

Rules

relating to

Photoluminescent Safety Products Association

Version:

Adopted on 17 June 2014



New Kings Court
Tollgate
Chandler's Ford
Eastleigh
SO53 3LG

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RULES OF PHOTOLUMINESCENT SAFETY PRODUCTS ASSOCIATION

(the **Association**)

1 PRELIMINARY

1.1 In these Rules:

Articles means the articles of association adopted by the Association at the date of these Rules and as amended or replaced from time to time;

intellectual property means any patent, copyright, design or trade mark (whether or not registered) or other industrial or intellectual property right now and in the future owned or used by, or licensed to, the Association, and applications for any of the foregoing;

Logo means the logo and mark of the Association in the form set out in Schedule 2 and as amended or replaced from time to time;

Membership Fee means the annual fee payable by every member (unless otherwise stated) in consideration of the benefits and privileges of membership of the Association;

1.2 Headings are for ease of reference only and are not to be taken into account in the interpretation of these Rules.

1.3 Unless the context otherwise requires, words or expressions contained in these Rules bear the same meaning as in the Articles.

2 OBJECTS

The objects of the Association are set out in the Articles and a copy of which is annexed to these Rules at Schedule 1.

3 MEMBERSHIP

3.1 No person shall be admitted to membership otherwise than in accordance with these Rules and the Articles. The Management Committee shall consider every application for membership and have absolute discretion in approving or declining an application for membership.

3.2 Any person wishing to be admitted to membership shall apply to the Association through the Management Committee using the form of application approved by the Management Committee from time to time and remit with his completed application payment of his Membership Fee in full.

3.3 A resolution passed by a majority of 51% or more of the Management Committee is required to approve an application for membership. Any person admitted for membership shall be admitted to one of the following categories of membership, which carry the following rights:

3.3.1 **Full Member.** Defined as an individual or a company with a major interest in photoluminescent products. A Full Member is entitled to attend and speak at general meetings of the Association, including the annual general meeting, and on

a resolution of the Association shall have one vote. A Full Member is entitled to be a member of the Management Committee or such other committees established by the Association from time to time and be a director of the Association, in each case subject to the Articles; or

3.3.2 Observer Member. Defined as an individual, a company or an association with an interest in photoluminescent products. Membership may be temporary at the discretion of the Management Committee. An Observer Member is entitled to attend and speak at general meetings of the Association, including the annual general meeting, but is not entitled to vote on any resolution of the Association. An Observer Member is not entitled to participate in any committees established by the Association or to be appointed as a director of the Association; or

3.3.3 Subsidiary Member. Only a wholly owned subsidiary of a Full Member may be admitted to membership as a Subsidiary Member. A Subsidiary Member is entitled to attend and speak at general meetings of the Association, including the annual general meeting, but is not entitled to vote on any resolution of the Association. A Subsidiary Member is not entitled to participate in any committees established by the Association or to be appointed as a director of the Association.

3.4 Following an application for membership being considered by the Management Committee, every applicant must:

3.4.1 be given notice of whether his application has been approved or rejected; and

3.4.2 if approved, be provided with a copy of these Rules; or

3.4.3 if rejected, notify the treasurer of where and how his Membership Fee is to be refunded and within 30 days of receiving such notice, the treasurer shall remit the Membership Fee to the applicant.

3.5 A person becomes a member of the Association and is entitled to all the benefits and privileges of membership, and agrees to be bound by these Rules with effect from the date on which his application for membership is accepted by the Management Committee.

4 MEMBERSHIP FEES

4.1 The Membership Fee is whatever sum the Management Committee determines from time to time and may vary according to the category of membership.

4.2 The Membership Fee shall be paid to the Association annually in advance. The Association shall issue an invoice in respect of the Membership Fee and which shall be payable by the member within 30 days of the date of the invoice in accordance with the payment instructions set out on the invoice.

4.3 The Membership Fee shall be reduced pro rata for any member admitted to membership part way through a year.

- 4.4 Due notice of any change to the Membership Fee must be given by the treasurer to every member affected by the change not less than 30 days prior to the end of year in which the Management Committee resolve to amend the Membership Fee for the forthcoming year.

