



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:

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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

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	Respondent type
<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) Academic

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

Yes No Not sure

Comments: Ownership and management of the Registers constitutes a critical government function: who owns what, where. Open, free access to, and re-use of, data derived from the Registers is the clearest path towards the 'innovation' that the government wishes to promote.

Moving the operational component of the register creates several major issues: first, the risks associated with the register remain with the government while the

gains are privatised. It's hard to think what else is expected since the 'sale' raises ca. £1.2 billion only if the operator anticipates easy profits for the foreseeable future; second, having a private sector operator of the register would create clear conflicts of interest between the operator and other organisations – especially companies – seeking access to the data; third, a private operator would seek to monetise new features associated with the operation of the register and this cuts clearly against the Government's 'open data' agenda. Moving operations to the private sector also creates severe risks that any derivative Intellectual Property created by the operator does not return to the Government in the event that they wish to terminate the agreement and change licensee.

At this time, ownership, responsibilities, and access are all clearly articulated and well understood; since the Land Registry has made a 'profit' for the taxpayer in 19 of the past 20 years it clearly covers its costs and has a 98% customer satisfaction rate to boot (if only companies could achieve the same!). Access to the Land Registry data is essential for my research into the housing market and I would expect a private sector operator to be far less responsive to requests for support and far less active in consulting with end-users who are not fee paying.

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: The government should not move LR operations to the private sector; however, if the government wishes to persist in this course of action then the following constraints should be imposed: the operator must make all data – whether generated directly by the registration process itself, or derived from such data – freely accessible to all users and may not 'mix in' its own data in order to assert copyright or other IP rights over such data; the operator may not offer a paid for service that offers preferential or more extensive access to any data associated with Land Registry operations than is available to all other users for free; the operator may not use the timeliness of data as an incentive for users to pay a fee for a service.

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: The government could encourage the current Land Registry to more actively pursue the further opening up of data already held on Shared Ownership and Corporate ownership of land. However, the government's proposed solution take us further away from this opportunity since a private sector operator would have no interest in making such data publicly available in an open, free, and unbiased manner and would be free to charge both private and non-profit users for access to essential data for research and development.

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: This will not work. Access to data will be restricted and innovation will be reduced because of the commercial interests of a monopoly data-‘owner’/operator.

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

Yes No Not sure

Comments: Yes, but they are insufficient. Please see response to Q8.

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

Yes No Not sure

Comments: There are no safeguards that I would expect to be *effective* in retaining, or building further on top of, the value already contributed by the current system to the economy, to policy, and to academic research. At a bare minimum, all fee-paying services developed by the operator of the Land Registry should be made freely accessible to all users for non-commercial purposes including policy, advocacy, and research.

7. Do you agree with the preferred option?

Yes No Not sure

Comments: No, this is a short-sighted attempt to patch a hole in the government’s finances via a one-time transfer of operational management of an essential government function to the private sector with no clear rationale as to why it could or should produce a better-quality service than the current model, and substantial down-side risk (see response in Q8) in terms of the impact on the cost, timeliness, and unbiased nature of the current service.

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

Comments:

1. What is the impact that this will have on the ONS’ ability to produce timely statistics about the housing market? A privatised Land Registry will be looking to maximise revenue, not provide a free, high-quality service to public sector bodies or competing private companies. The consultation only mentions free and/or open data at the very end – up to that point all of the language is about “innovative services to the customer” – and it’s pretty clear from this that the open data statement is about ‘maintaining’ existing offerings with only a gesture towards other data sets being made open in the future and no clear path for making it available *for free* to individuals or companies (only “the public sector” is explicitly included in the ‘free at point of use’ statement 60.iii).
2. With the closing of the open data door, what is the long-run impact that this will have on the ability of anyone other than Rightmove, Zoopla, and the owner of the Land Registry to properly understand what is happening in the

market? New data feeds would clearly be on a pay-to-play basis and so would limit the market to a few major licensees instead of the range of small- and medium-businesses (as well as major estate agents such as Savills) currently making use of the data. It's hard to see how this will 'increase overall accessibility and quality of data' and the concentration of data in the hands of just three 'players' will significantly reduce the amount of innovation in this area by preventing small businesses and app developers from developing niche products – a privatised Land Registry would be in a position to either limit access by start-ups and small businesses using licensing terms on any future data, or simply to put them out of business by duplicating their functionality internally. The Land Registry should not be both a data provider and a competitor in the data science space, but privatisation accomplishes exactly that.

