



Oil & Gas
Authority

Response to the consultation on OGA supplemental guidance

For the disclosure of certain Geophysical Data (created or acquired under an Exploration Licence pre-2018)

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The consultation can be found on the OGAs website: <https://www.ogauthority.co.uk/news-publications/consultations/2019/consultation-on-oga-supplemental-guidance-pre-2018/>

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General information

Purpose of this document

This document sets out the OGA's response to the consultation on the OGA Supplemental Guidance on the disclosure of certain Geophysical Data created or acquired under an Exploration Licence pre-2018.

Consultation reference: <https://www.ogauthority.co.uk/news-publications/consultations/2019/consultation-on-oga-supplemental-guidance-pre-2018/>

This response issued: 14 September 2020

Territorial extent: UK Continental Shelf (UKCS).

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Quality assurance

This consultation has been carried out consistent with the [government's consultation principles](#).

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

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Introduction and Background

1. This document summarises the feedback on, and sets out the OGA's response to, the *Consultation on OGA supplemental guidance – Disclosure of certain Geophysical Survey Data (created or acquired under and Exploration Licence pre-2018)* (the '**pre-2018 Consultation**').¹ The licence terms in an Exploration Licence are granted under the Petroleum Act 1998 ('**1998 Act**').²
2. The pre-2018 Consultation was conducted between 27 March and 27 April 2019, along with various stakeholder meetings held later that year. The consultation asked for stakeholders' views, including those in the UK oil and gas industry, on how Geophysical Survey Data ('**GSD**' or '**Data**') created or acquired under an Exploration Licence before 2018 will generally be published by the OGA as set out in the accompanying draft supplemental guidance, and particularly on the timelines proposed for the release of these Data.
3. The UK Continental Shelf ('**UKCS**') Maximising Recovery Review Final Report ('**the Wood Review**') recognised that the timely disclosure of data plays a significant role in the UK oil and gas industry, access to high quality data will help deliver more effective and efficient ways to maximise economic recovery from the UKCS across the whole oil and gas lifecycle, and data acquired under an Exploration Licence forms an essential part of the national database that has been built up over the years.
4. The OGA recognises the role that readily available GSD can play in the unlocking of economic value on the UKCS, and the OGA considers that the disclosure of geophysical data is an important part of the effort to stimulate exploration, appraisal and development activity, in addition to energy transition activities on the UKCS. It is anticipated that the wider availability of such legacy geophysical data products prepared using the pre-2018 GSD will lead to a higher technical baseline for work undertaken on prospects and discoveries as well as stimulating an increase in reworking of legacy data, and increased acquisition and uptake of newer data.
5. Additional activities on the UKCS, such as the development of carbon capture and storage and associated hydrogen production and storage schemes, would also greatly benefit from access to such legacy GSD and would similarly lead to the increased reworking of legacy data, new acquisition and/or licensing of newer available data sets. As a specific example use, carbon storage schemes will rely upon GSD to characterise potential storage sites (to an appropriate storage readiness level) and identify key subsurface risks on a regional scale, which may relate to hydrocarbon fields that have ceased production, regional aquifers, or other suitable structures/traps. In many areas of the UKCS, legacy data are required to support preliminary assessments by allowing the mapping of potential storage sites, storage complexes and hydraulically connected units and potential leak points. Such mapping will be required across areas large enough that they require access to multiple legacy datasets to be done effectively. In many cases, such datasets will benefit from combined reprocessing. Once such preliminary work is done, it is expected to stimulate further GSD baseline surveys and, ultimately, in the case of operational schemes, will require frequent or permanent monitoring using GSD, supporting an ongoing stream of new geophysical activity.

The importance of the disclosure of legacy geophysical data

¹<https://www.ogauthority.co.uk/media/5457/consultation-on-oga-supplemental-guidance-pre-2018.pdf>

²Or under the Petroleum (Production) Act 1934 if granted prior to the 1998 Act taking effect

