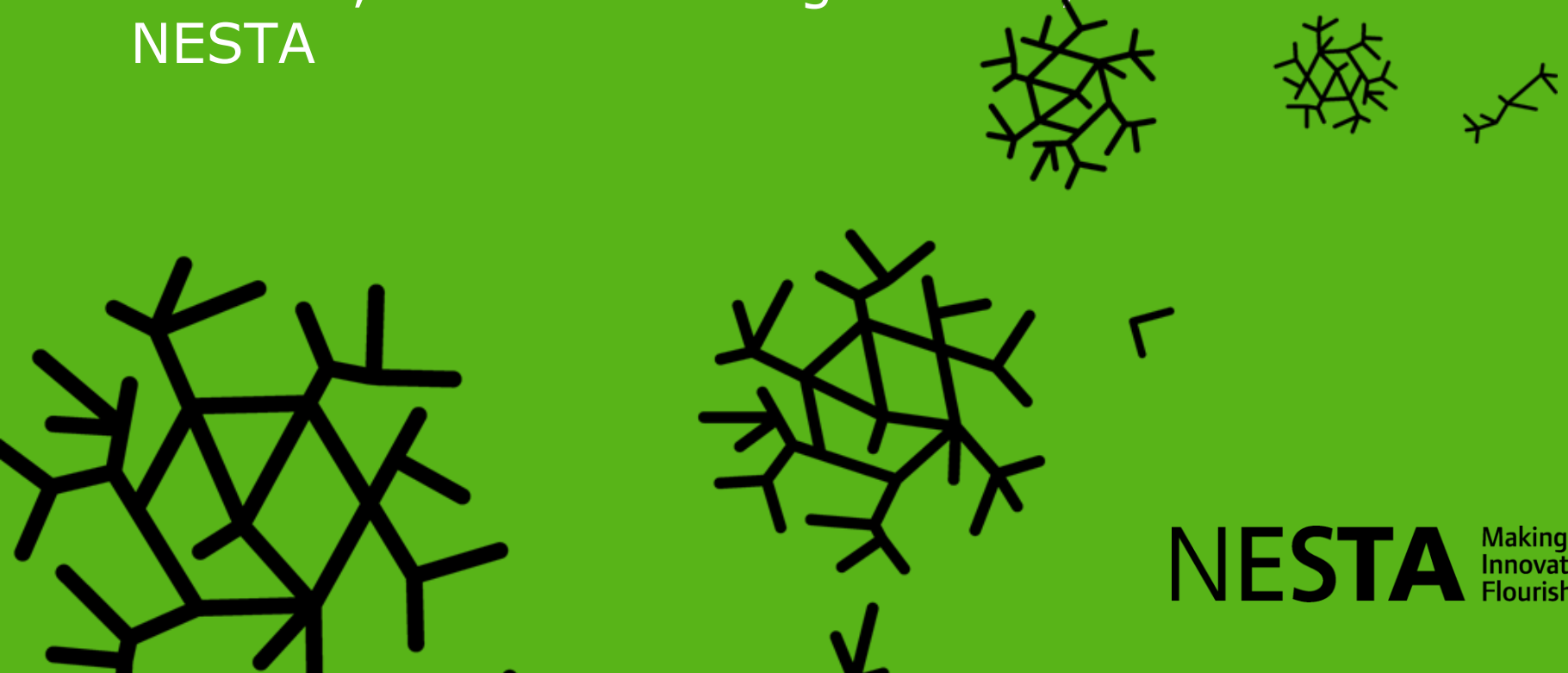


Testing a new ipr framework for public organisations

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About NESTA

- Organisation with a mission to stimulate innovation to solve the UK's big social and economic challenges
- Independent and arm's length from government
- A blend of early-stage investment, research and policy and practical experimentation
- An integrated approach towards investing, researching and testing
- We openly share lessons from these activities for the benefit of the UK

Our work with Digital Britain so far...

