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# Intellectual Property Rights

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and

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# Directorate of IPR

- A deep specialist area within MoD Centre – part of DCD (Defence Commercial Directorate)
- Staffed by IPR professionals (including patent & trade mark attorneys)
- Provides assistance on all aspects of IPR across MoD & Other Govt Depts
- Provides overall policy direction and specific programme support
- Custodians of MoD's IPR policy

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# IPR- What is it?

- IPR = result of intellectual effort/creative thought
- Regulatory framework produced to govern ownership and protection of IP
- Ownership granted (initially) to the creators of the IP
- Grants owner exclusive rights to prevent others using the IP for a specified period

# IPR- A legal framework that promotes innovation?

- Patents – 20 year monopoly right in exchange for public disclosure of the invention
- Designs – may be registered or unregistered
  - If registered, up to 25 years protection in exchange for disclosure
- Copyright (includes software) – anti-copying right which lasts for 70 years from author's death for literary work
  - does not protect "ideas" or prevent independent creation of the same work
- Confidential information – potentially of unlimited duration – value is destroyed by unprotected disclosure

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# MoD's IPR Policy

- [www.aof.mod.uk/aofcontent/tactical/toolkit/downloads/ipr\\_ov/iprpol.pdf](http://www.aof.mod.uk/aofcontent/tactical/toolkit/downloads/ipr_ov/iprpol.pdf)
- Policy is endorsed by Minister & published Oct 2005
- has 9 general principles + 8 policy statements
- covers internal & external matters
- covers matters affecting all stakeholders e.g. contractors, foreign Govts., independent 3<sup>rd</sup> parties – as well as MoD and its staff

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# How Does MoD IPR Policy Promote Innovation?

- MoD funds considerable amount of national defence R&D activity, mainly with industry through contracts
- Generally, leaves ownership of IP in R&D results with the contractor that generates it, to encourage investment and exploitation by industry (Baker Report, 1999)
- MOD secures rights in this IP, but only that reasonably necessary to meet its business needs
- MOD respects and protects the confidentiality of its contractors' information
- MoD respects & encourage private venture investment by Industry

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# Standard IP Conditions of Contract

- **DEFCON 705**
  - For fully-funded R&D to TRL 5/6
  - No government levy if industry exploits
  - But government acquire broad, free user rights
- **DEFCON 15**
  - For fully funded development of equipment
  - Grants free rights to compete production of that equipments using contractor's manufacturing data pack
  - Contractor exploitation attracts levy (Treasury rules)
- **DEFCON 91**
  - Similar to DEFCON 15, for fully funded development of bespoke software
  - Levy payable on contractor exploitation

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# International Work

- LoI nations (UK, FR, GE, IT, ES, SE) have IPR Sub-committee (SC5)
- SC5 has agreed binding principles which are to apply to national defence contracts placed by LoI national governments for R&D (TTI 100 and 135)
- Principles are largely consistent with UK MoD IPR principles, some alignment required
- TTI 135 under consideration by the European Defence Agency for its own R&D contracts

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# IPR & MoD Innovation Strategy

- Principles set out in paragraphs 19 and 20
- Encourages an open systems approach, “plug and play” approach to technology insertion
- In theory, enables market penetration of new technology into major defence systems below the prime contractor/design authority level
- Strategy already implemented in part
  - DEFCON 15 “fit/match” interfacing right
  - Case-by-case on major programmes integrating COTS equipment, such as BOWMAN
- Further work required to establish improved generalised approach, e.g.
  - “Open” or “available” systems architectures?
  - How can critical plug & play interfaces be defined?
  - Effect on warranties and guarantees – balance of risk?

# Possible IPR Disincentives to Innovation?

- Legal framework, SMEs vs major defence contractors
- MoD's need to acquire rights to meet its business needs
  - commitment to competition
  - no guarantee research results will be pulled through to the equipment programme
  - No guarantee the IPR owner will be selected if it is
  - rights required in COTS-based solutions
  - Integration through prime contractors
  - Dissemination to other e.g. other governments (primarily NATO)
  - MoD desire to increase use of part-funded R&D with industry, but still expects certain rights in return including competition rights
- Evidence?
  - Extent of actual pull-through
  - Comparatively few patent applications filed by defence industry on inventions made using MoD funding – does this mean that Industry isn't innovating?

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# Where do we go from here?

- MOD wants to
  - encourage innovation in line with its Innovation Strategy
  - Ensure appropriate innovation is given every chance of being pulled through into UK defence capability
- MOD's bottom line is that:
  - Appropriate rights are acquired to enable pull-through of the results of MOD funded R&D
  - the IPR owner must be prepared to grant licences to others especially if unable to meet UK defence needs
  - IPR needed for defence equipment integration is properly addressed

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# IPR input to Recent Initiatives

- **Centres for Defence Enterprise:**
  - Aims to capture new ideas for the benefit of Defence
  - new IPR principles and conditions for seedcorn, part funded and fully funded research contracts
- **Emerging MoD S&T Strategy**
  - Greater emphasis on shared-funded R&D and use of industrial, technology-based consortia?
  - IPR principles for shared-funded contracts under discussion with industry (NDIC RDG Business Models Working Group)
- **Open Systems Architectures:**
  - to encourage innovation and enable technology insertion and upgrades through life
  - MoD approach set out in the Innovation Strategy
  - NDIC RDG Architectures & Systems Engineering WG set up to agree principles that will underpin this strategy

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## Discussion/ Questions?