Rationale for the proposed guidance

6. The Energy Act 2016 ('**2016 Act**') sets out the OGA's powers relating to the retention of petroleum-related Information and Samples by relevant persons, reporting them to the OGA, and their subsequent publication by the OGA. In February 2019, the OGA published its **Reporting and Disclosure Guidance**,³ The Reporting and Disclosure Guidance is based on the legal framework set out in the Energy Act 2016⁴ and the relevant **Retention**⁵ and **Disclosure**⁶ **Regulations**. That guidance sets out the requirements for reporting information and samples acquired under an offshore Production Licence and how that information may be disclosed and only applies to certain GSD created or acquired during or after 2018 and under an offshore Production Licence.
7. Whilst a number of the categories of information and samples described in the Reporting and Disclosure Guidance will be created or acquired under an Offshore Production Licence, there is also important GSD information created and acquired under an Offshore Exploration Licence, which is not covered by the Reporting and Disclosure Guidance.
8. Under each Exploration Licence, seismic data acquisition takes place under the terms set out in that Licence⁷, which includes model clauses that specify that the OGA may publish information including relating to surveys acquired or created by the Licensee:
 - after **three (3)**⁸ or **five (5) years**⁹ (depending on the Licence) from the date on which the OGA was due to receive information or from the date it actually received information (if earlier);
 - after the Licence ceases to have effect; and,
 - after the expiry of a period determined by the OGA after considering representations made by the Licensee.
9. Therefore, in relation to such information created or acquired before 2018, the Exploration Licence terms govern the retention, reporting and publication of such geophysical information, unless the OGA agrees otherwise.
10. As described above, the OGA considers that the publication of GSD is an important part of the effort to stimulate exploration and production activity on the UKCS, as well as supporting the energy transition, including carbon storage activities. Data acquired under an Exploration Licence form an essential part of the database that has been built up over the years.
11. The OGA, furthermore, considers that it is appropriate to have consistency in the periods after which disclosure of information relating to geophysical surveys carried out under an Exploration Licence may be published by the OGA with those set out in the Disclosure Regulations. In this regard, the OGA notes, among other things, that the Disclosure Regulations set out a longer confidentiality period than is provided for in the Exploration Licences, and consistency of periods across all data vintages brings clarity for industry, and the periods are consistent with global regulatory norms (see paragraph 49).
12. The OGA, therefore, is publishing supplemental guidance, to supplement the Reporting and Disclosure Guidance and set out how certain defined GSD acquired or created under an Exploration Licence before 2018 should be reported to the OGA, and provide additional

³<https://www.ogauthority.co.uk/news-publications/publications/2019/reporting-and-disclosure-of-information-and-samples-guidance/>

⁴<https://www.ogauthority.co.uk/media/5353/oga-guidance-on-reporting-disclosure-18-february-2019.pdf>

⁵The Oil and Gas Authority (Offshore Petroleum) (Retention of Information and Samples) Regulations 2018, <http://www.legislation.gov.uk/uksi/2018/514/contents/made>

⁶The Oil and Gas Authority (Offshore Petroleum) (Disclosure of Protected Material after Specified Period) Regulations 2018, <http://www.legislation.gov.uk/uksi/2018/898/contents/made>

⁷Exploration Licences are granted under Petroleum Act 1998 and the licence terms set out obligations and powers relating to the retention of information and samples by the Licensee, reporting them to the OGA and their subsequent disclosure by the OGA. For those Licences made pursuant to The Offshore Exploration (Petroleum, and Gas Storage and Unloading) (Model Clauses) Regulations 2009 S.I. 2814/2009, see <http://www.legislation.gov.uk/uksi/2009/2814/contents/made>. See also The Petroleum (Current Model Clauses) Order (1999) S.I. 160/1999 - <http://www.legislation.gov.uk/uksi/1999/160/schedule/11/made> and The Petroleum (Production) (Seaward Areas) Regulations 1988 S.I. 1213/1988 - <http://www.legislation.gov.uk/uksi/1988/1213/schedule/5/made> for licences granted under the Petroleum (Production) Act 1932.

⁸See regulation 14 (d) (i) of the The Offshore Exploration (Petroleum, and Gas Storage and Unloading) (Model Clauses) Regulations (2009) S.I. 2814/2009

⁹See for example regulation 15 (iv) of The Petroleum (Current Model Clauses) Order (1999) S.I. 160/1999.

information on how this information will generally be published by the OGA on a basis consistent with similar data acquired during or after 2018. This supplementary guidance can be found at: <https://www.ogauthority.co.uk/exploration-production/documents/supplemental-guidance-pre-2018/> (referred to as the “**pre-2018 Supplementary Guidance**” or “**this Guidance**”).

13. The OGA is also publishing supplemental guidance in relation to the reporting and disclosure of GSD acquired or created under an Exploration Licence post-2017. Information on that supplemental guidance can be found at: <https://www.ogauthority.co.uk/exploration-production/documents/supplemental-guidance-post-2017/>.

OGA response to the views expressed

Summary of consultation responses

14. The responses to the proposal for disclosure of geophysical data acquired before 2018 can be divided into two main groups; GSD users and GSD owners. The users broadly agreed with the proposal to disclose legacy data, whereas the data owners did not support the proposal for data disclosure.
15. The exploration and production companies (i.e. the data user community) emphasised the need to make more data available and preferably earlier. On the other hand, the geophysical contractor community (i.e. the data owners) argued that data acquired under an Exploration Licence (for example, speculative or multiclient data), should not be disclosed at all, since the data owners rely on being able to continue making an economic return on historical investments by charging licensing fees, including in instances where the data are being reprocessed by a party other than the data owner.
16. The OGA considers that the pre-2018 Supplementary Guidance and the confidentiality periods set out in it strike the right balance between the conflicting expressed needs of the different segments in the industry. The OGA notes that the confidentiality periods set out in this Guidance brings the UKCS closer in line with other countries' data disclosure policies. In addition, the OGA considers that the wider availability of legacy GSD will lead to the stimulation of industry activity more generally, which will in turn benefit data owners by creating the demand for additional acquisition and processing activity.
17. The comments received in this consultation process are greatly appreciated, and where appropriate, have been incorporated in the pre-2018 Supplementary Guidance.

