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|  <b>Regulatory Policy Committee</b>  | <b>Opinion</b>  |                   |
| <b>Impact Assessment (IA)</b>   | Codes of conduct  |                   |
| <b>Lead Department/Agency</b>   | Department for Business, Innovation and Skills (Intellectual Property Office) |                   |
| <b>Stage</b>  | Final   |                   |
| <b>IA number</b>  | BIS0313   |                   |
| <b>Origin</b>   | Domestic  |                   |
| <b>Expected date of implementation (and SNR number)</b>   | 6 April 2014 (SNR7)   |                   |
| <b>Date submitted to RPC</b>  | 25/10/2013  |                   |
| <b>RPC Opinion date and reference</b>   | 9/12/2013   | RPC11-BIS-1141(3) |
| <b>Overall assessment</b>   | <b>GREEN</b>  |                   |
| <p><b>RPC comments</b></p> <p>The IA is fit for purpose. It considers provisions in the Enterprise and Regulatory Reform Act 2013 for collecting societies (societies which collect monies on behalf of creators and rights holders) to self-regulate by adhering to codes of practice, supported by a reserve power. These permit the Government to impose a statutory code (and sanctions, where necessary) if a collecting society fails to self-regulate effectively. The impact assessment updates one prepared for the Act, to reflect new evidence on costs, resulting in an increased figure of £0.4 million for the equivalent annual net cost to business.</p>  |   |                   |
| <p><b>Background (extracted from IA)</b></p> <p><b>What is the problem under consideration? Why is government intervention necessary?</b></p> <p>Collecting societies in the UK are privately-run commercial entities. They are an economically significant sector, collecting around £1 billion each year in total on behalf of their members (creators and rights holders). They tend to be monopoly suppliers in the sectors they represent so neither members nor licensees are able to go elsewhere if dissatisfied, as has been the case in some sectors.</p> <p><b>What are the policy objectives and the intended effects?</b></p> <p>To improve the efficiency, governance and accountability of collecting societies to benefit members, licensees and potential licensees, and collecting societies themselves. Self-regulation remains the Government's preferred approach and the Government welcomes progress the industry has made to date on the introduction of self-regulatory codes. The concept of minimum standards, enforced by a statutory code, is aimed at ensuring collecting societies operate in a manner that promotes open and efficient markets and that their users and members have protections, especially where they do not have a choice to shop elsewhere.</p> |   |                   |

### **Comments on the robustness of the OITO assessment**

The IA says that the regulatory proposals (statutory code) would result in a net cost to business (an IN) with an equivalent annual net cost to business of £0.4 million. Based on the evidence presented, this provides a reasonable assessment of the likely impacts and is consistent with paragraph 1.9.10 of the Better Regulation Framework Manual (July 2013).

### **Comments on the robustness of the small & micro-business assessment (SaMBA)**

The proposals regulate business and are intended to come into force after 31 March 2014. A SaMBA is, therefore, applicable.

The regulations will be designed so that any collecting society meeting the definition of a micro-business (taking into account any relationships with partner enterprises including other collecting societies) would be exempt from their scope. For this exemption, the definition of a micro-business is that contained in Commission Recommendation (2003/361/EC), which states: "Within the SME category, a microenterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million."

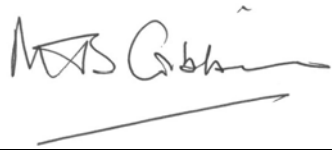
The impact assessment's section covering exemption for micro-businesses is reasonable. However, as the definition of a micro-business used for this varies from that used in the Better Regulation Framework Manual, the assessment would benefit from a proportionate analysis (as per paragraph 1.6.13 of the manual) of the sensitivity around using this definition. For example, it should include discussion of the impact on small businesses that would not be exempt from the regulatory proposals. The impact assessment explains that a collecting society may be "small" in terms of its number of employees but its licensing requirements may have an impact on a large number of businesses, many of them small, medium and micro-enterprises.

### **Quality of the analysis and evidence presented in the IA**

The costs on collecting societies of the regulatory option have been assessed as £0.37 million (set up) and £0.38 million (running costs). These estimated costs are based on data submitted by the collecting societies in response to a government request; on this basis, they appear robust.

*Sensitivity analysis* The IA says that "To take into account uncertainty in these figures, a 10% sensitivity has been calculated on these estimates". There is no discussion as to why this percentage is considered appropriate, or of how sensitive the headline figures are to the assumptions made in the IA. Simply amending the NPV by +/- 10% adds little value to the analysis. The IA should contain a more robust assessment of the potential range of values that the NPV could take.

**Signed**

A handwritten signature in black ink, appearing to read "Michael Gibbons". The signature is written in a cursive style with a long horizontal stroke at the end. Below the signature is a long, thin horizontal line.

**Michael Gibbons, Chairman**