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Department for Business, Innovation and Skills,  
1 Victoria Street,  
London,  
SW1H 0ET

From: John Kirkpatrick  
*Senior Director*

19 May 2016

## **CMA response to BIS consultation on moving Land Registry operations to the private sector**

Dear Lizzie

I am writing to you on behalf of the Competition and Markets Authority (CMA) concerning BIS' consultation on the future of the Land Registry. We have responded to the consultation questions and this letter summarises our position.

### **Background**

The CMA is an independent non-ministerial government department. We work to promote competition for the benefit of consumers, both within and outside the UK. Our aim is to make markets work well for consumers, businesses and the economy.

As part of its work, the CMA has an advocacy function which recommends ways in which government policy can better promote competition. The Small Business, Enterprise and Employment Act (2015) gives the CMA the power to "make recommendations to ministers on the impact of proposals for legislation on competition within any UK market(s) for goods and services". In the revised ministerial strategic steer to the CMA published in December 2015, the government said that "the CMA has a clear mandate to look at any Government rules and regulations...and advise on any implications they might have on competition...there will be a presumption that the Government will accept all of the CMA's published recommendations unless there are strong policy reasons not to do so".

The CMA's evidence base on competition and consumer issues in public information markets includes the Office of Fair Trading's (OFT) Commercial Use of Public

Information (CUPI) study (2006)<sup>1</sup> and the independent evaluation of this work by DotEcon (2015).<sup>2</sup>

## **Our view on the proposals**

The potential value from public sector information is clear. The CUPI study, published a year before the launch of the iPhone, put potential value at £1 billion per annum. More recently, Deloitte put total annual value at £6.2 – £7.2 billion.<sup>3</sup> Much of this derives from the innovative re-use of public information in digital products that benefit consumers, improve productivity, and support economic growth. For example, app developers have harnessed Land Registry data to create popular property price apps, while apps based on Transport for London data have helped millions of people to avoid congestion and dedicate more time to productive activity.

We believe that consumers and the economy would be best served by a model that promotes wide access to Land Registry data at cost-reflective prices, encouraging its use and commercial exploitation by a range of individuals and businesses.

As set out in our response to question eight, our view is that a privatised, vertically-integrated Land Registry (government's preferred option) would be unlikely to deliver this outcome, despite the best efforts of oversight bodies to regulate prices and write safeguards into a contract or licence.

In particular, we are concerned that:

- there is a significant risk that a vertically-integrated, privatised business ('NewCo') engaged in both the supply of monopoly data and the supply of commercial products (which use the monopoly data as an input) would not maintain or improve access to the monopoly data; and
- despite price-regulation on its monopoly activities, NewCo may degrade the terms of access to its monopoly data in order to weaken competition to its own commercial products.

While these risks are not unique to privately-owned monopolies, our view is that they may be sharpened by the introduction of a profit motive.

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<sup>1</sup> OfT CUPI study (2006).

<sup>2</sup> DotEcon CUPI evaluation for the CMA (2015).

<sup>3</sup> Deloitte study for the Department of Business, Innovation & Skills (2013).

## Safeguards

History shows that it can be very difficult and time-consuming to solve problems arising from privatisations that give rise to anti-competitive market structures.<sup>4</sup>

In the case of the Land Registry, we consider that the most clear-cut way to guard against competition risks would be to have not only price regulation on monopoly activities, but also vertical separation. This could involve separating the Land Registry into monopoly and commercial divisions and preventing the monopoly business from developing commercial products.

If the Land Registry was to be privatised as a vertically-integrated NewCo, we agree with government that safeguards over and above price-regulation of monopoly data and services should be implemented in order to protect customers. In our response we have suggested several additional safeguards:

- Accounting separation and a clear mechanism for allocating common costs between monopoly and commercial divisions of NewCo, such as full activity based costing. This would assist oversight bodies in detecting anti-competitive activity such as margin squeeze, and would help ensure that the costs of open data can be understood and appropriately allocated.
- An enforced obligation on NewCo to provide Fair, Reasonable and Non-Discriminatory (FRAND) access to all monopoly data, not just data that are part of government's open data policy.
- Clear allocation of wider market oversight responsibilities, including: defining continuity of service arrangements; monitoring the demand side and ensuring that data users are well informed of the data on offer; monitoring (and if appropriate promoting) potential competition to NewCo for future contracts or licenses.

