

Janette Dines
Assistant Secretary
Office of Legal Services Coordination
Attorney-General's Department

12 November 2010

By email: olsc@ag.gov.au

Dear Ms Dines

Revision of the *Legal Services Directions 2005* - Consultation paper #2

The National Film and Sound Archive (NFSA) appreciates the opportunity to comment on the above paper.

Format and Content

The NFSA supports the proposal to simplify the *Legal Services Directions 2005* (the Directions) as a single document and to remove repetition of information appearing in Appendices.

However, it doubts whether prefacing each division or chapter of the Directions with policy statements would assist in interpreting them, unless these were confined to basic object statements. It would not be appropriate to include in a legislative instrument a more detailed comment about policy intentions, which would be better placed in a guidance note.

Application of the Directions

The NFSA has reservations about the proposal to apply the whole of the Directions to agencies under the *Commonwealth Authorities and Companies Act 1997* (CAC Act agencies).

The NFSA is a statutory authority created under the *National Film and Sound Archive Act 2008* (the NFSA Act). It is also a CAC Act agency. It engages in commercial activities (e.g. operating a commercial cinema in its Canberra headquarters), as it is entitled to do under the NFSA Act. It is also a relatively small agency, with just two employed lawyers supporting a workforce of around 236 people.

The NFSA is concerned that applying the whole of the Directions to CAC Act agencies could impose a disproportionate burden on them, especially for smaller ones like itself. The requirement to share legal advices with other Government agencies (contained in paragraphs 10.7-10.9 of the Directions) would be particularly burdensome. While it supports the principle of sharing advice that is relevant across agencies, the requirement for an agency the size of the NFSA to review advice requests, undertaking searches and supply advices is an onerous one.

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Unless support was offered to manage the internal indexing of advices, the NFSA would not be able to respond efficiently to a request for advice on particular subject or to provide any guarantee that relevant advices had been searched.

Also, in relation to its commercial activities, the NFSA sometimes obtains or produces commercially sensitive legal advice. Having to share that advice could prejudice its commercial and legal interests.

The NFSA welcomes the opportunity to respond to any queries from the OLSC and to contribute to further discussion about proposed amendments to the Directions.

Yours sincerely



Ann Landrigan
Acting Chief Executive Officer