5 MEMBERSHIP FEES IN ARREARS

- 5.1 If any member fails to pay his Membership Fee on or before the day falling 30 days after it becomes due for payment, notice must be sent to him calling his attention to his failure to pay.
- 5.2 If the member does not pay the amount within 14 days from the posting of that notice, the Management Committee shall convene a general meeting of the Association in accordance with Article 9.5 to consider the expulsion of the member.
- 5.3 If at any time prior to the holding of the general meeting or at that general meeting, the member gives the Management Committee a satisfactory explanation, he may, in the discretion of the Management Committee and on payment of all arrears of the Membership Fee and other sums due to the Association from the member, be readmitted to membership.

6 HONORARY MEMBERS

- 6.1 The Management Committee may invite an individual (not a Member) to be an honorary member. There shall be no limit to the number of honorary members at any one time.
- 6.2 Members may send to the company secretary names of people suggested for invitation.
- 6.3 Honorary members shall not be required to pay any Membership Fees.
- 6.4 Honorary members are entitled to all the benefit and privileges of membership save that they are not qualified to be officers of the Association or members of the Management Committee, or to vote as members of the Association.

7 RESIGNATION OF MEMBERS

- 7.1 Any member may resign in accordance with the Articles. Failure by the member to provide the required notice of resignation under the Articles will result in the member being obliged to pay a further year's Membership Fee.
- 7.2 On ceasing to be a member of the Association a person forfeits all right to and claims upon the Association and its property and funds.

8 MEMBERS' DEFAULT

- 8.1 If any member:
- 8.1.1 is convicted on indictment of any criminal offence, or
 - 8.1.2 is adjudged a bankrupt or, being a corporation, it enters into receivership, administrative receivership, administration, liquidation or other arrangement with its creditors or circumstances having similar effect in the jurisdiction where the member is based

8.1.3 makes a composition or arrangement with his creditors under the provisions of any statute, or

8.1.4 has a trustee appointed for the benefit of his creditors, or

8.1.5 does anything analogous to the above anywhere in the world,

and the Management Committee considers that the interests of the Association require that a member withdraw from the Association, the Management Committee shall serve notice on that member of his default (a **Default Notice**) and Article 9.5 shall apply.

8.2 At any special general meeting convened in accordance with Article 9.5 the member must be allowed to offer an explanation of his conduct verbally or in writing. The Management Committee may exclude the member accused from the Association until the special general meeting is held.

8.3 Any member excluded from membership under this Rule 8 or pursuant to the Articles shall not be entitled to any refund of Membership Fees paid.

9 OFFICERS AND DIRECTORS

9.1 The chairman, vice-chairman, treasurer and company secretary must be elected by the Board and an entry in the minute book recording the election of such officers of the Association shall be conclusive evidence of their appointment.

9.2 The chairman, vice-chairman, treasurer and company secretary shall hold office until the next annual general meeting following their appointment or (if earlier) until their term of office expires or until removed from office by a resolution of the Board.

9.3 The property of the Association must be vested in the Management Committee except for cash which must be under the control of the treasurer. The Management Committee must deal with the property of the Association as directed by resolution of the Full Members passed as an ordinary resolution at a general meeting of the Association.

10 AMENDMENTS TO THE RULES

10.1 The Management Committee may from time to time make further rules (not inconsistent with these Rules) or repeal and amend any of the Rules as it thinks expedient for the management and well-being of the Association.

10.2 All rules or changes made by the Management Committee under this Rule 10 are binding on the members until repealed by the Management Committee or (if earlier) set aside by a resolution of the members at the annual general meeting.

11 BORROWING POWERS

11.1 If at any time the Association in general meeting passes a resolution authorising the Management Committee to borrow money:

11.1.1 the Management Committee may borrow for the purposes of the Association the amount of money (either at one time or from time to time) and at the rate of

interest, in the form and manner and upon the security specified in the resolution, and

11.1.2 the directors must at the direction of the Management Committee make any disposition of the Association property or any part of it and enter into any agreement in relation to the Association property as the Management Committee thinks proper to give security for the loan and interest.

11.2 Every member, whether he votes on a resolution authorising borrowing or not, and everyone becoming a member of the Association after the passing of such a resolution, is deemed to have assented to the resolution as if he had voted in favour of it.