Details of responses received

18. The consultation received a spectrum of opinions, comments and helpful suggestions. The OGA received 13 responses in total, representing exploration and production companies (6), geophysical contractors (4) and industry associations (3). A full list of respondents is given in **Annex 1**. Below is a summary of the responses received.

Disclosure of Final Stack Data (Processed Information):

Question 1: The Exploration Licence clauses set disclosure timing at three (3) or five (5) years (depending generally on the date of grant of the licence) for Final Stack Data. The Supplemental Pre-2018 Guidance states that Final Stack Data will be disclosed ten (10) years after the completion of final processing (i.e. the Initial Disclosure Period (Initial Confidentiality Period) in respect of Processed Information).

Q1A: Do you agree that this period is reasonable?

Q1B: If you answered 'no' to Q1A, what longer period should the OGA consider? Please provide reasons for any alternative period proposed.

19. Of the 13 responses to this question, five exploration and production companies, two exploration and production industry associations and one geophysical contractor company supported the proposal. Of the seven exploration and production companies / industry associations that supported the proposal, three would prefer a shorter period in line with the disclosure of data acquired under a Production Licence (5 years). One exploration and production company disagreed with the proposal because they also

wanted to see a shorter 5-year period. Three geophysical contractor companies and one geophysical contractor industry association were against release of the Data after 10 years.

20. A question was raised regarding when the “clock starts ticking” for disclosure. The proposal indicates that data may be published 10 years after the completion of the final processing. Several respondents would prefer publication after completion of acquisition, which is an unambiguous, official and recorded date and would avoid any disagreement or discussion about what constitutes a “final processing”.

OGA response

21. Reflecting the broad support for the proposal, the OGA considers that the period after which the initial Final Stack Data (Processed Information) may be published should be 10 years.
22. In addition, and to address comments made by the data owners, the OGA has included in this Guidance an opportunity for data owners to make representations, supported by evidence, to the OGA to withhold disclosure of data for a longer period than the 10 years. Such representations will be considered by the OGA on a case by case basis and will be limited to representations on Data where the Confidentiality Period is due to expire in the five-year period from 14 September 2020 to 13 September 2025, thus covering Processed Information with a Completion Date from 14 September 2010 to 13 September 2015.
23. Also, the OGA considers that the start of the Confidentiality Period will be the date on which the original final processing relating to the relevant survey was completed. However, monitoring this will require geophysical companies to be cooperative in supplying this date to the OGA in a transparent manner. Where evidence for a verifiable processing Completion Date cannot be provided, the OGA considers it appropriate to use the 31 December of the acquisition year in which the survey operations were started as the trigger date for the start of the Confidentiality Period.
24. Of the 13 responses to this question, two exploration and production companies, one exploration and production industry association and one geophysical contractor supported the proposal. Three geophysical contractors and one geophysical trade body were against any disclosure period, and four exploration and production companies and one exploration and production trade body considered that the period should be shorter.
25. Nine of the 13 respondents agreed that data should be released after expiry of the 3 or 5 year period specified in the Exploration Licences, preferably after 10 years, with some arguing for a release after 5 years. Fifteen years is seen by some respondents as an unnecessarily long period which will hamper the utilisation of the data and could work against the Maximising Economic Recovery (‘MER’) in the UKCS.¹⁰ At the same time, the majority of geophysical contractors (data owners) were against the public disclosure of raw Data, which they claimed will eliminate their possibilities to get a return on previous investments.

Disclosure of Field (Raw) Data (Original Information):

Question 2: Similar to Final Stack Data, the Exploration Licence clauses set disclosure timing at three (3) or five (5) years for field (raw) data. The Supplemental Pre-2018 Guidance states that Field (raw) Data will be disclosed fifteen (15) years after the completion of final processing (i.e. the Full Disclosure Period (Full Confidentiality Period) in respect of Original Information).

Q2A: Do you agree that this period is reasonable?

Q2B: If you answered ‘no’ to Q2A, what longer period should the OGA consider? Please provide reasons for any alternative period proposed.

¹⁰ For background, please see <https://www.ogauthority.co.uk/regulatory-framework/mer-uk-strategy/>.

OGA response

26. The OGA is of the view that the publication of the raw Data (Original Information) is an important element in the data publication process which will enable users to improve data at a low cost, generating additional activity generally, which will also benefit the geophysical industry as well as reducing the economic threshold for making further investments on the UKCS.
27. The 15-year non-publication period for raw Data is in line with the Disclosure Regulations 2018 (although not determined by it).
28. Again, as for Final Stack Data, the OGA has included in this Guidance an opportunity for data owners to make representations, supported by evidence, to the OGA to withhold publication of the Data for a longer period than the 15 years. Such representations will be considered by the OGA on a case by case basis and will be limited to representations on Data where the Confidentiality Period is due to expire in the five year period from 14 September 2020 to 13 September 2025, thus covering Original Information with a Completion Date from 14 September 2005 to 13 September 2010.
29. Also, as for Final Stack Data, the start of the Confidentiality Period will be the date on which the original final processing relating to the relevant survey was completed. Again, monitoring this will require geophysical companies to be cooperative in supplying this date to the OGA in a transparent manner. Where evidence for a verifiable processing completion date cannot be provided, the OGA considers it appropriate to use the 31 December of the acquisition year in which the survey operations were started as the trigger date for the start of the Confidentiality Period.