3. The government has just had to allocate £5mm to the *start-up costs* of (re)building an open Postal Address File since the original was sold off with the Royal Mail. The full costs of this build are currently unknown but are likely, given the failure of a crowd-sourced alternative, to be substantial. This outcome should make it clear that keeping basic data about the country, and the digital services that make it accessible, in the public realm not only has cost benefits but also underpins the very digital economy innovation that the government says it wants to promote (since a large number of businesses depend on having a valid address, and a large number of businesses benefit from having timely housing market data). I have direct, professional experience of projects designed to transfer knowledge of complex database schemas and operational data management procedures between organisations and they invariably fail – once operational knowledge is transferred to the private sector it will not be possible for the government to resume operational control, and there will be significant disruption should the government attempt to transfer operational control to another private sector entity. There is ample evidence of this problem in the government's own history of IT and infrastructure management.
4. For the LR privatisation, the government has asserted that ownership of the register (and, effectively, the guarantee that goes with it) will remain in the hands of government since the "no-fault indemnity" needs to be retained to ensure "smooth functioning of the property market". This would seem to mean that the liabilities for errors or issues with the register will remain with government since there is only a brief mention of "transfer an appropriate share of financial risk... to NewCo". In which case, why sell off the organisation that manages the data since this appears to *increase* risk to the data owner? In exchange for a brief fillip to the government's debt, the government will lose the long-run potential of the Register to throw off a modest surplus year-on-year while providing open, unbiased access to critical data on the UK's land ownership.
5. To state this even more categorically: with modest fee levels the LR is still generating a surplus and so the logic of selling it off to 'increase efficiency' is therefore fundamentally flawed. It is already offering a high-quality, cost-efficient service such that, even if the surplus is a temporary artifact, significant improvements from cost-reductions seem unlikely. A commercial owner would therefore naturally look to increase fees for ancillary services charged to end-users in order to ensure profitability and year-on-year revenue

growth. A more Machiavellian firm might deliberately neglect the core, regulated free/low-fee section and ‘up-sell’ customers on to unregulated premium services that increase revenue. All of this runs exactly counter to the government’s presumed intention of ensuring the efficient operation of the housing market. To put it another way: for what, exactly, is someone paying £1.2 *billion* if not the opportunity to exploit a monopoly position with minimal downside risk? Government negotiators have not covered themselves in glory in most contracts with private sector firms such as SERCO, Capita, etc.

6. A private sector operator would also be exempt from Freedom of Information regulations and so would be able to either charge for, or to refuse to publish, data of compelling interest to individuals, groups, and government. For instance, the ‘foreign ownership’ data set was first obtained via Fol requests, but is now being published as an open access data set and supporting wider, evidence-led public debate. Given the importance attached to housing and housing need by this Government the logic of selling off the operational management of the entity best-placed to offer insight into the dynamics of this market is, at best, poorly thought through.
7. Finally, a privatised, revenue-oriented LR would be in a position to exploit data in advance of its availability to competing firms (informational firewalls inside companies are *always* ‘leaky’ and there would be significant incentive towards the kinds of behaviour identified at banks following the 2007 crisis). This would fundamentally undermine the basis on which the service is offered to users: that the Land Registry is an impartial collector and publisher of data to all consumers and that it cannot seek to capitalise on privileged access to market movement. The impact of this outcome will be a reduction in innovation since there will be fewer entrants able to compete with the data-owner and increased fees for those who try.

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

Yes No Not sure

Comments: The current model is demonstrably fit-for-purpose (see high satisfaction rates and fact that LR has run a surplus in 19 of the past 20 years) and should not be changed. Innovation in this sector should be premised on an underlying government-run organisation that makes data freely and fairly accessible to all users (data as a platform for innovation, not monopoly control), not on a private sector firm with privileged access. In addition, what kind of ‘innovation’ in the management of the Registry is desirable? I don’t want a LR that ‘fails fast’ or ‘fails forward’, I want one that takes great care in designing, testing, and releasing new data services to users.

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

Yes No Not sure

Comments: Please see above, especially response to Q8. Given the response to the previous consultation just two years ago, this one smacks of “if at first you don’t

get the answer you want, try again". In the previous consultation 91% of respondents were firmly opposed to the privatisation of the Land Registry and yet here we are again. A key cost is therefore the cost of doing this consultation again when the nature of the public (and private) sector response is well-known in advance.

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:

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