12 ANNUAL GENERAL MEETING

The annual general meeting of the Association must be held in each year on a date and at a time to be fixed by the Management Committee and must:

12.1 receive from the Management Committee a report, balance sheet, itemised summary of expenditure and statement of accounts for the preceding financial year and an estimate of the receipts and expenditure for the current financial year;

12.2 fill the vacancies in the Board and appoint an accountant for the ensuing year;

12.3 decide on any resolution which may be submitted to the meeting in accordance with the Act or the Articles or these Rules;

12.4 fix the Membership Fees; and

12.5 consider any other business as determined by the Management Committee and set out in the notice of the annual general meeting.

13 FINANCIAL YEAR, ACCOUNTS AND EXPENSES

13.1 The financial year of the Association ends on 31 December in each year.

13.2 The accounts must be prepared by a professional accountant as soon as practicable after the end of the financial year.

13.3 The accountant must be appointed at each annual general meeting and must not be a member of the Association.

13.4 Any vacancy in the office of accountant occurring during the year must be filled by the Management Committee.

13.5 The accountant must prepare the accounts of the Association not less than 30 days before the annual general meeting.

Expenses

13.6 All travel and other expenditure which a member proposes to incur on behalf of the Association shall be notified to the Management Committee in writing for prior approval

together with such documentation in support of the expenses claim as the Management Committee shall reasonably require.

13.7 The Management Committee shall make an entry in the minute book recording the approval of such expenses which shall be conclusive evidence of its approval of the claim. The Association shall reimburse expenses which have been approved by the Management Committee and noted in the minute book upon presentation by the member of satisfactory evidence of expenditure and on the following bases:

13.7.1 if a member of the Management Committee or director is travelling solely on Association business, he will be paid a daily allowance set by the Management Committee from time to time and appropriate to the location of travel. The allowance is to cover accommodation, local travel, food and drink and out of pocket expenses. International travel will be considered separately to the daily allowance and based on economy class travel; and

13.7.2 if a member of the Management Committee is travelling on Association business as part of a wider travel itinerary which is not solely relating to Association business, a written itemised budget showing all of the costs for the full travel programme must be presented to the Management Committee prior to travel as part of the approval process.

Bank Accounts

13.8 The authorised signatories for any bank account operated by the Association shall be the treasurer, the chairman and the vice-chairman.

13.9 The treasurer shall be authorised to sign for expenditure of the Association up to an amount set by the Management Committee from time to time but in any case not less than £1,000. Any expenditure of the Association above that limit shall be authorised by two authorised signatories, one of whom must be the treasurer.

14 ASSOCIATION ADDRESS

14.1 No member may give the address of the Association in any advertisement or use the Association address for business purposes.

15 Logo

15.1 The Logo is the property and copyright of the Association.

15.2 The Association hereby grants to each Full Member and Subsidiary Member a non-exclusive, worldwide right to use the Logo always provided that whenever the member uses the Logo it appears in a form as set out in Schedule 2.

15.3 A member shall not, without the prior written consent of the Association use any marks or trade names confusingly similar to the Logo.

15.4 The Association makes no representation or warranty as to the validity or enforceability of the Logo, nor as to whether the same infringe any intellectual property rights of third parties.

15.5 A member shall:

15.5.1 at the request of the Association execute such licences in respect of the use of the Logo as the Association may reasonably require, provided that the provisions of any licences shall not be more onerous or restrictive than the provisions set out in these Rules;

15.5.2 at the expense of the Association, take all such steps as the Association may reasonably require to assist the Association in maintaining the validity and enforceability of the Logo and any other intellectual property of the Association.

15.5.3 not do or authorise any third party to do any act which would or might invalidate or be inconsistent with the Logo or any other intellectual property of the Association and shall not omit or authorise any third party to omit to do any act which, by its omission, would have that effect or character;

15.5.4 promptly and fully notify the Association of any actual, threatened or suspected infringement of the Logo or any of the intellectual property of the Association which comes to the member's notice, and of any claim by any third party coming to its notice that the Logo infringes any rights of any other person, and the member shall at the request and expense of the Association do all such things as may be reasonably required to assist the Association in taking or resisting any proceedings in relation to any such infringement or claim; and

15.5.5 upon request send a copy to the Association of all communications or documents developed by him which use or contain the Logo.

15.6 The licence granted under or pursuant to this Rule 15 shall automatically terminate upon the member ceasing to be a member of the Association. The Management Committee shall also be entitled to terminate the licence at any time on notice to a member which is in breach of any of his obligations under this Rule 15 and the licence granted under or pursuant to this Rule 15 shall terminate with effect from the date of such notice.