## Competition for the market

We note government's preference that land registration services continue to be delivered by a monopoly, based on a judgment that the benefits of 'in-market' competition between service providers would not outweigh the costs. We recommend that government tests this hypothesis as part of a detailed impact assessment.

If government does pursue a model where land registration services are delivered by a private, monopoly business, we recommend that steps are taken to increase the

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<sup>4</sup> For example, in 2009 the Competition Commission recommended divestitures to remedy problems of common airport ownership dating back to the privatisation of BAA in 1987. The CMA published [an evaluation](#) in 2016.

prospect of effective competition ‘for’ the market. Taxpayer and consumer interests are likely to be better served, both in the initial sales process and in subsequent contracting or licensing rounds, if the institutional setup allows a wide range of potential providers to bid against, and exert competitive pressure, on each other. Such measures could include:

- Avoiding excessive entry barriers, for example excessively stringent financial criteria, that would narrow the pool of bidders in the privatisation.
- Structuring the privatisation in a way that avoids locking-in an excessive incumbent advantage for the provider that wins the first contract or licence (for example, by retaining public ownership of the Registers, as government intends).
- Setting market rules, for example usability standards, that make it easier for alternative providers to step-in should they win the right to deliver land registration services in future.
- Limiting the duration of the contract or licence term, so that the incumbent faces competitive pressure on a periodic basis.

Potential benefits for tax payers and consumers include:

- Increased value-for-money, both at the point of initial privatisation and subsequent contract or licence re-tendering, due to a wider pool of bidders.
- Easier step-in by an alternative provider in the event of provider failure, helping to ensure continuity of service.
- Reduction in moral hazard problems that could arise during the contract or licence period, if there was no credible alternative to the incumbent.
- Measures that succeed in widening the pool of potential investors or service providers could benefit future attempts by government to bring private capital or expertise into other Trading Funds or Government Owned Companies.<sup>5</sup>

Promoting effective competition ‘for’ the land registration services market would not preclude the need for price regulation of the monopoly business, nor would it remove the competition risks (such as effective margin squeeze) identified earlier in this letter.

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<sup>5</sup> For example, government has announced plans to develop options to bring private capital into the Ordnance Survey before 2020.

## **Oversight mechanism**

Independent economic regulation has a proven track record in the UK for promoting consumer interests and managing competition risk in monopoly environments.

If NewCo is allocated long term, monopoly rights to provide land registration and related data services, our view is that independent economic regulation (rather than government contract management) would be better suited to providing ongoing, in-depth scrutiny of the business. In particular, an independent economic regulator would be better placed than government to manage comprehensive regulatory pricing controls including powers to test for margin squeeze.<sup>6</sup>

## **Impact assessment**

We recognise that there is likely to be a positive relationship between the pricing potential of the privatised business and the Exchequer sales receipt. Our particular concern is that attaching higher prices to Land Registry data would harm consumers, while restricting innovation and choice in the flourishing app and website markets that rely on this as an input. Government should develop and publish a detailed assessment of how fees and prices might vary under different models for the future of the Land Registry and the impact that this would have for consumers and for competition in downstream markets.

We have appreciated the opportunity to feed into your thinking. We would be very happy to discuss any aspect of our response and more generally remain keen to advise on the implications for competition of your proposals as they develop.

Yours sincerely

John Kirkpatrick  
*Senior Director*

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<sup>6</sup> This [model](#) applies to parts of the Royal Mail, in relation to which Ofcom has powers both to set direct price caps and to conduct margin squeeze tests.



Department for Business, Innovation & Skills

## Response form: consultation on moving Land Registry operations to the private sector

The consultation is available at: <http://www.gov.uk/Government/consultations/land-registry-moving-operations-to-the-private-sector>

The closing date for responses is 26 May 2016.

Please return completed forms to:

Lizzie Dixon  
1 Victoria Street  
London  
SW1H 0ET

Tel: 0207 215 4749

Email: [lr.consultation@ukgi.gsi.gov.uk](mailto:lr.consultation@ukgi.gsi.gov.uk)

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. Please see [section 4](#) of the consultation for further information.