Disclosure Protection Extension Period:

Question 3: It is proposed that for data that has been determined to have completed final processing in 2009 or earlier that an automatic disclosure protection period be applied for five (5) years from 2018.

Q3A: Do you agree that this period is reasonable?

Q3B: If you answered 'no' to Q3A, what longer period should the OGA consider? Please provide reasons for any alternative period proposed.

30. Of the 13 responses to this question, two exploration and production companies and one geophysical contractor agreed that this is a reasonable extension period. Four exploration and production companies and two exploration and production industry associations considered the period to be too lenient, and three geophysical contractors and one geophysical contractor industry association were against a release.

OGA response

31. Reflecting the general agreement to the proposal for Processed Information, and the view that for Original Information the 15-year period for disclosure of Field (Raw) Data is already sufficiently long, the OGA considers that the Confidentiality Protection Period to be:
- For Processed Information with a Completion Date more than **ten (10) years** before the 31 July 2020, no further Initial Confidentiality Period is granted. Consequently, such Processed Information may be published; and
 - For Original Information (Field/Raw Data) with the Completion Date more than **fifteen (15) years** before the 31 July 2020 date, no further extension to the Full Confidentiality Period is necessary. Consequently, such Original Information may be published.

Disclosure of Value-Added Data:

Question 4: Value Added Data, being products created after the completion of final processing, have generally not been and will not be (under the Supplementary Pre-2018 Guidance) disclosed.

Q4A: Do you agree that allowing value added data products to be retained by the owner will provide them with an incentive to continue to improve the quality and usefulness of the datasets, as well as develop new processing technology and techniques?

Q4B: If you answered 'no' to Q3A, what longer period should the OGA consider? Please provide reasons for any alternative period proposed.

32. Of the 13 responses to this question, three exploration and production companies, four geophysical contractors and one geophysical contractor industry body agreed. One exploration and production company and two exploration and production industry association considered that value-added data should be released after 10 years as well, and two exploration and production companies agreed that raw data should be released after 10 years.

OGA response

33. The OGA considers that allowing *Value Added Data* to be retained by the owner will provide an incentive to improve the quality and usefulness of such datasets. Therefore, the OGA does not propose that *Value Added Data* created from pre-2018 data be general subject to publication.

Question 5. Do you have any further comments on the matters raised in this consultation?

34. In addition to answers to the consultation questions, respondents also included a number of specific comments in answer to question five and in separate commentary and meetings. The topics that were raised in the comments are broadly summarised below and covered:

- The validity of the 2003 agreement
- The nature of multi-client business models
- Initiation of confidentiality protection period
- Supplementary data and reports should be explicitly included in required disclosure
- Copying charges should be eliminated
- The Definition of “Derivative Data” is not clear
- Failure of a company to disclose data

The 2003 Agreement

35. With regard to the 2003 Agreement, several respondents suggested that the proposed guidance contradicts the terms of the 2003 voluntary arrangement¹¹ between the International Association of Geophysical Contractors ('IAGC') and the then Department of Trade & Industry.
36. Some respondents believe that the terms of that 2003 voluntary arrangement are legally binding and set expectations on the OGA to continue the terms of that agreement if it were to be cancelled; that is, the respondents believe that the terms of the agreement should continue to govern the disclosure of geophysical data pre-2018.
37. The same respondents believe that the pre-2018 Supplementary Guidance is substantially changing existing rules and applying legislation retroactively.

Multi-client business model

One respondent suggested that the OGA had taken an overly simplistic view of the geophysical industry and demonstrated a lack of understanding on how the exploration market works under the multi-client business model. They argued that a retroactive disclosure of data would deprive them of economic benefit and jeopardise the business model that has been working them in the UK for more than 40 years.

¹¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/15988/dtispec.pdf

Initiation of Confidentiality Period

Several respondents also questioned the initiation of the confidentiality being set at “*completion of final processing*”, raising concerns that this is a potentially ambiguous date which can be difficult to define, and which opens up the possibility that a “*final*” processing is never achieved, and thereby delaying the disclosure date indefinitely. It was commented that a better reference date, which is always reported, would be the completion of acquisition.

