How to appropriately integrate an exploitation perspective within an FP proposal

Luigi Amati – ESIC2
PROJECT’S EVALUATION CRITERIA

- Scientific and technological excellence
- Quality of the implementation
- **Potential impact**

All the same weight!
WHAT IS “POTENTIAL IMPACT”?

- Appropriateness of measures for the dissemination results
- Appropriateness of measures for exploiting results and knowledge
- Management of intellectual property

A dissemination and exploitation plan is “needed”
Impact of project

To what extent demonstrates the proposal a clear economic impact for the partner in terms of economic growth, employment, market strategy, distribution channels, etc.

How strongly will the project improve the competitiveness of the involved partner and contribute to improving industrial competitiveness across the European Union?

How sound are the economic justification of the proposed research?

- (i.e. its cost effectiveness, taking into account the overall cost of the project in relation to its potential direct economic benefits for the individual participant)

Does the project address adequately Community societal objectives (quality of life, health, safety, working conditions, employment, environment, contribution to standards, etc.)?

Is the transnational approach well justified and geared towards increased transnational technological cooperation amongst partners and between partners and other organizations at the European level?
IPRs

- IPR issues must be considered and tackled at the proposal stage. This cannot be postponed until the Consortium Agreement is drawing up.
- Are adequate plans for knowledge and IPR management clearly described in the proposal?
- Does the proposal outline how the consortium intends to protect, share, manage and exploit IPR?
- If the consortium agrees that the RTDPs keep part of the ownership or the entire foreground the consortium, does the proposal describe clearly:
  - How it is ensured that the other participants are provided with all the rights that are required for their intended use and dissemination of the project results.
  - How this is reflected in the value of the transaction (remuneration of the RTD performers)?
  - How the RTD performers are going to exploit the IPR?
- Does the proposal clearly describe, if applicable, any allocation of rights for the dissemination and use to OTH (Enterprises and End-Users)?
IMPACT (3)

- Does the plan for the use and dissemination of the knowledge clearly describe
  - How the knowledge and IPR issues will be managed within the consortium?
  - The industrial or commercial routes envisaged for the exploitation of the results by the participants?
  - The role of each partner, other enterprises and end-users to validate the technology and take up of results?
- The project results (including knowledge) and how these results are going to be exploited by the partners and the amount to be reimbursed to the RTDPs?
  - Any intended measures, if relevant, and time scale for dissemination of the results and transfer of technology to other organizations?
European Commission will increase the attention towards innovation in the last period of 7th FP and in the next 8th FP (HORIZON 2020).

What is the difference?

Increased attention on impact of the research results on the market.

A dissemination and exploitation plan is “a must”!
“The Council encourages the Commission to continue enhancing the innovation impact of FP7 and notes the Commission's intention to fund projects which take research results closer to the market, and to put additional emphasis on innovation impact when evaluating proposals, as appropriate.”

INTRODUCTION AND BASIC CONCEPTS

- Exploitation
- Licensing
- Co-ownership
- R&D
- Confidentiality
- Project idea
If you play a game whose rules you do not know, the game will not be fun

Grant Agreement

Consortium Agreement
INTRODUCTION AND BASIC CONCEPTS

EU financial contribution
Starting date and duration

Performance obligations
Reporting and payments
Subcontracting

Eligible, direct, indirect costs
Guarantee fund, recoveries
Controls and audits

IP rules

Amendments and termination

Grant Agreement

The grant agreement establishes basic conditions, participants are expected to provide the details


**Consortium Agreement**

Responsibilities of the partners

Liability, limitations, warranties

Governance of the consortium

Financial management

Knowledge and IP management

Applicable law, settlement of disputes, final provisions

Private contract between partners

**Models**

DESCA - www.desca-fp7.eu

EICTA-IPCA

IMG4

*Specific to SME actions?*
Which knowledge are we exchanging?

Under which conditions?

Who will be the owner of the results?

What happens in cases of joint ownership?

Who and how will exploit the results?

Who and how will disseminate the results?

How are we protecting confidential information?
DEFINITIONS

- **Background**: information and IP rights that participants hold before the signature of the ECGA

- **Foreground**: results generated by the project and IP rights attached to the results

- **Access Rights**: licenses and user rights to foreground and background, granted where necessary

- **Use of Foreground**: direct or indirect utilisation in further research or commercial activities

- **Dissemination of Foreground**: communication to the public
Which background are we exchanging?

Is background correctly defined?
Is background truly available?

**negative list**

\[ b \]

\[ b \]

**positive list**

\[ b \]

\[ b \]

Good background can make a good proposal/project
Who will own the Foreground?

Foreground shall be the property of the beneficiary carrying out the work generating that Foreground.