If you want information, including personal data, that you provide to be treated in confidence, please explain to us what information you would like to be treated as confidential and why you regard the information as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

I want my response to be treated as confidential

Comments:

## Questions

Name: John Kirkpatrick

Organisation (if applicable): Competition & Markets Authority

Address: Victoria House, Southampton Row, London

	<b>Respondent type</b>
<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central Government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input checked="" type="checkbox"/>	Other (please describe) <i>Independent non-ministerial department</i>

### 1. Do you agree that the ownership of the Registers should remain in Government?

Yes       No       Not sure

Comments:

Maintaining public ownership of the Registers may make it easier for an alternative provider to step-in in the event that the provider of land registration services ('NewCo') fails, or at the conclusion of the initial contract term or licence period. This could reduce the degree of moral hazard during the period of the agreement (as Government or the relevant oversight body would have less need to forgive or

bail-out NewCo in the event of financial failure or poor performance) and increase competition and value-for-money at the point of re-tendering (by limiting incumbency advantage and making it easier for rivals to bid against NewCo). Wider measures such as standards may also be required to ensure that the Registers can be accessed and used by an alternative provider at some point in the future.

Maintaining public ownership of the Registers could also increase the range of bidders during the initial privatisation process, by reducing deal size or complexity. This could increase competitive tension and lead to a better deal for taxpayers and consumers.

## **2. What steps should Government take and what safeguards should it put in place to ensure continued and improved access to high-quality and reliable Land Registry data?**

Comments:

Our response to question eight describes the risk that a vertically-integrated NewCo (Government's preferred option) may:

- fail to maintain or improve access to monopoly data; and may
- degrade the terms of access to its monopoly data by commercial rivals in order to weaken competition to its own commercial products (i.e. an effective margin squeeze).

The OFT's Commercial Use of Public Information (CUPI) study<sup>1</sup> found that the most clear-cut way to guard against these risks (in addition to price regulation of monopoly activities) would be vertical separation. This could involve separating the Land Registry into upstream and downstream divisions and preventing the upstream monopoly business from developing commercial products. This would allow each business to concentrate on its own tasks without conflicting incentives, in turn promoting competitive downstream markets that are more likely to create a portfolio of product offers that match diverse demand.

The principal risk associated with vertical separation is that it can result in socially useful products not being produced or being produced at higher cost, due to reduced economies of scope. If Government believes that certain Land Registry data products risk falling into this category, it could consider specifying contractual obligations or incentives to ensure that these continue to be provided. Related to this, NewCo should not be prohibited from supplying products (such as certificates to prove title under law) that could not be supplied by other parts of the market.

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<sup>1</sup> OFT CUPI study (2006)  
<http://www.opsi.gov.uk/advice/poi/oft-cupi.pdf>



If Government does choose to proceed with the privatisation of a vertically integrated business, we consider that several additional safeguards should be implemented in order to protect customer access to data:

### Cost allocation and accounting separation

The OFT (2006) found that cost-reflective pricing and accounting separation between upstream (“unrefined”) and downstream (“refined”) operations were necessary to ensure that Public Sector Information Holders do not favour their own downstream businesses. DotEcon (2015)<sup>2</sup> suggested that the Land Registry had not fully implemented OFT recommendations regarding separation of business activities, possibly due to difficulties with the unrefined/refined terminology.

We recommend that any privatisation process should be used as an opportunity to ensure that there is clear separation (at least at an accounting level) between monopoly and commercial activities as well as a comprehensive process for allocating any common costs, such as full activity based costing<sup>3</sup>. Oversight bodies are unlikely to be effective in setting regulated prices and detecting anti-competitive activity such as margin squeeze if these conditions are not in place. These conditions would also help ensure that the costs of open data can be properly understood and allocated.

### FRAND obligation

The consultation describes Government’s intention to preserve and potentially grow the Land Registry’s open data portfolio, comprising products that are provided on a “free and open basis”. We recommend that Government complements this with a Fair, Reasonable and Non-Discriminatory (FRAND) access obligation, covering all monopoly/statutory data managed by NewCo, and not just data that are part of the open data policy. If enforced effectively by an oversight body, a FRAND obligation would provide data customers with protection against unfair/ unreasonable/ discriminatory access terms. This would reduce the risk that activity in downstream markets, such as app and website creation, is dampened and/or incurs excessive data input cost which is in turn passed on to consumers.