OGA response

38. Below are responses to the specific comments that have been received in answer to question 5.

2003 agreement

39. The ‘2003 Agreement’ was an arrangement between some of the geophysical industry, represented by the IAGC, and the Department for Trade and Industry (‘**DTI**’ – a predecessor of OGA). The arrangement sought to set out, on a voluntary basis, how the seismic industry would make speculative seismic data older than 10 years old more widely available through an initial reduced-price mechanism, with subsequent additional fees or uplifts at specified trigger points.
40. Noting the above, and as had been discussed separately with the relevant parties prior to this consultation, the OGA does not consider the 2003 voluntary arrangement to be legally binding. The OGA also does not agree that the 2003 voluntary arrangement places any binding obligations on the OGA or that the OGA is prohibited from modifying the period after which Data obtained pursuant to an Exploration Licence may be published.
41. The OGA is not seeking to apply retroactively legislation or substantive rules. The terms of the release of GSD are clearly governed by the terms found in the model clauses as set out in relevant UK statutory instruments and contained in each Licensee’s Exploration Licence. Each of these specify in their respective terms a period of either three or five years after the expiry of which the OGA is entitled to publish GSD. There
- are no other substantive rules or legislation that govern GSD. By aligning the disclosure periods of pre-2018 data with that acquired post-2017, the OGA is ensuring consistency and simplicity in the respective Data disclosure periods (see also paragraph 11).
42. Indeed, companies have continued to enter into Exploration Licences pursuant to which the OGA is entitled to publish GSD after the expiry of such applicable period.

Multi-Client Business Model

43. The OGA takes seriously concerns that it does not understand the business models and the impact that any changes to GSD confidentiality periods will have on this important part of the industry.
44. The OGA, and its predecessors, have for over 20 years consulted with the geophysical industry to ensure that a stable business environment exists for the development of activities on the UKCS.
45. Throughout the process of drafting this Guidance, the OGA has had extensive direct engagement with the geophysical contractors to understand their concerns that the proposed guidance is unfair and would have a disproportionate impact on the geophysical industry. That engagement, including more than 25 meetings in the past five years and the sharing of numerous versions of the draft guidance, has informed the approach set out in the pre-2018 Supplementary Guidance.
46. In addition, and in order to better understand these concerns, the OGA offered members of the industry via the trade association, the IAGC, the opportunity to submit further information directly on this point in confidence. The OGA met in late 2019 with both the IAGC and member companies, and separately with some member companies that had offered to share further information on their business models and data libraries. The OGA, as part of the consultation exercise, has also engaged with extant Exploration Licensees, the IAGC, Oil and Gas Independents’ Association (‘**OGIA**’) members and Oil and Gas UK (‘**OGUK**’ members’.

47. The OGA considers that it is appropriately aware of how the exploration and production market works under multi-client geophysical business models, from both the perspective of the data owners and the data users.
48. The OGA recognises that geophysical surveys are capital intensive and an appropriate return on any investment as an incentive to invest is expected by companies within a certain time period. While the time period for this return is set internally by individual companies, the OGA considers, and as specifically set out in the Disclosure Regulations for post-2017 GSD, that disclosure of geophysical data following the completion of the full confidentiality periods (10 years¹² for processed data and 15 years for field and pre-stack data post processing) provides sufficient and reasonable lead times for geophysical companies. This view is supported internationally where similar confidentiality periods have been implemented.
49. The OGA notes in this regard that the Canadian petroleum regulatory boards – Canada Nova Scotia Offshore Petroleum Board (C-NSOPB) and the Canada Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB) – are examples where the period of confidentiality for speculative surveys is 10 years following the completion date of the survey. For exclusive surveys, that data is held confidentially for 5 years after the completion date. Countries such as Australia, Ireland and The Netherlands have similar GSD confidentiality periods.

Initiation of Confidentiality Period

50. With regard to the initiation of the confidentiality protection period at ‘completion of final processing’, the OGA considers that there is some merit in this proposition, and the option to define the initiation of the confidentiality protection period at the completion of acquisition has been considered. However, on balance, it was considered by the OGA that the protection period of 10 years should refer to a useable, i.e. processed, dataset, which becomes available when processing is completed. Furthermore, the Exploration Licensee will be obliged to report to the OGA the processing completion date, which

is always defined since these are commercial products that the vendor is offering to the market. In the event that a verifiable processing completion date is unavailable, the OGA will use 31 December of the acquisition year in which the survey operations were started as the trigger date for the start of the Confidentiality Period.

Disclosure of Data

51. In relation to the failure of a company to disclose Data, the data owners are obliged under their respective Exploration Licences to report the GSD to the OGA/NDR as set out therein, and failure to do so may result in a sanction. The OGA may then publish the Data provided on a given date (i.e. 10 or 15 years after completion of processing), unless the OGA has agreed to extend the confidentiality protection period following an accepted request from the data owner, supported by evidence.

Copying Charges

52. OGA agrees that reasonable copying charges is a critical element in the process of making Data available at low cost and will monitor the charges applied. This Guidance sets out that industry standard Data Copy Charges shall apply. If the OGA considers that unreasonable charges are being applied, it will make clear to the provider that copying charges have to be in line with industry standards and based on fair, reasonable and non-discriminatory principles.

