survey's duty to guard and right to use the intellectual property it holds. (Paragraph 24)

10. We agree that it is in everyone's interests that licenses should be as simple, cost-effective and user-appropriate as possible, whilst ensuring that the Government's intellectual property rights are properly protected. Ordnance Survey has acknowledged the need to improve matters for three years, but the numerous reviews have delayed the implementation of planned improvements, as for this length of time the future of Ordnance Survey has been under consideration.

11. Ordnance Survey continues to work with OPSI to ensure that its licensing arrangements meet the standards of the Information Fair Trader Scheme.

12. It has been planned for over a year that, following the conclusion of current discussions with OFT (initiated following the publication of the CUPi report), Ordnance Survey will undertake a detailed review of its licences. This will be aimed at implementing any changes agreed with OFT, and at making any further revisions to simplify the licences where this is possible.

13. Given the number of different licences involved and the need for significant legal input, the costs and effort involved in this exercise will be very substantial, both for Ordnance Survey and for some licensees who will have to review the new licenses. It is only fair to the thousands of license holders that they have to work once only on a radical reform of license structure – hence the delay until matters are concluded with OFT.

The regulatory framework

Confusion clearly exists over the extent to which the Re-use of Public Service Information regulations apply to Ordnance Survey activities, and this confusion arises from the blurred distinction between its public and private tasks. It is plainly nonsensical that both Ordnance Survey and a private company should have spent 18 months and considerable sums of money on an arbitration process that returned them to square one. We endorse the view of the Advisory Panel on Public Sector Information that the Government should urgently assess the degree to which the Government's objectives are met by the current regulations. (Paragraph 29)

14. The Government recognises the issues highlighted in the report, and that far greater clarity was required as regards definition of public task. The issues were previously identified as part of the OFT's CUPi study. As part of the Government responses to CUPi and the Power of Information study, a team from Cambridge University were commissioned to analyse the pricing of public sector information held by trading funds. In the Budget Report, the Government commissioned a separate review leading up to the Comprehensive Spending Review 2010. This will examine the public sector information held by trading funds to distinguish more clearly what is required by Government for public tasks, ensuring this information is made available as widely as possible for use in actual and potential downstream markets.

The strict interpretation taken by the Advisory Panel on Public Sector Information of the Re-use of Public Service Information regulations highlights a potential flaw affecting the intention behind those regulations. Products to which Ordnance Survey has clearly added value and which it markets commercially should properly be part of its private operation. The base information Ordnance Survey holds as the national mapping agency should, however, be as easily and widely available as possible, allowing for cost recovery. The regulations as currently drafted may be inadequate in ensuring that base information is easily accessible, and we recommend that the Government seek urgently to amend the regulations where deficiencies are identified. (Paragraph 30)

15. In addition to the Government review in the Budget Report, the Office of Public Sector Information and the OFT have joined forces to take forward the recommendations made in the OFT's CUIPI study. OPSI and the OFT are working jointly with Ordnance Survey to tackle the issues highlighted in the report. As a first stage in the joint working arrangements, OFT and OPSI will be inviting customers of Ordnance Survey, both from business and within Government, to attend a workshop by May 2008. The focus will be on identifying the split between refined and unrefined activities.

16. Both the OFT and OPSI have maintained an ongoing dialogue with Ordnance Survey regarding these issues. Ordnance Survey have been engaging constructively with the OFT since the Government published its response to CUIPI in June 2007. A particular area of focus has been the split between refined and unrefined activity. OPSI continues to regulate Ordnance Survey under the Information Fair Trader Scheme, which ensures that set standards of transparency, fairness and openness are met. Ordnance Survey was verified in November 2007 and the IFTS report will be published in April 2008.

17. In line with the EU review of the implementation of the PSI Directive, by July 2008, OPSI will revisit the scope of the PSI Regulations, updating guidance as necessary.

Geographic Information Panel

We commend the Government for creating a Geographic Information Panel to provide a wide range of advice and views on a national geographic information strategy. We believe that the panel represents a proper range of interests, but recommend that the Government consider whether relevant expertise among the scientific and academic sectors might also be sought. (Paragraph 35)

The question of who chairs the Geographic Information Panel is properly a matter for the panel itself. None the less, while the expertise and unique commercial and governmental roles of the Director-General and Chief Executive of Ordnance Survey make the holder of that post an obvious contender for the job, the chairmanship need not and should not be held ex officio by that postholder. (Paragraph 37)

18. Vanessa Lawrence continues in the Chair on the recommendation of the panel's membership to complete the negotiations necessary to gain wide support and core funding for the UK Location Strategy. We agree that the Chair need not be ex-officio the Director-General and Chief Executive of Ordnance Survey.

19. Assuming the Location Strategy is funded in 2008, the intention is that the Geographic Information Panel will be closed and the Location Council will take over the role of the

Panel alongside its duties to implement across Government the EC INSPIRE initiative and the UK Location Strategy. Ordnance Survey would be a member of the Council but would not be the first Chair or supply the secretariat.

National Interest Mapping Services Agreement

We welcome Ordnance Survey's commitment to maintain rural mapping services following cessation of the National Interest Mapping Services Agreement. We note Ordnance Survey's intention to fulfil this task without receiving Government funding as an example of how the agency maintains its public function in spite of the commercial framework within which it works. (Paragraph 38)

We recommend that the Department for Communities and Local Government commission at an appropriate future point a study on the long-term impact of the decision to end the agreement to ensure that the quality of the mapping of rural and other economically unattractive areas is maintained. (Paragraph 39)

20. We welcome the Committee's recognition that the current model allows Ordnance Survey to fulfil its public functions whilst working within a commercial framework.

21. The Department will monitor the effects of the decision to end the agreement and will commission a study if necessary.