We recognise that the Re-use of Public Sector Information Regulations 2015<sup>4</sup> include FRAND-type provisions and that Government may want to use these as a

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<sup>2</sup> DotEcon CUIPI evaluation for the CMA (2015)

[https://www.gov.uk/Government/uploads/system/uploads/attachment\\_data/file/418097/Evaluation\\_of\\_CUIPI\\_study.pdf](https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/418097/Evaluation_of_CUIPI_study.pdf)

<sup>3</sup> See Annex I of CUIPI (2006). Under activity based costing (ABC), common costs are allocated based on the activities undertaken to produce the product. ABC methods rely on a concept of ‘cost causality’ to reduce the number of residual common costs that are assigned by an arbitrary key. For example, where the time of managing staff is split 70:30 between two products, then the costs of those staff should be allocated in the same proportion to the respective products.

<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.offt.gov.uk/OFTwork/markets-work/public-information>

<sup>4</sup> [http://www.legislation.gov.uk/uksi/2015/1415/pdfs/uksi\\_20151415\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/1415/pdfs/uksi_20151415_en.pdf)

starting point in determining obligations for NewCo. It is important that any such obligation is scoped so that NewCo cannot refuse reasonable data requests in order to avoid competition to its own commercial products.

**3. How could Government use this opportunity to improve the quality and accessibility of data produced by Land Registry for all sectors of the economy?**

Comments:

No response.

**4. On what basis should Government manage the relationship with a privately owned Land Registry to ensure Land Registry meets, as far as is reasonable, the data quality and availability requirements of all stakeholders?**

Comments:

Please see our answer to question eight.

**5. Do you agree that the suggested safeguards should be included in any model?**

Yes                       No                       Not sure

Comments:

No response.

**6. Are there any other safeguards that you think should be included?**

Yes                       No                       Not sure

Comments:

Market oversight

We recommend that Government clearly allocates responsibilities not only for the management of NewCo but also for wider market rule-setting and oversight duties<sup>5</sup>. This would include responsibility for:

- Ensuring that clear continuity of service arrangements are in place to deal with the possibility of provider failure part way through a contract or licence period (this could be financial failure, or failure to meet minimum service standards or KPIs). In the absence of a well-managed contingency plan, there would be increased risk that provider failure could lead to service delays for house buyers and data users, and additional costs for consumers and taxpayers.
- Monitoring the demand side and ensuring that potential users of NewCo's services are well informed of the data on offer. NewCo's data customers are likely to include large web developers that have the resources and incentives to appraise themselves of the data on offer and their rights to access it. However, other potential customers may be less proactive and informed. These customers in particular may benefit from an oversight regime that (i) maintains a good understanding of the potential customer base and (ii) ensures that monopoly data is presented in a way that helps users to understand the products on offer and the associated pricing and terms.
- Monitoring (and if appropriate promoting) potential competition to NewCo for future contracts or licenses. Part of the oversight regime should be responsible for thinking about the supply-side of the land registration service market in the wider sense, rather than simply managing the incumbent provider. The benefits of this, which are discussed below, could include improved value-for-money when the contract or licence comes up for renewal.

### Competition for the market

We note government's preference that land registration services continue to be delivered by a monopoly, based on a judgement that the benefits of 'in-market' competition between service providers would not outweigh the costs. We recommend that Government tests this hypothesis as part of a detailed impact assessment.

Should a privatisation take place, we recommend that Government should at least takes steps to increase the prospects for effective competition 'for' the market. Various case studies suggest that competition for the market can lead to better outcomes for service users<sup>6</sup>. Taxpayer and consumer interests are likely to be better

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<sup>5</sup> This approach is advocated in the Institute for Government's guidance on public service markets: [http://www.instituteforGovernment.org.uk/sites/default/files/publications/Making\\_public\\_service\\_markets\\_work\\_final\\_0.pdf](http://www.instituteforGovernment.org.uk/sites/default/files/publications/Making_public_service_markets_work_final_0.pdf)

<sup>6</sup> See for example the CMA's recent policy report on Competition in Passenger Rail Services (2016) or a comparison of competition 'in' the market and competition 'for' the market: *"[since privatisation] competition 'for' the market has been intense, with franchise competitions attracting a number of credible bidders. There have been real benefits, evidenced by the reverse*

served, both in the initial sales process and in subsequent contracting or licensing rounds, if the institutional setup allows a wide range of potential providers to bid against, and exert competitive pressure, on each other.

