

**UNNE_xT Workshop on the Legal
Framework for Single Window**
24-25 April 2012 – Seoul, Republic of Korea

**OTHER LEGAL ISSUES:
IPR, LIABILITY ISSUES, DISPUTE
RESOLUTION**

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**Intellectual Property
Rights (IPR) in the Single
Window Context**

IPR legal issues arise in several areas:

- **Information/data that is submitted to the NSW by traders or by other NSWs**
- **Information contained in databases maintained by the NSW (and Government Ministries)**
- **Ownership of or IPRs in the NSW system itself**
 - **Hardware, software, firmware**
 - **Data Retention facilities (e.g., a “cloud”)**
 - **Software maintenance/updating agreements**

- **Data submitted to NSW by traders or through exchanges with other NSWs**
 - **National Laws**
 - **Privacy and Commercial Confidentiality**
 - **Rights provided to Traders and others in supply chain**
 - **Cross-border Agreements**
 - **Rights afforded to private sector parties where the NSW operations are outsourced**
 - **Confidentiality & Non-Disclosure Agreements**

- **Databases of information retained in the NSW**
 - How may this information be used?
 - Subject to Privacy and Commercial Confidentiality Laws or Regulations?
 - Which Ministries or other Government agencies “own” the databases and the information
 - When a PPP or private sector entity operates the NSW, what rights/duties does it have?
 - Information/data submitted by other NSWs?

- **Ownership of hardware/software for NSW**
 - **Ownership versus a *License***
 - **SW systems development and maintenance agreements**
 - **Warranties provided by vendors during system development/upgrading**
 - **IPR ownership agreement?**
 - **E.g., Where the NSW operator makes software upgrades.**

Liability and Dispute Resolution

- **Liability can arise in a number of ways, including:**
 - **Errors in data input**
 - **Unavailability of the NSW system**
 - **Failure to meet “availability targets”**
 - **Data breaches**
- **Depending on national law and relevant NSW agreements, liability that results in an economic injury may lead to damages**
- **This may lead to expensive & protracted litigation**

- **Dispute Resolution Processes:**
 - **Litigation**
 - **Specialized tribunals**
 - **Arbitration**
 - **Mediation**
- **Potential liability can be addressed in various ways**
 - **National law may provide for dispute resolution**
 - **Agreements (contracts) such as service level agreements (SLAs) and end-user agreements may include provisions for dispute resolution such as arbitration**
 - **Regional SW Agreements may also provide for dispute resolution mechanisms**

- **Questions?**

- **Comments?**

Thank you!

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