

Open Data User Group Benefits Case on OS Derived Data Licensing: easing third party restrictions on onward data use

Introduction

Some datasets created by public sector organisations contain data or data elements with intellectual property right from another organisation (third party suppliers). For example, datasets may include data derived from surveys, observations, documents, maps, imagery, audio, etc. Some of this data is provided under commercial contract and restricted for open reuse under open government license. Hence, many of the potential open public data cannot be released and remain locked away even if the public sector organisation wishes to make the data openly available. Releasing data means, the public sector organisation has to seek permission from the licensor to release the data for free.

The Issue

Of the 8746 datasets published on 18 November 2012 on data.gov.uk, 1322 (15%) are not available under Open Government license terms. Some of these datasets may be restricted by third party licensing terms which are deemed incompatible with open government licence. Location data appear to be over proportionally restricted with less than 1% (7 out of 914) available under OGL. In contrast of the 3429 statistical datasets available on data.gov.uk, only 1.8 % (62) have a restrictive license.

The greater openness of statistical data may relate to the fact that data provided by the Office for National Statistics are provided for free under Open Government License without restriction for the public good as established by the Statistics and Registration Services Act 2007. All 847 datasets published by the Office for National Statistics is available under OGL whereas only a small proportion of trading fund related datasets (directly published or derived from Ordnance Survey, Met Office and Land Registry) are available for free. Whereas Met Office made their data available under OGL, OS made data available under OS open data license requesting an attribution statement which is interpreted by organisations not to be compliant with OGL.

The data presented on data.gov.uk only present a proportion of datasets accessible by the public sector. The exact limitation on third party data restrictions is not known. The open data user group has received several requests for public sector data which cannot be released under OGL due to restrictive third party license terms. This applies predominantly to requests related to Ordnance Survey, Royal Mail and trading fund data, however, we have also heard from license restrictions as a result of other third party interests related to contracts (see examples in other benefits cases).

Onward Use Restrictions

Third party intellectual property rights can restrict the onward use of data. Many organisations in the public, private or voluntary sector produce data from several data products from varying sources. In many instances, the definition of the term 'derived data' varies considerably from one organisation to another and licence terms vary between

different organisations. Using data from multiple sources with different licensing terms makes the onward licensing of data complex and limits its further use resulting in complex stacked licensing terms. This leads to confusion and limits the free reuse of data by public, voluntary and private sector organisations.

The Open Government License intends to place no restriction on the onward use of data and to provide a consistent license term across the public sector. However, it permits for organisations to request an attribution statement to be included in the onward use therefore acknowledging third party IPR in the data. For example, OS Open data license requires attribution to their crown copyright for onward use, however, the onward data use is unrestricted within the terms of the OGL.

End User licences is a common way to licence onward use. However, the licensing terms vary greatly between organisations and often place a burden on the onward user to record who is using the data.

Examples of licensing terms:

- PSMA End user licence: End data use is permitted pending purpose and user specification. Ordnance Survey is currently reviewing their end user license terms to reduce the need to certify licence permission through a manual process for personal and non-commercial use as is currently the case.
- Royal Mail differentiates between users and resellers of data leading to different licensing terms. Users are charged by per terminal licence for internal use and transactional licenses for webservice use. It also licenses for the number of copies in use.
- Ordnance Survey commercial contract licenses use predominantly by terminal use. The lack of true transactional pricing and bureau licensing for partners is nonsensical in the current market.
- OS 'Derived Data' terms also prevent resellers and partners from fulfilling customer requirements if they (the partner) cannot pay / will not pay the relevant license fee for third party use of the data. The fee could be up to £190k per year for larger companies.

Exemption from Derived Data Status

Under the Public sector Mapping Agreement Ordnance Survey introduced a process of exemption from derived data status which allows the data to be used under OS Open Data license terms. However, each public sector organisation has to apply for individual exemptions of their datasets unless a streamlined approach for exemption of a particular dataset theme has been granted by Ordnance Survey. A streamlined process applies if a datasets was created under the same terms and condition under which the original exemption was made. Local authorities still have to register their dataset under streamlined exemption. Two dataset themes have currently been granted exemption under streamlined process which includes rights of ways and school catchment areas.

Most exemptions have been granted on an individual basis and exemption varies between local and national data providers and between different public sector organisations. This applies to local nature reserves, conservation areas, open spaces, etc. Many key datasets of interest to open data such as public asset information, land supply, cycling routes, etc have not been granted exemption status yet.

Recommendation

To limit restriction of releasing open data and facilitate the process of data licensing with third party IPR, ODUG recommends:

- Limit the use of third party IPR in public sector data. When commissioning services, research or data collations ensure contracts include terms to allow dataset with third party IPR to be released for free onward use under OGL.
- Simplify and harmonise end user license terms in particular those from PDG organisations to reduce complexity of terms.
- Promote end user license for generic web service use rather than related to specific user type and use purpose
- Review the streamlined exemption process for Ordnance Survey derived data under the PSMA to apply more widely to entire data themes
- Encourage organisations to review licensing terms on data.gov.uk to provide data where possible under OGL and request that they review their current licensing terms on data.gov.uk to move more data to OGL terms.

References

UK government License Framework (UKGLF):

<http://www.nationalarchives.gov.uk/information-management/government-licensing/the-framework.htm>

The UK Government Licensing Framework (UKGLF) developed by The National Archives provides a policy and legal overview of the arrangements for licensing the use and re-use of public sector information.

Data sharing operational guidance: <http://location.defra.gov.uk/resources/data-sharing-operational-guidance/>

The UK Location programme under Defra's lead and in collaboration with TNA have developed guidance to address the sharing and reuse of geospatial data. The guidance is divided into three parts:

First part covers policy and legal concepts

Second part describes Licensing and Charging

Third Part: Intellectual Copyright covers rights and confidentiality issues

Ordnance Survey:

Free to use <http://www.ordnancesurvey.co.uk/oswebsite/business/licences/using-and-creating-data-with-os-products/free-to-use-data/index.html>

OS Open data licence: <http://www.ordnancesurvey.co.uk/oswebsite/docs/licences/os-opendata-licence.pdf>

Examples of third party derived data restrictions

- Rights of Ways (streamlined exemption process now available)
- River Network Centreline

- Any datasets related to transport networks
- Protected sites and area management zones (including conservation areas, local nature reserves, development zones, housing supply)
- Land registry (Parcels of land)
- Addressing data (related to Royal Mail, Ordnance Survey and GeoPlace)
- Location of public land and building datasets (Public assets)

Specific strategic rationales developed to support argument about OS derived data licensing is provided in the appendix for rights of ways and river network centreline.