Derivative Data

53. In relation to the definition of ‘Derivative Data’, Section 9 of the pre-2018 Supplementary Guidance deals with definition of terms, and “*Derivative Data*” is defined as data created during the original processing of GSD. An example of derivative data under this definition is raw and final gathers and stacking and migration velocity volumes. Derivative data volumes will be identified in the final processing report.

¹²10 years is generally accepted as the minimum period globally. Where regulators have reduced the period below a decade, they have normally seen a reduction in acquisition activity.

54. Any other derivative data sets created after the final processing will generally be considered “*Value Added Data*” and will not be subject to disclosure as set out in this Guidance.

Failure of a company to disclose Data

55. The data owner is obliged under their respective Exploration Licences to report the Data to the OGA/NDR. Failure to do so may result in a sanction.¹³ The OGA will be entitled to publish the Data on the date of disclosure (i.e. 10/15 years after completion of processing), unless the OGA has agreed in writing to extend the Confidentiality Protection Period.

Other comments

56. Below are responses to general comments and questions raised during the consultation for the disclosure of GSD under an Exploration Licence for post-2017 and pre-2018 Seismic Data that have not been addressed in the main body of the Consultation Response documents.

What can I do with the disclosed data?

57. The reference to disclosed Data is a reference to the OGA publishing the Data under an Exploration Licence, and the OGA has made clear that the Exploration Licences and the Disclosure Regulations refer to the OGA *publishing* the GSD. The Data will be published by the OGA through the NDR and the permitted use of such published Data is set out in the **NDR User Agreement**.¹⁴

58. The NDR User Agreement sets out, for registered users, the OGA's terms and conditions for fair and proper use of the NDR system and for use of such published Data obtained from the NDR, in particular “Public Information”; that is, information that has been uploaded to the NDR by a relevant person in fulfilment of their obligation to report information to the OGA and subsequently published by the OGA in exercise of its powers.

59. The NDR User Agreement states at Clauses 16 onwards how the GSD can then be used, once published.

60. It states at Clause 17 that the user can “store in memory, manipulate, copy, analyse, reformat and print the Public Information”. Therefore, for example, a user can use the published Data for its own internal purposes to analyse whether or not to apply for a licence.

61. Furthermore, the user must acknowledge the use of the information by including a statement that the Data has been provided by the OGA (Clause 18).

62. If the Data is provided by the geophysical company to another party, reasonable reproduction and storage, plus media/transmission costs, may be chargeable by the geophysical company. However, there should be no charges for anything additional (e.g. copyright charges) if the Data is to be used by that other party for their internal purposes (such as considering whether to apply for a Licence): this will be different if the intent of use is to create new products for sale.

63. However, the NDR User Agreement also states (at Clause 17) that, unless the OGA is the owner of the Data, the OGA does not own the intellectual property rights in the GSD and cannot therefore authorise other specific use(s) a user may wish to make of the Information. In that case, the user should contact the data owner.

64. Geophysical companies are still free to sell their value-added products under a commercial agreement, since these are not captured under the scope of releasable Data.

What happens if the NDR User Agreement changes in the future?

65. The data would be disclosed according to the valid NDR User Agreement at the time of disclosure.

¹³https://www.ogauthority.co.uk/media/5760/oga_sanctions_procedure-may-2019.pdf

¹⁴https://ndr.ogauthority.co.uk/dp/pages/NDRDocuments/General_Information/NDR_TermsAndConditions.pdf

Does the disclosure include ancillary data such as navigation data, gathers etc.?

66. The data types that will be disclosed are listed in the Reporting and Disclosure of Information and Samples Guidance and are set out at **Appendix 1** to the pre-2018 Supplementary Guidance.

In summary:

- The **Initial Disclosure** (after 10 years) includes disclosure of processed information, i.e. processed full stack volumes, final processed angle/offset volumes and final stacking/migration velocity data plus the original final processing report.
- The **Full Disclosure** (after 15 years) includes disclosure of all raw and remaining pre-stack data, such as raw and processed positional data, pre-stack gathers, etc.

Confidentiality protection period

67. As set out in this Guidance, and subject to the limits therein, the data owner can make a representation to the OGA, supported by evidence, to withhold disclosure of data of a specific dataset for a period that is longer than the stated Confidentiality Periods. This will be considered on a case-by-case basis and will take into account any relevant factors, such as confidentiality related to proprietary technology, the availability of acreage for Production Licensing through Licence Rounds and Out of Round opportunities in the survey area, and considerations to maintain an open and fair competitive environment.

Ownership of data after disclosure?

68. As set out in the NDR User Agreement,¹⁵ where the GSD is not owned by the OGA, the Intellectual Property remains with the original data owner. Therefore, any use beyond use of the Data as permitted under the NDR User Agreement will require the data owner's agreement. This is

regulated by the NDR User Agreement which states that unless it is the OGA's Data, "the OGA does not own the intellectual property rights in the information and cannot authorise, where applicable, specific use(s) you may wish to make of the information" (Clause 17).

What happens with the data licensing contract a company (data user) has with the Licensee (data owner) after the disclosure period (Confidentiality Period) kicks in?