15.7 Upon a member ceasing to be a member or the licence to a member being terminated under Rule 15.6, a member is to immediately cease using the Logo and within 10 days of the date of such notice or the member ceasing to be a member of the Association, destroy all materials in its possession which bear the Logo and confirm in writing to the Management Committee when it has complied with its obligations under this Rule 15.7.

16 MEMBERS' ADDRESSES

Every member must from time to time communicate his address and contact details to the company secretary for the purposes of notices sent by the Association.

17 QUALITY

17.1 Wherever possible and appropriate, members shall indicate luminance performance when stating the performance of photoluminescent materials in all documents and information.

- 17.2 The Association recommends that the luminance performance and technical characteristics be marked on the safety photoluminescent signs and products according to the Association's classification or other standard classification, for example, DIN 67510; ISO 17398; ISO 16069; ISO 15370; ASTM E/207310, UNE 23035 among others.
- 17.3 Luminance performance must be obtained by testing according to appropriate standards and specified and certified equipment.

18 CODE OF PRACTICE

Membership of the Association implies acceptance of the following principles of the Association, which may be changed from time to time in accordance with the Articles and these Rules:

- 18.1 The Association promotes a policy of fairness within the photoluminescent product industry and as such the members agree to act within the spirit of a free and competitive market. All members are bound at all times to act with honesty and integrity and to actively promote ethical and honest behaviour and practices. The Competition Compliance provisions set out in Rule 19 and the Competition Compliance Policy (currently set out in Schedule 3) are to be considered at all times.
- 18.2 The members agree to abide by and adhere to the test methods and procedures detailed in the relevant international standards.
- 18.3 The members agree to follow the series of materials performance classes known as the 'PSPA Luminance Classification' promoted by the Association. The classification provides a method of distinguishing between photoluminescent products and materials by showing useful difference in both initial brightness and decay performance levels.
- 18.4 Wherever possible and appropriate, members will refer to the PSPA luminance classification when stating the performance of photoluminescent materials.
- 18.5 The Association seeks to actively participate in arenas of discussion for the promotion of photoluminescent products.
- 18.6 The Association seeks to promote the highest possible and practicable standards where safety and safety related issues are concerned.
- 18.7 The Association aims at all times to act with total impartiality regardless of the involvement of the members within the industry.
- 18.8 Members shall ensure that every employee or colleague of the member that deals with the Association is aware of these Rules and in particular the Competition Compliance provisions set out in Rule 19 and Schedule 3.

19 COMPETITION COMPLIANCE

- 19.1 Members shall at all times adhere strictly to the Association's Competition Compliance Policy (as changed from time to time, the current version of which is at Schedule 3).

19.2 The Association (acting through its Management Committee) will notify members in writing of any proposed change to the Competition Compliance Policy and members must, as a condition of their continuing membership of the Association, provide their written consent to any such change.

19.3 In the event that a member has reasonable grounds to suspect or becomes aware that another member is engaged in anti-competitive behaviour within the Association or with another member, they shall immediately notify this to the Management Committee.

19.4 Members should report any anti-competitive behaviour or suspicions of anti-competitive behaviour by another member outside the operation of the Association to an appropriate competition authority.

20 DISPUTE RESOLUTION

20.1 The Association has the power to act as adjudicator and resolve disputes arising between members in accordance with the adjudication rules set by the Management Committee and approved by an ordinary resolution of the Full Members from time to time (the current version of which is at Schedule 4).

21 INTERPRETATION OF RULES

21.1 The Management Committee is the sole authority for the interpretation of these Rules and the regulations made by it from time to time.

21.2 The decision of the Management Committee upon any question of interpretation or upon any matter affecting the Association and not provided for by these Rules is final and binding on the members.

**Schedule 1
Articles**

Schedule 2 Association Logo

Graphical symbols and logos. In all cases the text underneath the logo must equal the width of the logo and must be in Arial, black, Block capitals, except for the internet url which is to be in royal blue lowercase.

Figure 1 – logo approved for use by Full Members and Subsidiary Members. The membership number, if inserted, shall be like examples below.



