



Collective Rights Management in the DSM

Technical Review of Draft Regulations, Nov 2015 !

The Association of Learned and Professional Society Publishers (ALPSP) welcomes the opportunity to provide a response to the Intellectual Property Office's technical review of the draft regulations *The Collective Management of Copyright (EU Directive) Regulations 2016*.

ALPSP continues to support the repeal of The Copyright (Regulation of Relevant Licensing Bodies) Regulations 2014, and welcomes the introduction of The Collective Management of Copyright (EU Directive) Regulations 2016 ('the Regulations 2016').

Implementing the EU Directive

We believe that the Regulations 2016 correctly implement the EU Directive and, in general, we support the approach taken by the Government in doing so.

Definition of 'licensing body'

Whilst we agree with the extension of the definition of licensing body in the CPDA 1988, we remain disappointed that provision has not been made for CMOs to bring cases before the Copyright Tribunal.

Regulation 7

We are pleased to see the flexibility introduced to Regulation 7 in the Regulations 2016 which supports the different structures of Collective Management Organisations ('CMOs') in the UK. We particularly welcome Regulation 7(9) to (11), which allows for continuity of the management structure of the Publishers Licensing Society in which ALPSP has an interest (see About ALPSP). PLS recently undertook a review of its governance to ensure that it was in alignment with the EU Directive. The Regulations 2016 support this structure, which in turn has the support of relevant rights holders.

Staff training

The development of the British Copyright Council principles for CMOs' codes of conduct included the requirement to provide appropriate staff training. This has been enshrined in the PLS Code of Conduct, which support regulation 9 of the Regulations 2016.

Good faith obligations

We do have some concerns regarding the use of the phrase 'good faith', as there is no clear definition, in either the Regulations 2016 or in the EU Directive. However, it is clear through the Codes of Conduct and complaints procedure that CMOs were required to put in place in 2012, that the idea of is meant what 'good faith' should exist. It would be helpful, perhaps in the guidance accompanying the legislation, to include reference to the existing Codes of Conduct in this regard.

Complaints process and alternative dispute resolution

As the Government notes, those CMOs who already have Codes of Conduct will be compliant with regulations 31 and 32. ALPSP welcomes this and supports the requirements of the regulations in this regard.

Sanctions and enforcement

We consider that the sanctions regime described in regulations 36-43 to be out of step with regulations placed on other industries and questions why the Government considers they require to

be so significant. CMOs in the UK have been working under codes of conduct for some time, and will continue to do so under these Regulations. We would welcome feedback in this regard.

This response has been submitted by:

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About ALPSP

The Association of Learned and Professional Society Publishers (ALPSP) is the international membership trade body which works to support and represent not-for-profit organisations and institutions that publish scholarly and professional content around the world. Its membership also encompasses those that partner with and provide services to not-for-profit publishers. ALPSP's has over 320 institutional members in 40 countries, who collectively publish over half the world's total active journals as well books, databases and other products.

ALPSP declares it is a Member of the Publishers Licensing Society (PLS) and represents scholarly and professional publishers who mandate PLS. ALPSP is also a rights holder which mandates PLS directly.

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