



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:

Please provide any evidence and / or examples, including from your experience with the fund so far.

a) better access to the fund for innovators and third parties;

We believe that the ability to charge a fair licence fee for access to background IPR will increase the appetite for innovators and supply chain companies to participate in the fund. We have engaged with several innovators in relation to projects that we have brought forward to round 1 of the breakthrough challenge (including developers of leak repair solutions and wastewater treatment processes) that have been uncomfortable with the current IPR arrangements. We believe this is particularly pertinent for small and medium-sized enterprises or start-ups, that rely on monetising their IPR both as a source of revenue and to secure investment.

b) a broader range of projects;

We support the proposed changes to the IPR arrangements as they allow background IPR to be protected. This may correct a potential unintended consequence of the current arrangements which could discourage companies from bringing forward projects that give them a competitive advantage.

c) higher quality of projects; and

Linked to the point in Q1(b) above, companies that are leaders in specific areas of performance or capability may be discouraged from bringing forward projects if they are required to make background IPR freely available. We believe the proposed change to the IPR arrangements will remove this potential unintended consequence as owners of background IPR will be able to monetise previous investments.

Furthermore, allowing owners of background IPR to charge a licence fee if their IPR must be relied upon for the use of the foreground IPR will ensure that projects funded through the breakthrough challenge benefit from solutions that are available in the market, rather than potentially seeking to re-create them (e.g. if owners of the background IPR are unwilling or unable to engage due to the inability to monetise their past investments). This will, in turn, benefit customers as it ensures that funds are spent efficiently, building on current best practice wherever possible.

d) any other benefits or disadvantages.

The creation of separate streams under the 'Catalyst' stream seems unnecessarily complex. We feel that it would be beneficial for all IPR options to apply to all streams of the competition, and that rather than creating a separate stream the entrant would select which IPR arrangements best suit the needs of the entry. This will allow funding to be awarded on a holistic assessment of project merits, rather than potentially creating an advantage for projects are entered into a specific stream that may be under-subscribed (or vice-versa).



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

As discussed in Q1(c) above, we believe that the changes proposed will benefit customers as they will avoid an unintentional incentive to re-create solutions from scratch (because existing background IPR is not made available due to the IPR owners' inability to monetise previous investments under the current IPR arrangements).

Whilst customers may carry the cost a licence fee, this must be included in any cost-benefit analysis and options assessment, both at the innovation project stage and when making subsequent investment decisions, thereby ensuring that the project is beneficial to customers overall. We feel that overall the proposed IPR arrangement is more beneficial for the sector than investing in the re-creation of solutions, which not only increases cost but also time to impact and risk.

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.

As noted in our response to Q1(d) above, we would prefer not to see separate streams of the competition with different IPR arrangements, however, if this proposal were to proceed, we believe that the streams which utilise the current background IPR policy should allow for alternative IPR arrangements to be proposed to minimise the risk of potential inequality described in our answer.

Furthermore, we believe that retaining the option to propose alternative IPR arrangements in addition to the new proposals with respect to background IPR will be beneficial as it allows entrants to propose alternative arrangements in relation to foreground IPR. Whilst we support the current arrangements for foreground IPR and recognise that these arrangements ensure that customers do not pay twice for solutions, it's important to recognise that in some cases there may be a justification for alternative arrangements if it can be demonstrated that this will accelerate the roll-out of a solution, and hence accelerate the accrual of benefits to customers.

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?

We do not believe that there will be sufficient data to conclusively evaluate whether the proposed changes to the IPR policy materially impact any aspect of the competition (including better access to the fund, a broader range of projects and higher quality projects), particularly as having multiple streams with different IPR arrangements may lead companies to select the stream that they believe will be least subscribed, rather than the one that best suits the needs of their projects. We would therefore recommend allowing all entries to select the IPR arrangements that best suit the needs of the entry and providing a supporting justification for this selection, thereby allowing for a qualitative assessment of how the changes are received.

We believe that the overall metric of the success of the competition (and within this, the IPR arrangements) is the scale-up and roll-out of the solutions that are developed, particularly beyond the lead entrant and project partners.