MEMBER XXX

Figure 2 – (link for Members websites to the PSPA website)



www.thepsa.com

Schedule 3

Competition Compliance Policy

1 INTRODUCTION

- 1.1 As a trade association, the Association is concerned that its members (**Members**) comply with the competition rules of the United Kingdom (**UK**), European Union (**EU**) and other countries in which they operate (**Competition Rules**).
- 1.2 Under the Competition Act 1998, there are prohibitions on anti-competitive agreements and abusive conduct by dominant businesses, closely modelled on Articles 101 and 102 of the Treaty on the Functioning of the European Union (**TFEU**). Whereas EU competition rules will apply where an agreement or conduct affects trade between EU member states, the UK competition prohibitions will apply where the effect is mainly on trade within the UK.
- 1.3 The Enterprise Act 2002, as amended by the Enterprise and Regulatory Reform Act 2013 makes it a criminal offence for individuals to enter into an agreement relating to a company's involvement in a price-fixing, market-sharing, bid-rigging or production-limiting cartel.
- 1.4 The object of these competition laws is to prohibit agreements or behaviour that damage competition in the UK market and across the EU.
- 1.5 "Competition compliance" means compliance with those rules which are designed to ensure that competition is not restricted.
- 1.6 The Competition Rules are extremely broad in their effect. They apply not only to companies located within the UK and the EU but also to companies outside the UK or the EU whose conduct is regarded as having an effect on the UK or EU market.
- 1.7 Although there are several potential consequences of a breach of the Competition Rules, compliance by the Association and its Members is particularly important because the Association may be implicated in a breach of the Competition Rules by its Members and may be subject to penalties as a result. It is also likely to cause damage to the Association's reputation.
- 1.8 This policy sets out procedures and guidelines which must be followed by Members when dealing with matters to which competition laws may apply. It is intended to give examples of activities which commonly give rise to competition law compliance issues. Whether a particular practice infringes the Competition Rules will often depend on the market share of the party or parties involved and conditions in the market. This policy also provides an overview of the main rules of UK and EU competition law.
- 1.9 Members should be aware that other national competition rules apply in some countries both inside and outside the EU. Members must ensure that they are aware of, and comply with all applicable Competition Rules. A breach or suspected breach of such rules or this policy by a Member may lead to their expulsion from the Association under the Articles.
- 1.10 This policy is not an exhaustive statement of the law and is not a substitute for taking legal advice.

2 TRADE ASSOCIATIONS

- 2.1 The Competition Rules prohibit anti-competitive behaviour by undertakings and associations of undertakings. A body formed to represent the interest of its Members in commercial matters, such as the Association, is an association of undertakings. The Association may inadvertently provide a vehicle for anti-competitive behaviour by its Members as it provides a forum for Members to meet and discuss issues concerning the industry in which they operate. The fact that Members may act through or under the name of the Association does not affect the way in which the Competition Rules apply.
- 2.2 The Association reserves the right to expel a Member from the Association if it reasonably suspects that Member has been involved in any of the following practices at an Association meeting:
- 21.2.1 discussing product prices and charges (including discounts and allowances), terms of sale, product or marketing plans and/or business relations with competitors, suppliers or customers;
 - 21.2.2 exchanging information with competitors which reduces or removes uncertainties in competition, e.g. price information;
 - 21.2.3 agreeing with competitors to fix the price at which the Member and competitor will acquire goods and/or services or agreeing to acquire goods and/or services only from specific suppliers;
 - 21.2.4 agreeing with competitors to provide goods and/or services on the same terms and conditions, leaving customers with little or no choice between suppliers.

3 OTHER ANTI-COMPETITIVE CONDUCT

- 3.1 The Association may also expel a Member from the Association if it is found to have engaged in anti-competitive behaviour outside the operation of the Association. The following is a non-exhaustive list of examples of anti-competitive practices that are likely to be illegal (because competition issues frequently arise in situations of this type.) Even if they do not take place at an Association meeting, the Association's reputation may be damaged. There are other activities which may also be illegal depending on the size and business of the Member and its role in the market.

Abuse of a dominant position

- 3.2 Refusing without any objective justification to deal with a particular customer.
- 3.3 Informing a customer that a Member will only supply product A if he also purchases product B from that Member.

Pricing

- 3.4 Contacting a competitor to ask whether, if the Member were to raise its prices, the competitor would do the same.
- 3.5 Discussing with a competitor the prices of key raw materials that the Member and competitor both purchase.

Supply

- 3.6 Discussing a supply arrangement with a competitor in order to get a feel for selling prices in the market.
- 3.7 Agreeing resale prices (whether with a supplier or distributor or retailer).

