

Ministry of Law and the Intellectual Property Office of Singapore Public Consultation on Proposed Licence Conditions and Code of Conduct for Collective Management Organisations

The British Copyright Council is broadly supportive of Singapore's proposed license conditions and Code of Conduct for Collective Management Organisations (CMOs). In particular, we welcome the broad alignment with the blueprint of the EU CRM Directive. There are three areas of the proposal that we would like to raise:

1. Closer alignment with the CRM Directive in the following respects:
 - Voting rights should be allowed to be based on duration of membership and/or amounts due to or received by a member, provided that such criteria are determined and applied in a manner that is fair and proportionate (see Article 8(9) of the CRM Directive). Our experience is that for at least some CMOs, (based on their size, membership and structure) this provision supports effective decision-making, thereby enabling those CMOs to operate effectively. The option (but not obligation) to base voting rights on these factors should sit alongside the general principle that all members of the collective management organisation shall have the right to participate in, and the right to vote at, the general assembly of members.
 - Obligations on users should be included which are equivalent to those in Articles 16 and 17 of the CRM Directive. The user obligations help to ensure that tariff-setting and enforcement works effectively, which in turn helps maximise the return for all whose rights are being used.
2. Caution as regards the proposals on sanctions for CMO breaches:
 - Imposition of financial penalties on the CMO itself will effectively harm rightsholders, as the CMO will have no option but to use members' revenues to pay the penalty.
 - Imposition of financial penalties on a "*director, board member, manager, secretary or any other officer*" may prove counterproductive if it discourages the most qualified and talented individuals from taking up those positions. This could hinder the effective operation of the CMO. The BCC raised similar concerns when the CRM Directive was implemented, and whilst the scope of the sanctions regime were not redrafted, assurances were given that the intended application was for executive directors. It would be useful if as a minimum, similar assurances were given by the Singaporean authorities.
3. When implemented in the UK, the Code Reviewer proposals did not work effectively as a review mechanism. The two main concerns are around finding a person with suitable expertise and what controls are in place to ensure a set and proper process is followed. A primary example of this was the suggestion from the Code Reviewer that CMOs should be subject to the same regime and obligations as public bodies. The BCC's view was that was based on a false premise that had not been sufficiently examined through the Code Review process. The outcome was that the BCC decided not to conduct any further Code Reviews.

It is important to creative industries across the world that CMOs operate transparently and ensure that all monies collected are distributed to creators according to licensing terms as CMOs are an essential lifeline for creators.



Our membership includes many of the UK's CMOs. Therefore, if it would be helpful for us to assist in arranging a further discussion with UK CMOs please do not hesitate to contact Rebecca Deegan, Director Policy & Public Affairs, rebecca.deegan@britishcopyright.org.

Our CMO membership: PRS for Music, Phonographic Performance Limited, Publishers' Licensing Services, Authors Licensing and Collecting Society, British Equity Collecting Society, Design and Artists' Copyright Society, Artists Collecting Society, Picture Industry Collecting Society for Effective Licensing, Educational Recording Agency and Directors UK.