They shall reach a joint ownership agreement:
- notification
- fair and reasonable compensation
Joint ownership agreement

Shares: equal or proportional?

Protection: ...and its costs?

Research: confidentiality? new results?

Exploitation: notification/compensation?

Licensing: notification/compensation?

Share transfer: right of first refusal?

...
The granting of access rights is a contractual obligation.

**Access Rights**

**project execution**
- **f** Royalty-free
- **b** Royalty-free, unless otherwise agreed before signature of the grant agreement

**use of Foreground**
- **f b** Royalty-free or under fair and reasonable conditions

One year after the project
- **f**
- **b**
Additional considerations

- Third party linked to a partner
- Subcontractor
  - Annex I and subcontracting agreement
- Affiliate
  - Definition and access rights
USE AND DISSEMINATION OF FOREGROUND

Proposal
- Prior art
- Background
- Ownership
- Access rights
- Protection
- Use
- Dissemination
- IPR expertise

Final
- Dissemination activities (verifiable, mentioning EU support)
- Exploitable results
- and
- Business strategy
- IP management (results, ownership, protection)
NEGOTIATION

Be sufficiently prepared to negotiate
...acquire information on the other parties
...examine the technology

Search for a win-win agreement
...take into account the other party’s interests
...provide objective technical and business data

Discuss the agreement as a whole
...search for an overall agreement and avoid deadlocks
...discuss conditions together with price

Time is always important
...respect the time constrains of the parties and of the technology
...good preparation and discussion, faster agreement
RESOURCES

- IPR-Helpdesk
  http://www.ipr-helpdesk.org/home.html

- Guide to Intellectual Property Rules for FP7 projects

- Exchanging Value - Negotiating Technology Licensing Agreements - A Training Manual
Dealing with Standards

Standardization activities should be considered as soon as possible

Preferably while writing the proposal!

The CEN and CENELEC databases are the sources of reference where to find existing Standards...but you can also develop new ones!
Benefitting from Standards

- Use already codified and well known “language”
- Ensure your Foreground adapt to market conditions
- Ensure faster and longer market exploitation of your Foreground
...the right standardization partner?
National or European Standards Bodies

Put standardization in the right WP!
The Dissemination one
An Exploitation Plan should include:

- Well rounded exploitation team
- Focused market analysis
- Product concept development and fine tuning
- Ongoing exploitation strategy (including IPR and Standardization issues)
- Actionable Capitalization strategy
- Implementation of exploitation
- Dissemination activities
Analysis of team exploitation capacity is a prerequisite for a successful exploitation plan

- Focus is on:
  - Individual exploitation attitudes
  - Balancing of exploitation team
Defining the:

- market potential
- target end-users
- (potential) competitors

the starting point for designing an effective exploitation plan
Market analysis and on going results of the research project have to be used for:

- Specifying characteristics of the product
- Modifying functionalities of the product
- Defining functionalities of the product
- Identifying further development of the product (new applications, scalability, etc.)
Building on market analysis’ outcomes and fine tuned product concept, a tailored exploitation strategy is developed and resumed in an exploitation plan by considering:

- Definition of a business model
- IPR strategy
- Standardisation strategy
- License/Equity based model
An operational plan will resume the whole exploitation strategy and the economic potential of a new product/service.

It includes:

- Appropriateness of the team
- Product/technology innovativeness
- Market potential
- Business model
- Financial planning
Innovation can become a reality in two main ways:

- IP license/sales
- Company creation

It requires specific skills such as:

- Negotiation
- Communication to commercial players
- Knowledge of early stage finance
Dissemination activities will be implemented through the definition of:

- Target audience for dissemination activities
- Types of activities to be performed (seminars, conferences, focus groups, etc.)
- Information to be disseminated
- Type of promotional material to be produced
Exploitation Strategy
and Innovation Consultants

The contents of this publication represents the point of view of the ESIC2 Consortium and can in no way be taken to reflect the views of the European Commission
To improve the competitiveness of European industry and generate the knowledge needed to transform it from resource-intensive to knowledge-intensive.

To this aim, priority should be given to bridging the gap between the Research results and exploitation.
**WHAT**

**ESIC2** is the initiative within the RTD Innovation Platform of the European Commission Research & Innovation DG, to support EC’s funded projects of the Industrial Technologies Programme (*Nanosciences, Nanotechnologies, Materials and New Production Technologies* - NMP) address non-technological exploitation issues.

**META Group** has been chosen by the European Commission to provide expertise for:

1. Project Risk Analysis
2. Exploitation Strategy Seminars
3. Business Plan Development
4. Assistance for Patenting
5. Assistance for Standardisation
Luigi Amati
META Group

ESIC2 - esic2@meta-group.com