Import and export

- 3.8 Specifying one price to a distributor if he is selling the product in his own country and a higher price if he plans to export it to another EU country.
- 3.9 Requiring a distributor neither to resell the product for export to another EU country nor sell it himself to a customer in another EU country.

Technological co-operation

- 3.10 Agreeing with a competitor the exact time to introduce new technology which the Member and competitor are both developing independently.

Information exchange

- 3.11 Exchanging information on historical sales, prices, discounts, terms of business etc. directly with a competitor. The anti-competitive effect of sharing such information will depend on the nature and currency of the information, the number of organisations operating in the market and organisations to which the information is disclosed.

Dealing with competitors generally

- 3.12 Whenever a Member is dealing with a competitor, alarm bells should ring. Members should not have any discussion with a competitor concerning prices, price changes, discounts, pricing methods, costs, warranties, transportation charges, terms of sale, marketing initiatives or product plans without first seeking legal advice from their own advisers. The following conduct is likely to be illegal:
 - 3.12.1 Dividing up different projects between a Member and a competitor, for example by agreeing to bid for different contracts;
 - 3.12.2 Having discussions or making plans with a competitor to keep a new arrival out of the market;
 - 3.12.3 Warning a competitor or new market entrant to stay off a Member's patch;
 - 3.12.4 Discussing with a competitor possible investments that the competitor is considering making in a particular country;
 - 3.12.5 Agreeing to boycott particular customers or suppliers;
 - 3.12.6 Making an agreement or acting with a competitor in such a way as to allocate sales, territory, customers or products between a Member and competitor.

4 STEPS TO TAKE

- 4.1 Do mark any information which you provide to the Association as confidential and ensure that the Association treats it as confidential and does not disclose it in such a way that it can be identified as your information.
- 4.2 Do end a discussion or leave any meeting where such topics are discussed and ensure that the reason for ending the discussion or leaving is recorded in the minutes of that meeting;
- 4.3 Do not stay at any informal meeting where there is no agenda and no minutes are taken.
- 4.4 Do take your own legal advice before raising any matter that you feel may be of a sensitive nature or if you are unsure at any time how to apply this Policy.
- 4.5 Do record the steps you take to ensure compliance with the Competition Rules.
- 4.6 Do take the conservative approach. If you judge that an action or statement may be interpreted as contravening this Policy then refrain.

5 SUMMARY OF THE MAIN UK AND EU RULES

Anti-competitive arrangements

- 5.1 Any agreement or practice between two or more businesses which affects trade within the UK or between EU Member states which has the object or effect of preventing, restricting or distorting competition within the UK (or part of the UK) or within the EU, to an appreciable extent, is prohibited. The effect on trade and competition can be actual or potential.
- 5.2 If, for example, a Member arranges with a competitor to fix prices, or to allocate customers or markets, the arrangement will be prohibited. However, more routine commercial agreements, such as joint ventures and distribution agreements can also be caught.

Abuse of a dominant position

- 5.3 It is illegal for companies with strong market power (i.e. a "dominant position") to exploit their position in a way which may affect trade within the UK (or part of the UK) or between member states of the EU, for example, by imposing excessively high or predatorily low prices or discriminating between customers without justification.
- 5.4 Generally speaking, a company will be in a dominant position if it can take business decisions without regard to its competitors. Assessing whether a company is in a dominant position depends on a variety of factors of which market share is only one. However, as a general guide, there is a high risk that companies with a market share of 50% or more would be regarded as dominant. If a company's market share is below 40%, it is unlikely to be dominant.

Territorial application

- 5.5 The EU Competition Rules apply in all 27 EU Member states: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Spain, the Slovak Republic, Slovenia, Sweden and the UK. Equivalent rules apply in Norway, Iceland and Liechtenstein, because the substance of the EU

Competition Rules have been extended to cover all states within the European Economic Area (EEA), which currently comprises the 27 EU Member states and those three additional countries.

- 5.6 The rules can even apply to practices or transactions between companies located outside the EU if their effect is to distort competition within the EU market.