Measures likely to increase the degree of competition for the land registration services market include:

- Avoiding excessive entry barriers, for example excessively stringent financial criteria, that would narrow the pool of bidders in the privatisation.
- Structuring the privatisation in a way that avoids locking-in an excessive advantage for the provider that wins the first contract or licence (for example, by retaining public ownership of the Registers, as Government intends).
- Setting market rules, for example usability standards, that make it easier for alternative providers to step-in should they win the right to deliver land registration services in future.
- Limiting the duration of the contract or licence term. We recognise that there is a trade-off to be made here. The term should be sufficiently long to allow a service provider to recover the costs of efficient investment in the business. On the other hand, a more limited term would help ensure that the incumbent faces competitive pressure on a periodic basis, and does not build an unassailable incumbent advantage.

Potential benefits for tax payers and consumers include:

- Increased value-for-money for the taxpayer and consumers, both at the point of initial privatisation and subsequent contract or licence re-tendering, due to a wider pool of bidders. For example, if the incumbent did not face competitive rival bids at the point of contract or licence re-tendering, then it may seek to 'hold-up' taxpayers and consumers by insisting on excessive fees and/or public support.
- Easier step-in by an alternative provider in the event of incumbent failure, helping to ensure continuity of service. As mentioned above, this could reduce the risk of service interruptions and delays for house buyers and data users, and may limit rectification costs to taxpayers.
- Reduction in moral hazard problems that could arise during the contract or licence period. In the absence of credible alternative providers, Government is unlikely to terminate the incumbent's contract or licence and may be reluctant to impose sanctions that could damage its financial health. This in turn may

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*over the past two decades of the previous long-term decline in usage of Britain's railways and, over the past decade, a material increase in passenger satisfaction".*

[https://assets.digital.cabinet-office.gov.uk/media/56ddc41aed915d03760000d/Competition\\_in\\_passenger\\_rail\\_services\\_in\\_Great\\_Britain.pdf](https://assets.digital.cabinet-office.gov.uk/media/56ddc41aed915d03760000d/Competition_in_passenger_rail_services_in_Great_Britain.pdf)

lead the incumbent to neglect service standards or other obligations that are specified in the contract or licence, but which are costly to comply with.

- Fostering competition for the land registration services market could also be beneficial in terms of creating a wider pool of investors or service providers to participate in future attempts to bring private capital or expertise into Government Trading Funds or Government Owned Companies<sup>7</sup>.

Promoting effective competition ‘for’ the land registration services market would not preclude the need for price regulation of the monopoly business, nor would it remove the competition risks (such as effective margin squeeze) identified elsewhere in this response.

### Open data

Evidence suggests that open data in general and at the Land Registry in particular can benefit consumers<sup>8</sup>. However, the funding of open data does present several risks that would need to be managed within the safeguard regime. If direct public funding for open data is provided, care should be taken to ensure that this is not used to cross-subsidise commercial data products, since this could inhibit competition in those markets. If such funding is not provided, there is a risk that non-open products or services are overpriced (where information holders have the market power to enable them to do so) or that incentives for anti-competitive behaviour are increased, either of which could harm consumers. While these risks already apply in the status quo, these may increase where service provision is by a private business with a profit motive. The accounting separation and cost allocation measures mentioned above would help oversight bodies to manage these risks.

## **7. Do you agree with the preferred option?**

Yes                       No                       Not sure

Comments:

Please see our response to question eight below.

## **8. What are your reasons for your answer to question 7?**

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<sup>7</sup> For example, Government has announced plans to develop options to bring private capital into the Ordnance Survey before 2020.

<sup>8</sup> DotEcon CUPPI evaluation (2015): “The release of price paid data, including historical data, for free is widely seen as one of the most significant open data releases. Information provided by Land Registry indicates that its Open Data – particularly price paid data – has seen a very high number of downloads, relative to other freely available datasets. Third parties that make use of this data, such as Zoopla and Rightmove, are generally seen to be delivering material benefits for consumers.”

Comments:

### Summary of CMA position

The potential value from public sector information is clear. The CUPPI study, published a year before the launch of the iPhone<sup>9</sup>, put potential value at £1 billion per annum. As you will be aware, the more recent Deloitte study (2013) estimated aggregate social benefits from public sector information of £6.2 billion to £7.2 billion<sup>10</sup>.

Much of this derives from the innovative re-use of public information in digital products that benefit consumers, improve productivity, and support economic growth. For example, app developers have harnessed Land Registry data to create popular property price apps, while apps based on Transport for London data have helped millions of people to avoid congestion and dedicate more time to productive activity.

