

## **Future Water response to Ofwat consultation 'Innovation fund: Consultation on amendment to intellectual property right policy for second breakthrough challenge competition' (August 2021)**

### **1. About Future Water**

Future Water is a membership organisation representing companies in the Water and Wastewater supply chain; We are a non-political organisation working collaboratively across the sector.

Future Water has a focus on innovation, education, skills and engagement, by bringing together companies and organisations from across the sector through a diverse membership, including utilities, tier 1 contractors, equipment suppliers, manufacturers, innovators, academia, insurers, investors, data & cyber specialists. Future Water helps to drive a collaborative approach to sector-wide challenges and we strive to work with professional bodies, research organisations and trade associations throughout the sector. With SME's making up over 70% of the membership and a focus on innovation, Future Water sits at the heart of the debate on creative thinking and brings in a cross-sectoral dimension to our work, through our hosting of the UK Society for Trenchless Technology (UKSTT) and close relationship with Energy Utilities Association and Pipeline Industries Guild.

Our aim is to shape the future of water and push innovation towards a business as usual operation for utilities. An important part of our focus is Water Dragons, a 'Dragons Den' style initiative, operating for more than ten years, which has brought hundreds of innovations into the sector and put them in front of the utilities.

### **2. Future Water's view of innovation**

Future Water understands that innovation is a broad-based concept that ranges from incremental improvement of existing ideas and practice, to discoveries that produce counter-intuitive changes to our paradigms that produce benefits to society. Based on the practical experience of members, we note that innovation can include novel application of ideas from one sector to another, innovative extraction of insight from existing data that can be usefully actioned, and holistic joined up thinking across traditionally separate inter-sector boundaries (e.g. capturing excess flood water and utilising for non-potable demand).

Future Water believes support for an 'active' IP and patents market is a critical element for transformation as this will underpin company invention and innovation. Why?

- IP & patent rights can promote innovation by creating a market for ideas and innovation, thus facilitating transactions, enabling the efficient allocation of ideas and technology;
- They can facilitate a knowledge market because, as a condition of receiving a patent, inventors are required to describe the technology in sufficient detail so that it can be reproduced, developed further, and built on;
- IP and patents increase the incentives for companies to innovate by providing a higher return to the innovation – the most innovative companies outperform the sector and stimulate greater investment ([serial innovators outperform in times of recovery, 2020](#)).

Future Water has undertaken research into patent activity and IPR, in conjunction with Clarivate (a Derwent Analytics company) and the analysis showed that the UK is weak in terms of patents and IP compared to countries globally ([Future Water – Transformation of the Water Sector, 2020](#)), the water industry particularly so. Our own research is supported by the OECD – [Trends in Water Related Technological Innovation: Insights from Patent Data, 2020](#). What these documents demonstrate is that it is essential that IP in water is supported and allowed to flourish, in order to lead to transformation across the sector.

### **3. Our responses to the Consultation questions**

**Q1. In relation to the proposed policy changes which will allow participants to charge for a license for background IPR, to what extent do you think this may, or may not, result in:**

- a) better access to the fund for innovators and third parties;**
- b) a broader range of projects;**
- c) higher quality of projects; and**
- d) any other benefits or disadvantages.**

An active IP market is essential to innovation and invention, but it must be linked to allowing for returns on investment, particularly where the IP is underpinned by a patent.

Many members have stated that they would not want to give up their IP on the basis in place for the previous rounds of the competition and the requirement to rescind any rights to future royalties. In this respect the proposals are a welcome change.

These proposals, at least for the Catalyst stream, address the concerns of engineering firms, consultancies, research organisations, equipment suppliers and others that the Future Water has been in discussion with and who have said that they are very uncomfortable about giving up IP generated as projects on a collaborative basis, when the IP is not directly recompensed.

Our own research shows that an active IP market is a key element of innovation and we consider that the changes will allow for a broader range of companies and organisations to participate in the Catalyst stream.

**Q2. To what extent might the proposed approach benefit or disadvantage customers in comparison to the current policy?**

Future Water does not see a 'dis-benefit' - the driver for innovation is better delivery of water and wastewater services. Encouraging a greater range of companies and 'innovators' into the competition is a positive step in terms of delivering against performance commitments – which in turn benefits customers.

Whilst the aim of the competition is to drive transformational change, different to businesses as usual, the performance commitments are a hook. For example, something truly transformational in leakage management might well mean the 15% base targets are achieved plus the utilities are able to go further, doing things in a very different way. This therefore has to be a benefit to customers.

Future Water's most recent 'ask of the industry' has shown that, along with understanding ageing assets and attracting new talent, utilising IP is critical to transforming the sector. The fact that utilising IP is high on the industry (supply chain) agenda suggests that the more flexible approach proposed will be beneficial for customers because more companies will take part in the competition and more ideas will come forward focussed on innovation. More flexible IP is therefore critical to the success of transforming the sector.

**Q3. Is there any merit in retaining the option to propose alternative IPR arrangements when submitting a bid given the changes we're proposing within this consultation document? If so, where do you consider that we should allow flexibility in the scope for any alternatives – e.g. Foreground IPR? Please provide specific examples in answering this question.**

We consider that, in terms of the Catalyst stream 'Option 1', retaining the alternative arrangements option may complicate the process. It will confuse the bidding process – "shall I go with the flexible arrangements as proposed or put something alternative together that might not be accepted". It will likely mean no 'alternative' arrangements are put forward. In our view, it would be better to assess the impact of the proposed changes against previous rounds of the competition rather than allowing alternative arrangements within the round.

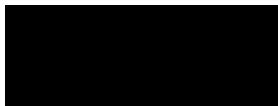
**Q4. How do you think we could evaluate the impact of our proposed IPR policy changes to inform the next competition, including areas such as access to the competitions and ultimately the benefits to customers? What additional information do you think we should collect in order to help us to evaluate?**

In previous consultation responses ([Future Water Response to Innovation Funding Competition, 2020](#)) Future Water has argued that the best metric would be “level of IP activity as measured by patent activity” as this shows ‘innovation intensity’. Given the focus of the fund, it will also mean that you are measuring activity that is geared towards outperforming the existing outcomes.

Future Water understands that there are a number of ways to measure innovation and the impact of the proposed IPR policy changes. However, we believe that, as you can identify IP pre-patent, it can therefore be measured and Ofwat will be able to determine if the new arrangements are successful based on the relative level of IP activity resulting from different rounds of the competition.

Future Water is happy to discuss any aspects of this response with OFWAT.

Kind regards,



Paul Horton  
Chief Executive Officer – Future Water Association