

7th October 2013

Andrew Smith
IPO
1st Floor, 4 Abbey Orchard Street
London SW1P 2HT

By e-mail to: copyrightconsultation@ipo.gov.uk

Dear Andrew,

IPO consultation on Regulation of Licensing Bodies

The British Copyright Council does not intend to make a detailed response to this consultation, leaving it to individual members, both Collective Management Organisations (CMOs) as well as other bodies representing rights holders, to reply on the technical drafting. However, given the British Copyright Council's role in developing Principles for Collecting Societies' Codes of Conduct (the BCC Principles) and for encouraging and helping CMOs to adopt a self-regulatory process around the BCC Principles, it is appropriate that we comment.

The BCC notes the reference to an Independent Code Reviewer and we welcome Government's statement that it will take account of the independent Code Reviewer's evidence and report. The BCC's Reviewer is already conducting preliminary meetings with his Review due to start in November with publication in May 2014. We feel sure that he will provide robust evidence to support any assessment of CMO performance.

The BCC also looks forward to the publication of the revised Impact Assessment and the BCC and its members would appreciate an opportunity to comment on this.

While also welcoming the pragmatic approach of the draft Directive on Collective Rights Management, the BCC has some concerns about potential costs to CMOs and to their members if Government needs to revisit its Regulations as part of the implementation of the Directive.

Definitions

It is the BCC's view that some of the definitions included in the draft Regulation would benefit from greater definition, for example, "main purpose" and while supporting the exemption for "micro businesses" we note that the proposed wording is not consistent with definitions of micro businesses used elsewhere. We leave it to our members to comment in detail on definitions.

Power to appoint an Ombudsman and/or Code Reviewer

With respect, the BCC suggests that it will be worth asking the Independent Code Reviewer appointed by the BCC this question, once his review is complete in May 2014.

In this response we make several references to the Independent Code Reviewer appointed by the BCC and we would be interested to have further clarification on the difference between a Statutory Code Reviewer and the Independent Code Reviewer.

28 days for the relevant licensing body to adopt a code of practice

The BCC's own experience of working with CMOs to adopt individual codes of conduct has shown that 28 days is a very short length of time in which to do so, particularly if this is to include consultation with members, right holders and user/licensee interests.

"suitably qualified"

The BCC suggests that as to the "principle features", IPO should take evidence from members of the Independent Selection Panel for the appointment of the BCC appointed Independent Code Reviewer.

Liability of individuals

The BCC notes the following draft wording:- "or one of its directors, managers or similar officers for failure to comply with a direction and/or information request as the Secretary of State considers appropriate....". Bearing in mind that CMOs are companies, albeit not for profit in the main, BCC is concerned that individuals involved with or working for a collective management organization, should not be caught twice by both Regulation and by Company Law.

Please do not hesitate to contact me should you need any further information.

Yours sincerely,



Janet Ibbotson
Chief Executive Officer