The Land Registry holds an important part of the UK's overall public sector information portfolio<sup>11</sup>. Based on our experience and the OfT's work on the CUPPI study, we believe that consumers and the economy would be best served by a model that promotes wide access to Land Registry data at cost-reflective prices, encouraging its use and commercial exploitation by a range of individuals and businesses.

Our view is that a privatised, vertically-integrated NewCo (Government's preferred option) is unlikely to deliver this outcome, despite the best efforts of oversight bodies to regulate prices and write safeguards into a contract or licence. In particular, we are concerned that:

- there is a significant risk that a vertically-integrated, privatised NewCo engaged in both the supply of monopoly data and the supply of commercial products (which use the monopoly data as an input) would not maintain or improve access to the monopoly data;
- rather, despite price-regulation on its monopoly activities, NewCo may degrade the terms of access to its monopoly data in order to weaken competition to its own commercial products.

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<sup>10</sup> Deloitte study for the Department of Business Innovation & Skills (2013). The estimates provided are for 2011/12 (in 2011 prices) and include both the direct value of public sector information to consumers, businesses and the public sector and indirect value from the information re-use in areas such as productivity enhancing apps and public health.  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/198905/bis-13-743-market-assessment-of-public-sector-information.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/198905/bis-13-743-market-assessment-of-public-sector-information.pdf)

<sup>11</sup> The OfT CUPPI study (2006) identified the Land Registry as having the fourth largest income from information supply amongst UK public sector information holders, after the Ordnance Survey, the Met Office and the UK Hydrographic Office.

While these risks are not unique to privately-owned monopolies, our view is that they may be sharpened by the introduction of a profit motive.

### Comparison of the contract model and independent economic regulation model

The consultation puts forward two broad approaches to oversight of a privatised NewCo, namely independent economic regulation under a licence, or contract management by Government (Government's preferred option).

Based on information provided in the consultation, we do not agree that a contract model would be sufficient to address all the circumstances of this case. Independent economic regulation has a proven track record in the UK for promoting consumer interests and managing competition risk in monopoly environments.

If NewCo is allocated long term, monopoly rights to provide land registration services, our view is that independent economic regulation would be best suited to providing ongoing, in-depth scrutiny of the business. In particular, an independent economic regulator would be better placed than Government to manage comprehensive regulatory pricing controls including powers to conduct margin squeeze tests. This model applies to parts of the Royal Mail, in relation to which Ofcom has powers both to regulate the price and quality of universal services provided in the wider social and economic interest and to test for margin squeeze<sup>12</sup>.

For example, in order to manage uncertainties around service demand, the regulatory framework could contain ex-post pricing controls. In addition, guaranteed maximum and minimum fee incomes could be specified in order to avoid overcompensation, while helping providers with smaller balance sheets to participate in any privatisation process. This would be similar to the regulatory model followed by Ofcom prior to the privatisation of Royal Mail.

We recognise that contract management by Government may offer greater responsiveness to policy developments (potentially making it easier to adapt open data policy), however this could increase uncertainty for investors (potentially increasing the cost of capital and/or reducing the sales receipt).

### **9. Do you think an alternative model would be better and why?**

Yes       No       Not sure

Comments:

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<sup>12</sup> <http://www.royalmailgroup.com/about-us/regulation/how-were-regulated>.

Please see our answers to question two and question eight.

**10. Are there other key costs and benefits that you think we might have missed?**

Yes       No       Not sure

Comments:

We recognise Government's intention to develop the impact assessment over the course of 2016. Given that there is likely to be a positive relationship between the pricing potential of the privatised business and the Exchequer sales receipt, it is important that any trade-offs here are fully explored and communicated.

Our particular concern is that attaching higher prices to Land Registry data would harm consumers (i.e. by increasing producer surplus at the expense of consumer surplus) and restrict innovation and choice in the flourishing app and website development markets that rely on this as an input. This would have negative consequences both for the consumers that use these apps and websites, and for the UK economy, given the potential role of these businesses in generating wages and profits, contributing to productivity, and paying tax.

We recommend that Government develops and publishes a detailed assessment of how fees and prices might vary under different models for the future of the Land Registry and the impact that this would have for consumers and for competition in downstream markets. Impacts on society as a whole (total welfare) and on consumers in particular (consumer surplus) should be assessed.

**Do you have any other comments that might aid the consultation process as a whole?**

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Comments:

No response.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.



Please acknowledge this reply

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

No

**BIS/15/165/RF**