

SCHEDULE

Regulation 2

SPECIFIED CRITERIA

1. The specified criteria are set out in paragraphs 2 – 13 of this Schedule.

Obligations to rights holders, members and licensees

2. The code of practice shall require the relevant licensing body to—
 - (a) offer membership to all relevant right holders in the sector it manages;
 - (b) have rules or a constitution that enables members and non-member right holders to withdraw their rights on reasonable notice;
 - (c) offer fair and balanced representation of those right holders who are members of the relevant licensing body in the internal decision making process of the relevant licensing body;
 - (d) provide a copy of the rules or constitution to members and to those potential members who have identified themselves and requested a copy;
 - (e) act in the best interests of its members as a whole;
 - (f) treat all members and non-member right holders fairly, honestly, reasonably, impartially, courteously and in accordance with its rules and membership agreement;
 - (g) ensure that its dealings with all members are transparent;
 - (h) treat its licensees and potential licensees fairly, honestly, impartially, courteously and in accordance with its rules and any licence agreement;
 - (i) ensure that its dealings with licensees or potential licensees are transparent;
 - (j) consult and negotiate fairly, reasonably and proportionately in relation to the terms and conditions of a new or significantly amended licensing scheme;
 - (k) provide to licensees, and to any potential licensees who have requested it, information about its licensing schemes, their terms and conditions and how it collects royalties;
 - (l) ensure that all licences and licensing schemes are drafted in plain English and are accompanied by suitable explanatory material.

Requirements imposed on licensees

3. The code of practice shall set out the requirements that the relevant licensing body must impose on licensees including—
 - (a) to respect the rights of creators and right holders including their right to receive fair payment when their works are used; and
 - (b) that copyright material is to be used only in accordance with the terms and conditions of a licence.

Conduct of employees, agents and representatives

4. The code of practice shall require the relevant licensing body to ensure that—
 - (a) its staff training procedures for employees, agents and representatives include training about conduct that complies with the obligations to members and licensees set out in this Schedule;
 - (b) its staff provide licensees and potential licensees with clear information, including information about cooling off periods which may apply to new licences; and

- (c) its employees and agents are aware of procedures for handling complaints and resolving disputes and are able to explain those procedures to members, non-member right holders, licensees and the general public in plain English.

Information and transparency – monitoring and reporting requirements

- 5. The code of practice shall state that the relevant licensing body shall—
 - (a) inform members, licensees and potential licensees, on request, about the scope of its repertoire, any existing reciprocal representation and the territorial scope of its mandate;
 - (b) maintain and make available to members on request, a clear distribution policy that includes the basis for calculating remuneration and the frequency of payments together with clear information about deductions and what they are for;
 - (c) provide details of tariffs in a uniform format on its website;
 - (d) provide details of its code of practice and complaints procedure, accessible via a link on the website homepage;
 - (e) undertake that all information provided is kept up to date, is readily accessible and written in clear language that can be easily understood by licensees, potential licensees and members.

Reporting requirements

- 6. The code of practice shall require the relevant licensing body to publish an annual report which includes—
 - (a) the number of right holders represented, whether as members or through representative arrangements including, where possible and if applicable, an estimate of the number of non-member right holders represented by any ECL scheme;
 - (b) the distribution policy;
 - (c) total revenue from licences granted for its repertoire during the reporting period;
 - (d) total costs incurred in administering licences and licensing schemes;
 - (e) itemised costs incurred in administering licences and licensing schemes;
 - (f) allocation and distribution of payments of revenues received and extent to which these are compliant with its distribution policy;
 - (g) procedures for the appointment of directors of or, where appropriate, managers or similar officers in the relevant licensing body and details of any appointment during the course of the reporting period;
 - (h) details of remuneration of each director of or, where appropriate, managers or similar officers in the relevant licensing body during the reporting period; and
 - (i) a report regarding compliance with its code of practice over the past year, including data on total level of complaints and how they were dealt with.

Resolution of complaints and disputes

7. The code of practice shall provide that the relevant licensing body shall adopt and publicise procedures for dealing with complaints from members, non-member right holders, licensees and potential licensees together with arrangements for the submission of any disputes, including complaints which cannot be resolved by the complaints procedure, to the licensing code ombudsman.

- 8. The complaints procedure shall—
 - (a) define the categories of complaints and explain how each will be dealt with;

- (b) ensure information on how to make complaints is readily accessible to members, licensees and potential licensees;
- (c) provide reasonable assistance to a complainant when forming and lodging a complaint;
- (d) specify who will handle a complaint on behalf of the relevant licensing body;
- (e) indicate the timeframe for the handling of a complaint;
- (f) provide that the relevant licensing body must give a written response to each complaint made in writing;
- (g) provide that the relevant licensing body must give a written decision where appropriate for each complaint and give reasons for that decision;
- (h) ensure that the relevant licensing body makes adequate resources available for the purpose of responding to complaints; and
- (i) provide that the relevant licensing body must regularly review its complaint handling procedure and dispute resolution procedures to ensure they comply with the specified criteria.

Ombudsman Scheme

9. The code of practice shall provide that the licensing code ombudsman shall be the final arbiter on disputes between the relevant licensing body and its members or licensees in relation to those provisions of the relevant licensing body's code of practice the inclusion of which is required by these specified criteria.