Consequences of breach

- 5.7 Failure to comply with the Competition Rules can lead to extremely high financial costs. The UK and European competition authorities can impose fines of up to 10% of an organisation's worldwide turnover if it is found to have breached the Competition Rules.
- 5.8 Investigations into a company and findings of infringements attract adverse publicity.
- 5.9 Investigations and possible legal proceedings resulting from infringements can take years to resolve, leading to high costs and taking up management time that could and should be devoted to more profitable projects.
- 5.10 An agreement which infringes competition laws may be wholly or partially invalid, which means that it cannot be enforced.
- 5.11 Third parties who suffer loss as a result of anti-competitive behaviour can recover damages from the company involved.
- 5.12 In some countries there may also be the risk of fines or imprisonment for individuals.

Schedule 4 Adjudication Rules

1 DEFINITIONS

In these Rules:

- Adjudication** means an adjudication carried out in accordance with these Rules;
- Adjudicator** means the Chairman or such other member of the Management Committee nominated to act as adjudicator under Rule 2.3;
- business days** means any day which is not a Saturday, Sunday or public holiday in England;
- Chairman** means the Chairman for the time being of the Association;
- Management Committee** means the management committee of the Association for the time being;
- Member** means a member of the Association;
- Notice** means a written notice of adjudication given by a Member to the Management Committee requesting adjudication and identifying in general terms the dispute in respect of which adjudication is required; and
- Party** Means a party to the Adjudication and **Parties** shall be construed accordingly.

2 COMMENCEMENT AND APPOINTMENT

- 2.1 These Rules shall apply upon any Member giving a Notice to the Management Committee which shall be deemed received:
- 2.1.1 if delivered by hand on the day of delivery;
 - 2.1.2 if sent by electronic mail or facsimile when received in readable form; and
 - 2.1.3 if sent by first class post two days after posting.
- 2.2 Where the Chairman confirms his readiness and willingness to embark upon the Adjudication within five business days of receiving the Notice, then he shall be the Adjudicator.
- 2.3 Where the Chairman is unwilling or unable to act as the Adjudicator, then the Management Committee shall no later than two business days after receipt of the Notice nominate another member of the Management Committee to act as the Adjudicator with the object of securing the appointment of an Adjudicator within five business days from receipt of the Notice and the member so nominated shall be the Adjudicator.

2.4 Within seven business days from receiving the Notice and provided he is willing and able to act, the Adjudicator shall give written notice of his acceptance of appointment to all Parties.

2.5 A Notice may be given at any time and notwithstanding that arbitration or litigation has been commenced in respect of such dispute.

2.6 The Association reserves the right to refuse the Adjudication. If it does so refuse then the Chairman shall confirm the decision within five business days of receiving the Notice to the Member from whom the Notice was received.

3 SCOPE OF THE ADJUDICATION

3.1 The scope of the Adjudication shall be the dispute identified in the Notice, together with:

3.1.1 any further matters which all the Parties and the Adjudicator agree should be within the scope of the Adjudication, and

3.1.2 any further matters which the Adjudicator determines must be included in order that the Adjudication may be effective and/or meaningful.

3.2 The Adjudicator may decide upon his own substantive jurisdiction and as to the scope of the Adjudication.

4 PURPOSE OF THE ADJUDICATION AND ROLE OF THE ADJUDICATOR

4.1 The underlying purpose of the Adjudication is to decide disputes between the Members that are within the scope of the Adjudication as rapidly and economically as is reasonably possible.

4.2 The Adjudicator shall act fairly and impartially, but shall not be obliged or empowered to act as though he were an arbitrator.

4.3 Unless the Parties agree that any decisions of the Adjudicator shall be final and binding, any decision of the Adjudicator shall be binding until the dispute is finally determined by legal proceedings, by an alternative dispute resolution process such as mediation or arbitration (if the Parties agree to such process) or by agreement.

4.4 The Adjudicator shall have the like power to open up and review any information as would an arbitrator if the same were appointed and/or a court.

5 CONDUCT OF THE ADJUDICATION

5.1 The Adjudicator shall establish the procedure and timetable for the Adjudication and may proceed if one party does not participate or cooperate.

