14. Privatization and the management of intellectual property rights: the case of the British defence research establishments

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In the nature of the market, one organization or enterprise sells to another, and the boundaries between the two are sharp. This same delineation characterizes the private firm selling, say, powdered milk to the Department of Agriculture. But when planning replaces the market and identification and adaption supplement pecuniary compensation, matters are very different. No sharp line separates government from the private firm; the line becomes very indistinct and even imaginary. ... Each organization ... is an extension of the other.

John Kenneth Galbraith
The New Industrial State
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1. INTRODUCTION

The study of economic and political activity would be easier were we able to distinguish clearly between the spheres of government and private activity. Public policy analysts strive to establish a sharp distinction between the concepts of public and private, while economists usually assume the existence of such a division. In political discourse the dichotomy is also very convenient, either to depict a state (public) threatening individual (private) freedoms, or supplying a communal solution to the excesses of private greed.

Yet more than three decades ago John Kenneth Galbraith argued that this distinction was either very tenuous or simply non-existent. This was particularly the case in areas like defence procurement (Galbraith 1985, p. 322). Here, following Galbraith, the need to plan and manage the acquisition of complex systems, leads to complex decision processes in which the 'technostructure' of the supplying corporations and their peers in the public agencies work together through committees and working groups defining needs and the procurement programmes to supply them. Furthermore, the armed services often lack the technical and organizational capabilities to develop the tasks for which they are responsible and tend to contract them out. Galbraith argues that, as bureaucrats at public agencies and the industrial technocracy respond to similar incentives and ambient pressures, the distinction between what is private and what is public becomes blurred (see also M. Pocobs' contribution, Chapter 4 and that of L. Mampaey and Claude Serfati, Chapter 15).

The collaboration between private industrial suppliers and their defence customers has been reiterated by other theoretical approaches. Defence has been seen as a 'special kind of business', in which industry has developed a pernicious 'intimacy' with its customers in government, inhibiting adequate cost control and therefore proper democratic accountability (Adams 1982). From a completely different perspective, a closer collaboration between customers in the defence agencies and their industrial suppliers has been seen as a central requirement to improve the management and delivery of defence research and production programmes. Collaboration and 'partnership', delivered through 'Integrated Project Teams', are key concepts in the British effort to implement a programme of defence procurement reform, through the so-called 'Smart Procurement Initiative' (Kemp 2000; Dowdy 2000, 2001).

All these perspectives share a common trait: they argue or assume that a confluence of interests exists between the industrial and customer organizations involved in defence procurement. This chapter examines this proposition with reference to the management of intellectual property at the interface between government agencies and large defence suppliers. Because of the heightened perception of the importance of knowledge assets in company performance and the generation of welfare (Tecece 2000), the generation and management of knowledge and its associated intellectual property rights (IPRs) has become a key element of the interorganizational collaboration that characterizes defence procurement. However, this chapter argues that collaboration does not necessarily imply a confluence of interests. By analysing a context in which the technostructure of large, mature defence firms interact closely with scientists, technicians and managers working in government agencies, we can explore in detail how such collaboration works in practice and how it can be affected by changes in policy.

2. THE TRADITIONAL ROLE OF GOVERNMENT RESEARCH ESTABLISHMENTS

Government research establishments (GRESs) can be defined as research organizations, other than higher education institutions, which derive most