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The UK Consults on the Collective Rights Management Directive

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The EU Directive on the [collective management of copyright and multi-territorial licensing of online music](#) (“the Directive”), published on 26 February 2014, entered into force on 10 April 2014 and must be transposed into national law by 10 April 2016. The policy underpinning the Directive is part of the European Commission’s [‘Digital Agenda for Europe’](#) and the [‘Europe 2020’](#) strategy for ‘smart, sustainable and inclusive growth’.

The purpose of the Directive is to:

- Modernise and improve standards of governance, financial management and transparency of all EU collective management organisations (CMOs), so that rights-holders have more say in the decision making process and receive accurate and timely royalty payments.
- Promote a level playing field for the multi-territorial licensing of online music.
- Create innovative and dynamic cross border licensing structures to encourage further provision and take up of legitimate online music services.

The Directive’s provisions, which aim to improve transparency and governance complement the existing domestic legislation for the regulation of CMOs in the UK. The [Copyright \(Regulation of Relevant Licensing Bodies\) Regulations 2014](#) (the “2014 Regulations”) provide minimum standards of governance and transparency which must be adhered to by CMOs in the UK. In February 2015 the UK Government undertook a consultation process on the implementation of the Directive and its interaction with the existing 2014 Regulations. The [results of the consultation](#) were published in July 2015.

The Government noted the high level of support for the various provisions of the 2014 Regulations which were not covered by the Directive, such as maintaining the current requirement for a complaints procedure for licensees. As a result of the consultation the Government is leaning towards replacing the existing regulatory framework,

including the 2014 Regulations, with new Regulations. This would involve copying out the Directive where it provides stronger or more detailed provisions than the 2014 Regulations, but drawing on the existing infrastructure from the 2014 Regulations where those provisions are stronger than those of the Directive or provide additional protection, subject of course to ensuring alignment with the Directive. Where there are similar protections in the Directive and 2014 Regulations, these will be considered on a case by case basis. The consultation concluded that inclusion of elements of the 2014 Regulations will not prove burdensome to the majority of CMOs as they are already compliant with these requirements through their existing Codes of Practice.

Other points raised by the consultation that will need to be carefully considered when drafting the new legislation include:

- The importance of ensuring that CMOs are prevented from circumventing the Directive by delegating functions to subsidiaries;
- The view of respondents that no additional protections should be granted to non-members of a CMO so as not to disincentivise rights owners from joining a CMO; and
- Setting up a National Competent Authority as a dedicated team within the UK Intellectual Property Office (“IPO”) and ensuring that it has the necessary powers to ensure compliance with the Directive.

The next step will be for the Government to develop draft regulations for technical review. Once completed, the Government will update the Impact Assessment before the final regulations for transposition of the Directive are published.

Although the UK already has a well-established collective management system, the Government anticipates that the Directive should nevertheless provide real benefits. Higher standards in collective management organisations across the EU should give rightholders more choice about how their rights are managed, increased confidence that they will receive appropriate remuneration for the use of their work, and better protection if something goes wrong. In addition, the Directive should make it easier for collective management organisations to offer multi-territorial licences for the use of music online, which could offer new business development opportunities and make it easier for new innovative services to develop, thereby supporting new revenue streams.

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