

<b>EAG LEGAL BRIEFING 6 October 2009</b>	<b>Notes</b>
<b>Carbon Reduction Commitment</b>	<p>CRC will, we believe, affect the very large publishers and booksellers in our respective PA and BA memberships. The EAG has looked at this in the past, but – just to recap – the CRC requires businesses that have at least one (or more) half hourly meter, settled on the half hourly market in 2008, with between 3,000 and 6,000 MWh of electricity consumed, to report their energy usage in the first year of the scheme. The British Retail Consortium [“BRC”] estimates that the CRC will capture 75% of the retail sector, and will tie up £311m in working capital in the first year of the scheme. In addition, it will cost £28,000 per retailer to administer the scheme, equivalent to nearly two retail jobs.</p> <p>The Government is consulting on the draft Order. The BRC is concerned that the withdrawal of £300 million, significant working capital, from retail businesses during the early recovery from the economic downturn is an unnecessary financial burden. The retail sector operates with very low margins and releasing these substantial funds for a period of 6 months could be detrimental to sustainable economic development and will prevent resources being invested in energy saving and de-carbonising measures. I would guess publishers and the PA could well have the same concerns.</p> <p>The CRC scheme currently incorporates some measures to reward early movers but these disregard actions before 2008, therefore penalising many of the scheme’s first ‘supporters’. Leading publishers and booksellers will suffer reputational <u>and</u> financial impacts whilst other organisations that have only moved to address their carbon emissions as a result of the scheme, or those sectors in decline, make easy gains during the life of the scheme. Furthermore, a lack of transparency in the landlord-tenant relationship prevents parties working together effectively to manage the scheme rather than simply passing costs through. The BRC is proposing that, as a means of reducing the financial burden at the beginning of the scheme (whilst the economy is emerging from recession) and leaving capacity to finance energy saving initiatives, participants settle their account for allowances once their performance within the league table is known. Prior to that a liability should be recorded in company accounts, further ensuring Board visibility, without actual financial transfer.</p> <p>The potential impact the scheme could have on tenants’ service charges has not been addressed in the draft regulations. Since the retail property market is only slowly making progress towards greater transparency on service charges, retail tenants need statutory protection ensuring they see when they are contributing to CRC allowance purchases and/or energy saving initiatives and how recycled payments are used. It will also be in the tenants’ interests to demonstrate to their landlords how the measures they are taking in their own on-site operations are reducing energy use and emissions. The BRC is proposing that greater transparency, and hence more perfect market incentives, could be achieved through an obligation for landlords to provide information to tenants, with encouragement to both parties to develop effective partnerships to reduce emissions through collaboration.</p>
<b>Carbon Transition Plan</b>	<p>The Department for Business, Innovation and Skills, together with the Department for Energy and Climate Change, has published “<i>The UK Low Carbon Industrial Strategy</i>”. In parallel to this document, the Government is also publishing “<i>The UK Low Carbon Transition Plan</i>”, “<i>The UK Renewable Energy Strategy</i>” and “<i>The Carbon Reduction Strategy for Transport</i>”.</p> <p>The strategy identifies a range of low carbon sectors in which the Government believes that the UK has potential for job creation and business savings. Where barriers to market or other obstacles are blocking the development of Britain’s full potential in these areas, it sets out the Government’s strategy for removing them.</p> <p>This includes the first investments from the £405 million for low carbon industries and advanced green manufacturing announced in the 2009 Budget. Key announcements include:</p> <ul style="list-style-type: none"> <li>• Up to £120 million to support the development of a British based offshore wind industry.</li> </ul>

	<ul style="list-style-type: none"> <li>• Up to £60 million to capitalise on Britain's wave and tidal sector strengths, including investment in wave hub—the development of a significant demonstration and testing facility off the Cornish coast—and other funding to make the south west Britain's first low carbon economic area.</li> <li>• The Government will provide capital investment in order to establish a nuclear advanced manufacturing research centre consisting of a consortium of manufacturers from the UK nuclear supply chain and universities.</li> <li>• Up to £10 million for the accelerated deployment of electric vehicle charging infrastructure. A £4 million expansion of the manufacturing advisory service, to provide more specialist advice to manufacturers on competing for low carbon opportunities, including support for suppliers for the civil nuclear industry.</li> </ul> <p>The low carbon industrial strategy recognises, says the Government, that this transition raises significant challenges for our industrial work force and their families. As with previous structural changes to the economy, the move to a low carbon economy will affect each business, worker and family differently. Previous economic structural shifts have had huge social impacts, with some workers and communities being left behind as industries are restructured by change. The Government is committed to doing all it can to ensure this is a just transition. For this reason, the Government will create a forum for considering these issues and advising Government. The new forum for a just transition will include representatives from central Government, national, local and regional bodies, trade unions, business organisations, and third sector bodies.</p>
<b>Carbon Trust Standard</b>	As mentioned at the last EAG, The Carbon Trust has reviewed its pricing structure for its Carbon Trust Standard, and from the 1 <sup>st</sup> June companies with an annual turnover of £10m> obtaining the standard will cost £10,000 for certification only and £15,000 for assisted certification.
<b>Climate Change Projections</b>	I actually found this development really interesting. The Government has posted onto its website more than 4000 maps projecting what we might expect with climate change over the next 100 years. Across the UK, the projections show a range of climate changes up until the end of the century based on three possible greenhouse gas emissions pathways-high, medium and low. The projections, based on the medium emissions scenario, show that by the 2080s we could face an increase in average summer temperatures of between 2 and 6 degrees celsius in the south-east, with a central estimate of 4 degrees. They show a decrease in average summer rainfall of 22 per cent in Yorkshire and Humber and in the south-east-which is already short of water-and an increase of 16 per cent in average winter rainfall in the north-west, with increases in the amount of rain on the wettest days leading to a higher risk of flooding. They also show a rise in the sea level for London of 36 centimetres. Even if we achieve our international target to limit global temperature rise to 2 degrees, we will still have to live with some level of change. This is because it will take 30 years for past emissions to work through the system, so the next three decades of climate change are already set.
<b>Climate Change Select Committee Inquiry</b>	<p>Most of the changes in climate that will happen over the next 30 to 40 years have already been determined by past and present emissions of greenhouse gases. This means that changes in our climate are inevitable, even if we can successfully reduce greenhouse gas emissions to avoid dangerous levels of climate change. The kind of changes we could see include warmer and wetter winters, hotter and drier summers, sea level rise, and more severe weather events such as storms, floods, droughts and heat waves. Adapting to climate change is the process of building resilience and preparing households, businesses, infrastructure, public services and vulnerable parts of our society to cope with the impacts of climate change, and to take advantage of any new opportunities that result.</p> <p>The Select Committee has commissioned a review from the National Audit Office (NAO) on climate change adaptation (see <a href="http://www.nao.org.uk/what_we_do/support_to_parliament/select_committees.aspx">http://www.nao.org.uk/what_we_do/support_to_parliament/select_committees.aspx</a>). This provides an overview of climate change adaptation policy in England, including the implications</p>

