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Dear Paul

Changes to the licence fee cost recovery principles following the Consumer, Estate Agents and Redress Act 2007

Thank you for inviting us to comment on the proposed changes to the licence fee cost recovery principles (the principles document) following the Consumer, Estate Agents and Redress Act 2007 (the CEAR Act).

We agree that it is appropriate to update the principles document so that it is aligned with the provisions of the CEAR Act and the associated proposed changes to the relevant Standard Licence Conditions. These changes have been reflected in the proposed drafting of paragraph 1.2 and in the bulleted list under paragraph 2.5 of the principles document. We do however suggest that for consistency, the new bulleted components that feed into the licence fee calculation listed under paragraph 2.5 should refer to “costs” of the relevant organisation rather than “expenses”. Furthermore, each item should be preceded by “the appropriate proportion of”.

In addition to the CEAR Act changes, we note that Ofgem has made some other minor changes to update the principles document which, in the main, do not raise any issues (e.g. reference to DTI being replaced with BERR; and date changes etc). However, we question the changes that have been made to the section “Year End Flexibility (also known as Teem and Lade)” within Appendix 1 (Ofgem’s cost control regime (RPI-X) guidelines). As we understand it, the current principle is that net adjustments of over/under spends for the 5 year period are returned to licence fee payers in year 6 rather than each year. However, in the draft being consulted upon references to this aspect of the regime have been removed meaning it is now unclear when any “balance” would be returned. This may be an oversight in attempting to

tidy up the current document, however, the effect of the proposed drafting is reduced transparency and potentially a change to the cost control regime. We therefore believe that Ofgem's drafting should continue to define the relevant timescales. In our view, this would ideally be on an annual basis but at the very least the reconciliation period should be no greater than the existing arrangements.

We hope that you will find the above comments useful.

Yours sincerely

Rob McDonald
Director of Regulation