5.2 Without prejudice to the generality of Rule 5.1, the Adjudicator may if he thinks fit:

5.2.1 Require the delivery of written statements of case;

5.2.2 Require any Party to produce a bundle of key documents, whether helpful or otherwise to that Party's case, and to draw such inference as may seem proper from any imbalance in such bundle that may become apparent;

- 5.2.3 Require the delivery to him and/or the other Parties of copies of any documents other than documents that would be privileged from production to a court;
 - 5.2.4 Limit the length of any written or oral submission;
 - 5.2.5 Require the attendance before him for questioning of any Party or employee or agent of any Party;
 - 5.2.6 Subject to Rule 5.3 make use of his own specialist knowledge;
 - 5.2.7 Obtain advice from specialist consultants, provided that at least one of the Parties so requests or consents;
 - 5.2.8 Make directions for the conduct of the Adjudication orally or in writing, if made orally the directions shall be confirmed by the Adjudicator in writing;
 - 5.2.9 Review and revise any of his own previous directions;
 - 5.2.10 Conduct the Adjudication inquisitorially, and take the initiative in ascertaining the facts and the law;
 - 5.2.11 Reach his decision(s) with or without holding an oral hearing.
- 5.3 The Adjudicator shall exercise such powers with a view of fairness and impartiality, giving each Party a reasonable opportunity, in light of the timetable, of putting his case and dealing with that of his opponents.
- 5.4 The Adjudicator may not:
- 5.4.1 Request and or require any advance payment of or security for his fees;
 - 5.4.2 Receive any submissions from one Party that are not also made available to the other Parties;
 - 5.4.3 Except in the event of misconduct by that representative refuse any Party the right at any hearing or meeting to be represented by any representative of that Party's choosing who is present;
 - 5.4.4 Act or continue to act if he has a conflict of interest;
 - 5.4.5 Subject to Rule 7 require any Party to pay or make contribution to the legal costs of another Party arising in the Adjudication.
- 5.5 The Adjudicator shall reach a decision within 30 business days after receipt of the Notice or such longer period as is agreed by the Parties. The Adjudicator shall be entitled to extend the said period of 30 business days by up to 14 business days with the consent of the Party by whom the dispute was referred.

6 ADJUDICATOR'S FEES AND EXPENSES

The Parties shall be jointly and severally responsible for the Adjudicator's fees and expenses including those of any specialist consultant appointed under Rule 5.2.7. In his decision, the

Adjudicator shall have the discretion to make directions with regard to those fees and expenses. If no such directions are made, the Parties shall bear such fees and expenses in equal shares, and if any Party has paid more than such equal share, that Party shall be entitled to contribution from the other Parties accordingly.

7 COSTS

7.1 If the Parties so agree in writing after any Party has given a Notice, the Adjudicator shall have jurisdiction to award the Parties' legal and expert costs in relation to the adjudication as he sees fit.

7.2 Notwithstanding anything to the contrary in any contract between the Parties, the Adjudicator shall have no jurisdiction to require the Party which referred the dispute to adjudication to pay the costs of any other Party solely by reason of having referred the dispute to adjudication.

8 DECISIONS

8.1 The Adjudicator may in any decision direct the payment of such interest as may be appropriate.

8.2 Any decision shall be in writing. The Adjudicator shall provide written reasons for his decision.

8.3 The Adjudicator may, on his own initiative or on the application of a Party, correct his decision so as to remove any clerical or typographical mistake and/or error arising by accident or omission.

8.4 Any application for the exercise of the Adjudicator's powers under Rule 8.3 shall be made within five business days of the date that the decision is delivered to the Parties or such shorter period as the Adjudicator may specify in his decision.

8.5 Any correction of a decision shall be made as soon as possible after the date that the application was received by the Adjudicator or, where the correction is made by the Adjudicator on his own initiative as soon as possible after he becomes aware of the need to make a correction.

9 IMMUNITY AND CONFIDENTIALITY

9.1 Neither the Association, nor its Chairman, nor any other member of the Management Committee, nor the Adjudicator nor any employee or agent of any of them shall be liable for anything done or not done in the discharge or purported discharge of his functions as Adjudicator whether in negligence or otherwise, unless the act or omission is in bad faith.

9.2 Unless the Parties otherwise agree the Adjudication and all matters arising in the course thereof are and will be kept confidential by the Parties and the Association except insofar as necessary to implement or enforce any decision of the Adjudicator or as may be required for the purpose of any subsequent proceedings.

9.3 In the event that any Party seeks to challenge or review any decision of the Adjudicator in any subsequent litigation or arbitration, neither the Association nor the Adjudicator shall be joined as a party to, nor shall be summoned or otherwise required to give evidence or provide his notes in such litigation or arbitration.

10 LAW

These Rules shall be construed in accordance with the laws of England and Wales.

17 June 2014