	of the Climate Change Act 2008, the cross-Government ' <i>Adapting to Climate Change</i> ' programme and the current capacity across Government Departments to assess and manage risks to their objectives from future climate change impacts. The NAO's review is the starting point for a new inquiry into adaptation that has recently been launched. The purpose of the inquiry is to assess whether the Government is on the right path to embedding effectively climate change adaptation. The Committee will also examine whether climate change adaptation is being sufficiently funded.
<b>Fuel and Power Conservation</b>	The Government has published a consultation on changes to Part L (Conservation of Fuel and Power) and Part F (Ventilation) to deliver the next step towards zero carbon. The Government will be consulting more fully on how to take forward the ambition from the March 2008 Budget that all new non-domestic buildings should be zero carbon from 2019. In the meantime, it is important to take early steps to start to further improve the energy performance of non-domestic buildings. So, today's Part L consultation also sets out proposals for a 25 % improvement on current standards for new non-domestic buildings from October 2010. Any changes to the regulations are due to be made by March 2010 and will come into effect from October 2010.
<b>Low Carbon Transition Plan</b>	The Government will publish its UK Low Carbon Transition Plan shortly. This will set out the UK's approach to becoming a sustainable-advanced low-carbon country, which means cutting our emissions, securing our energy supplies, maximising economic opportunities, and protecting the most vulnerable. The new regime will be put in place starting from 1 October with the establishment of the Infrastructure Planning Commission (IPC), from when it will begin providing advice and guidance on preparing applications, and on how the new regime will work.
<b>Packaging</b>	Defra have published their packaging strategy ' <i>Making the Most of Packaging</i> '. It looks at waste minimisation and increased recycling (but not a line of excessive packaging); the optimisation of packaging; an intention to achieve greater recycling rates; a desire to improve the quantity and quality of recyclates - recycling a greater variety of plastics (including a target to develop a waste facility that can handle mixed plastics by 2012), and increasing the proportion of metal and glass collected; a desire to move from weight-based metrics to carbon-based metrics.
<b>Plastic bags in Wales – proposal from Welsh Environment Minister to impose a charge</b>	The Welsh Environment Minister is strongly considering imposing a tax of up to 15p for a single use carrier bag. As we have reported many times previously, the BA believes that a far better approach would be to engage customers through education, encouragement and a broad range of measures. Moreover, it should be left to individual retailers to decide the best strategies for engaging with their particular customer base. The BA has made representations to the Minister, Jane Davidson, through the BRC, arguing that voluntary action is the right and proportionate approach and that introducing a charge could well cost Welsh consumers some £22m - £36m. Introducing measurement systems will require changes to IT systems. The cost (including opportunity costs of having to reschedule business critical system changes) will be disproportionate. Retailers without scanning facilities will face other administrative burdens. Costs will include (a) developing and establishing mechanisms to measure number of bags distributed, (b) undertaking staff training, and (c) delays at the checkout. Solutions will be required for self-scanning checkouts. In some cases business models mean the bag will need to be charged after sales. But Jane D seems at present to be sticking to her guns.
<b>Plastic bags in N Ireland</b>	The new Environment Minister in Northern Ireland, Edwin Poots, has also said that he will consider introducing a levy on plastic bags in shops in Northern Ireland, if the voluntary arrangement agreed by retailers does not quickly produce the desired results.
<b>Plastic bags in England</b>	However, it does look as if in England, Ministers are rather reluctant to introduce legislation and happy to let retailers themselves support a voluntary Code, as look as doing so brings meaningful results.
<b>E &amp; OE</b>	Tim Godfray – 22 <sup>nd</sup> September 2009