- Hosted a range of consultations with Lord Carter's team
- Called for a flexible approach to copyright to allow business model experimentation
- Encouraged others to adopt a Test-bed approach towards experimentation
- Project to understand the potential for publicly owned open linked data held by local authorities
- Support for the Web Science Trust – the champions of linked data and undertake ground-breaking research

But today... a presentation on public IPR frameworks

- A pilot to test the value created by a range of new types of deal terms between public organisations and digital media producers
- NOT about the ownership of publicly owned information
- IS about other types of IP
 - Code
 - Format
 - Design/UE
 - Video
 - Right to produce versions for secondary markets

Background 1: commissioning market size

- Public organisations commission approx £285m of digital media business from digital production companies per annum – (source OFCOM 2nd PSB review 2008)
- This equates to a 3rd of all independent digital production in UK
- and yet, in the majority of cases digital assets are commissioned by one public organisation and not shared or acknowledged with others

Background 2:

- Digital media producers (PACT) assert that digital rights are best exploited by those who create them. Example UK TV production
- Note: Unlike a TV programme, digital media has more easily separable elements of IP
- BBC digital media frameworks launched Nov 2007 to allow producers to retain some of their digital rights for secondary exploitation. Balance between rights owned and cost of project development

What we know about public commissioning?

- Not enough understanding/clarity on current IPR position in these categories to encourage better exploitation
 - “in each case the IPR should be owned by the party best able to exploit them” – Office of Government Commerce
 - “Crown copyright is made available for use by everyone” – OPSI
- No incentives to explore additional exploitation from commissioners

What don't we know?

- The size of a secondary market for digital IPR
- The ability or appetite for producers to commercially exploit their IPR
- The potential deal terms by which revenue is shared
- The economic benefit produced by retaining rights
- The value created by making IPR ownership more explicit
- The transaction costs of negotiating new rights deals
- The incentives produced by offering rights back

NESTA's public organisation IPR pilot

- Define and communicate a consistent set of IP terms
- Test a set of frameworks on different projects under different rights frameworks and analyse the benefits created
- Share the findings with stakeholders and progress towards a new set of frameworks to be adopted by public organisations

The frameworks

- Ranges from fully-owned by crown copyright to open source models, with rights retained in-between
- We need real-life projects to test over the next 12 months
- Asking for projects not just from public sector, but also public organisations such as Kew, Tate, Arts Council
- Backed up by industry research to test demand/capacity to commercially exploit
- Accompanied by some guidance and draft legal templates

Framework 1

The Public Organisation acquires by assignment all rights in material produced under the terms of the commissioning arrangements. The public organisation makes the materials available for re-use and development for all, under standard, non-exclusive terms.

Example: Ordnance Survey – where images and user experience is integral to the presentation of public data

Framework 2

The Supplier owns and retains all rights to any new stand alone IP they bring to the Public Organisation; the Public Organisation takes an exclusive licence only. Any publicly-owned data will be made available for licence under Crown Copyright.

Example: National Pandemic Flu service UE/software code

Framework 3

The Supplier licences their existing third party rights to the Public Organisation on a non-exclusive basis.

Example: the use of generic or established content/images/maps/characters by public organisations

Tate Gallery may license use of existing images from libraries or previously shot footage of artists

Framework 4

The Supplier licences their off the shelf technology product to the Public Organisation on a non-exclusive basis.

Example: Fix My Street API licensed to local authorities

Framework 5

The Supplier licences their off the shelf technology product to the Public Organisation on a non-exclusive basis, but the Public Organisation owns (or may take a non-exclusive licence in) the bespoke development which it specifies and pays for.

Example: modifying existing sites (usually to reduce new-build)

Framework 6

The Public Organisation commissions bespoke technology with the explicit goal of making it open-source – i.e. with non-existent copyright restrictions.

Example: NHS Open Source database?

Key points

- The Public Organisation's commissioners should identify which Rights Framework applies before asking suppliers to respond to a request for a proposal.
- The question of how any revenues from commercial exploitation is shared will need to be discussed and agreed before asking suppliers to respond to a request for a proposal.
- Suppliers should then provide a fully-costed proposal which should include all necessary fees, payments etc.
- The majority of commissions will fit under one of these Frameworks, but it is also accepted that some may not; given the varied nature of these commissions there will need to be some flexibility in how they operate.

what are we hoping to learn?

- Understand the cost/benefits
- Gauge the demand from producers (free from lobbyists)
- Independent data
- What new uses of public data are incentivised by commercial exploitation of publicly commissioned services

Challenges

- We need organisations/projects keen to trial
- Overcoming inertia by lawyers/commissioners/public sector
- Confusion between this project and the good work going on releasing public data

Questions?

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