

Dear Laurence,

Thank you for your time on the telephone earlier this week. Below are the points that I raised in relation to the technical review.

In answer to questions 9, 10 and 11:

We believe that it is essential that the draft regulations continue to provide an effective mechanism to maintain good standards of behaviour in relation to users. The use of the phrase "good faith" without a definition lacks clarity, and the removal of "Obligations to rights holders, members and licensees" in 2(h), (i), (j), (k) and (l) of the Schedule of the 2014 regulations, means that there is no ongoing obligation to treat licensees fairly, honestly, impartially, courteously and in accordance with its rules and any licensing agreement, or that they are required to consult on the terms of any new or significantly amended licensing scheme.

We think that the retention of this part of the 2014 Regulations in relation to Licensees should be considered either in its entirety or as a part of a definition of "good faith" in the new draft. I was pleased to hear that this point was being considered.

In answer to Questions 12 & 13:

The regulations 31 and 32 are very light on detail in respect of the complaints process compared to the 2014 regulations (7, 8 and 9 in the Schedule and, clause 7 re the Licensing Code Ombudsman). The 2014 Regulations had the effect of CMO's establishing their own Codes of Conduct in line with the regulations; we are concerned that revoking these parts of the 2014 regulations will mean that the CMO's own Code of Conducts regarding complaints process are no longer enforceable, will have no practical effect, and will reverse the progress that resulted from the 2014 regulations. We would recommend that these parts of the 2014 regulations are maintained.

We also have concerns about the proposal to allow CMO to make their own arrangements in relation to alternative dispute resolution. We believe that the use of any ADR should be independent of the CMO's in order to engage both parties and be effective. Maintaining the Licensing Code Ombudsman (part 7 in the 2014 Regulations) would counter this problem.

Best wishes,
Peter

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