69. It will depend on what is set out in any contract and each individual person will have to take their own legal view but, generally, a commercial arrangement is valid as per its terms.

Can this Guidance be changed in the future, and in that case, will there be a new round of consultation?

70. The OGA may change this Guidance in the future in light of further experience and developing law and practice and whether the OGA will consult or not on such changes will depend on what is to change.

What is the difference between an Exploration Licence and a Production Licence?

71. Different types of licences are awarded in the offshore realm, and further information about the licensing system can be found on <https://www.ogauthority.co.uk/licensing-consents/types-of-licence/>.
72. An **Exploration Licence** is a general, non-exclusive, licence to acquire data anywhere on the UKCS, and is used for, among other things, acquisition of seismic data, seabed sampling or acquisition of other marine geological or

¹⁵https://ndr.ogauthority.co.uk/dp/pages/NDRDocuments/General_Information/NDR_TermsAndConditions.pdf

geophysical data. An Exploration Licence gives the licence holder the right to carry out these activities in principle anywhere on the UKCS, but area-specific permissions have to be obtained before the activity can start. The licence holder of an Exploration Licence does not own the right to any acreage, or the resources therein.

73. This consultation concerns only data acquired under an Exploration Licence. An Exploration Licence always has the prefix 'E', followed by a serial number (e.g. E001)

74. A **Production Licence** is a licence with a clearly defined areal extent and gives the licence holder the right to explore for and develop offshore hydrocarbon resources within the Licenced area. These licences are awarded in "licensing rounds" and contain various phases, of which the **initial** term is usually an exploration phase (not to be confused with an Exploration Licence). A Production Licence always has the prefix 'P' followed by a number (e.g. P001).

Conclusion and next steps

75. Based on the responses provided to the consultation, the OGA has reviewed and, where appropriate, updated the contents of the pre-2018 Supplementary Guidance. The OGA has published this Guidance alongside this document.
76. This Guidance will be implemented from 14 September 2020.

Impact Assessment

Benefits

77. The OGA recognises the role that readily available Geophysical Survey Data ('**GSD**') can play in unlocking economic value in the UKCS. It is anticipated that wider availability of legacy data products at lower costs will lead to a higher technical baseline for work undertaken on prospect generation and lead to an increase in the reworking of the data or the uptake of newer data. Consequently, the OGA has published this guidance that sets out how certain GSD acquired or created under an Exploration Licence prior to 2018 will, in general, be made available by the OGA on a basis consistent with similar data created or acquired in or after 2018, following the completion of the Confidentiality Protection Periods.
78. After the expiry of the relevant Confidentiality Protection Periods, the OGA may publish the GSD on the basis set out in the NDR User Agreement. In case of reproduction of the data thereafter, reasonable reproduction and storage, plus media/transmission costs should be chargeable by the geophysical company if the data are provided by them to another party. They should not be charging anything additional (e.g. copyright charges) if the data are to be reprocessed by that other party for their internal purposes, such as considering whether to apply for an OGA Licence; this will be different if the intent of reprocessing is to create new products for sale. Geophysical companies are still free to sell their value-added products under a commercial agreement, since these are not captured under the scope of releasable data.

Rationale for preferred option

79. The OGA recognises that geophysical seismic surveys are capital intensive and an appropriate return on that investment is expected by companies within a certain time period. While such time period is set internally by businesses, the OGA is of the view that disclosure of seismic data following the completion of the Full Confidentiality Periods (10 years¹⁶ for processed data and 15 years for field and pre-stack data post processing¹⁷), provides sufficient lead times for geophysical companies to have had the opportunity to recover their costs including an appropriate return. Similar policies¹⁸ have been implemented by the Canadian petroleum regulatory boards, C-NLOPB and C-NSOPB,¹⁹ where the period of confidentiality for speculative (non-exclusive, which is similar to AIGC definition of Multiclient Business Model) surveys is 10 years following the completion date of the survey, for exclusive surveys the data is held confidential for 5 years after the completion date. The Norwegian regulator, NPD,²⁰ has confidentiality periods of 5, 10 and 20 years for data not owned by a licence group, market available data and interpreted or processed data respectively.²¹
80. Therefore, the OGA considers that through the disclosure of the seismic data as set out in this Guidance, a reasonable balance is achieved between the protection of the seismic contractors' economic interest with the confidentiality period and stimulating petroleum resource exploration and development by making such information publicly available.

¹⁶10 years is generally accepted as the minimum period globally. Where regulators have reduced the period below a decade, they have seen a reduction in acquisition activity and have had to raise it again (e.g. Australia).

¹⁷Under regulation 7, the earliest the OGA may disclose processed data relating to surveys acquired by holders of exploration licences (or any survey carried out by or on behalf of other than a production licence holder) is 10 years after processing is complete. The earliest that field data and pre-stack data can be disclosed is 15 years after processing is complete.

