



Fact Sheet 27 – Intellectual property rights and ownership of project investments

	Valid from	Valid to	Main changes
Version 1	12.05.16		

Core message: General programme rules require that all project deliverables and outputs are made available to the general public free of charge. This fact sheet explains exceptions to this rule and sets out the rules on changes of ownership after project closure.

Background

The programme intervention logic is based on small groups of experts (the project partnership) receiving funding to test new ideas and approaches so that similar organisations throughout the North Sea Region can apply what has been learnt and obtain the same benefits after the end of the project. In this way the small scale outputs of each project can be expected to have a wider impact across the whole programme area. This requires that organisations outside the project partnership can access information on the outputs and how they were achieved.

Grants are also provided in some cases to fund investments for the public good. In such cases it is expected that the equipment and/or infrastructure remain in place at the end of the project and continue to provide the same benefits. As a result there are restrictions on changes of ownership and use after the end of the project.

Intellectual Property Rights

This section starts by explaining the general rule. Beneficiaries approved under one of the programme's state aid schemes should see the next section.

These rules cover the rights for all materials and ideas developed as part of the project using programme funding even where development has only been part funded by the programme.

- The authors of any material retain at all times the right to be acknowledged as the author of the material



- All materials must be made freely available to the general public in a way and to a level of detail that allows other organisations to replicate the results obtained. Such access should not be subject to restrictions or payment
- It is not possible to claim proprietary rights or to restrict commercial exploitation of project materials

In the event that project materials have been developed based on data or materials provided by a project beneficiary, which are covered by more restrictive rights (e.g. copyright), and which were covered by these rights from before the start of the project, the original restrictive rights continue to apply to the original material – but not to any additional materials developed from them as part of the project.

Intellectual Property Rights and State Aid

Project beneficiaries approved under either the de minimis state aid scheme or the General Block Exemption may limit access to the materials they produce.

- Beneficiaries who are part of one of the programme's state aid schemes may apply additional rights to materials they produce as part of the project including proprietary rights and the sole right to commercial exploitation
- These rights should not be understood to replace the general programme obligation to publish updates on progress and results achieved but the details of products and/or ideas may be withheld from publication to protect any proprietary rights
- Where projects combine beneficiaries working under an aid scheme with beneficiaries working according to the 'No competitive advantage' rules (see Factsheet 16), the right to withhold material from publication applies only to materials produced exclusively by the beneficiaries covered by the aid scheme. It is not possible for beneficiaries to transfer or assign rights to others.
- Regardless of these provisions, all beneficiaries must at all times make any and all materials available to auditors and programme management bodies as set out in the subsidy contract

Ownership of project deliverables and outputs

Article 71 of the Common Provisions Regulation (1303/2013) sets out requirements that investments supported for the benefit of the programme area are maintained and continue to provide the same benefit for a reasonable period after the end of the project. In particular, investments in infrastructure or productive investment must be repaid to the programme if within five years of the end of the project:



- The productive activity is stopped or relocated outside the programme area
- Ownership of infrastructure is transferred in such a way that it gives an undue advantage to a firm or public body
- There is a substantial change in the nature, objectives or implementation conditions which undermines the original objectives

All project beneficiaries are required to report all such changes immediately to the programme authorities.

References

- Regulation (EU) No 1303/2013 of the European Parliament and the Council of 17 December 2013 laying down Common Provision Regulation, Articles 67-69
- Commission Delegated Regulation (EU) no 481/2014 of 4 March 2014 Article 3