¹⁸Source: https://basin.gdr.nrcan.gc.ca/disclaimer_e.php

¹⁹C-NLOPB - Canada-Nova Scotia Offshore Petroleum Board, C-NSOPB - Canada-Newfoundland and Labrador Offshore Petroleum Board

²⁰NPD- Norwegian Petroleum Directorate

²¹Source: https://www.iogp.org/wp-content/uploads/2017/07/ID2017_Att07_NPD_EricToogood.pdf

81. We have requested input from geophysical seismic survey contractors on their potential loss of revenue, but highly-limited information has been forthcoming. While we have not been able to quantify the benefit without such information from making seismic data publicly available, lower cost access to data will be of value to some companies which would otherwise not have chosen to acquire it because of the cost.
82. The UKCS is a mature basin and over the years has transitioned from exploration activities dominated by large companies towards greater participation by mid and small sized firms. It is considered likely that there is considerable latent demand for GSD from businesses and individuals in the research community, driven by the existence of information asymmetries and by affordability reasons.
83. The seismic market in the UKCS is dominated by a small number of large firms with few small firms in operation. A significant proportion of GSD retained by licensees in physical form and not used previously will henceforth be made available in a more accessible physical format by the OGA through the NDR. Therefore, the OGA considers that public disclosure of such data, for example as stipulated through the Disclosure Regulations,²² offers certain data products to the wider market on a non-rival basis at the point of access. This is expected to stimulate the knowledge flow from innovation, which supports the strategic interest of the industry and the UK economy.
84. Better access to seismic data should therefore result in improved allocative efficiency and ameliorate source of entry barriers for smaller firms, hence promoting greater competition in the UKCS licence events. Consequently, this will support the policy objective of stimulating petroleum resource exploration and development, as outlined in the OGA's 'Stewardship Expectations SE3 – Use of Subsurface Data'.²³

Costs

85. This Guidance provides for the OGA to publish commercial seismic information, i.e. seismic information acquired under an Exploration Licence,²⁴ via the NDR, after the completion of the Confidential Periods.
86. There is potential for distributional impacts on Exploration Licensees in the form of reduced revenues for commercial seismic companies, which to some extent could offset the expected benefits to wider industry and the UK economy.
87. The OGA has considered the overall societal economic impact of such distributional impacts. It is not possible to monetise the distributional impacts on businesses as well as benefits, due to a lack of quantitative evidence on returns made by companies from the sale of GSD and the prices at which such data are sold. It is envisaged that loss of potential revenue for commercial seismic companies are offset by avoided costs by companies assessing potential prospects. Additional benefits will arise from uses on the UKCS, such as the development of carbon capture and storage and associated hydrogen production and storage schemes, which would benefit from access to such legacy GSD and would similarly lead to the increased reworking of legacy data, new acquisition and/or licensing of newer available data sets. This Guidance does not affect value added data, thus incentivising the licensees to continue to improve the datasets.
88. As such, the policy would be at least cost neutral overall, at societal level. As an upside, a higher potential of increased economic activity from new exploration in the UKCS is envisaged, where, the benefits of disclosure of such data such as removal of information asymmetries, greater competition at licence rounds and provision of access and availability of low-cost data to wider industry participants such as academics and researchers that may support development of adjacent and analogous projects, outweigh the reduced revenues of seismic companies.

²²Disclosure of Protected Material after Specified Period) Regulations 2018 (<http://www.legislation.gov.uk/ukxi/2018/898/contents/made>)

²³https://www.ogauthority.co.uk/media/5896/oga_se3_use_of_subsurface_data_july_2019.pdf

²⁴For complete list of data refer to <https://www.ogauthority.co.uk/media/5459/reporting-and-disclosure-of-information-and-samples-supplemental-guidance-pre-2018.pdf>

Such an outcome would also lead to wider indirect economic benefits to other related sectors, such as the supply chain industry as a result of a multiplier effect.

89. The change in disclosure requirements for pre-2018 geophysical data might be expected to impact on the incentives to acquire such data in future. But they align the requirements with those for newly acquired data post-2017, so there should be no additional behavioural effect.

Equality

The OGA has a general duty (the Public Sector Equality Duty) under section 149 of the Equality Act 2010 in carrying out its functions to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups

90. Further details can be found at <https://www.equalityhumanrights.com/en/equality-act/equality-act-2010>.
91. We have considered whether this Guidance would have an adverse impact on persons with protected characteristics. Our assessment is that, given the corporate nature of Exploration Licensees and the general application of the requirements set out, it is not considered that there would be such an impact.

Annex 1: list of organisations responding to the consultation

Below is a list of organisations that responded to the consultation.

- **Compagnie Générale de Géophysique (CGG)**
- **Encounter Oil Ltd**
- **Ineos Oil & Gas UK**
- **International Association of Geophysical Contractors (IAGC)**
- **Ion Geophysical**
- **Oil & Gas UK and Common Data Access Limited (OGUK-CDA)**
- **Oil & Gas Independents' Association (OGIA)**
- **Petroleum Geo-Services (PGS)**
- **Parkmead Group plc.**
- **Pharis Energy**
- **Siccar Point Energy**
- **Taqa Bratani Ltd**
- **WesternGeco (Schlumberger)**



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