

Minimise your exposure: Licence and media agreements

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It is increasingly important for Trusts to be aware of and understand their licensing and media agreements, with some providers targeting Trusts and using unscrupulous methods to bring in additional revenue.

We have been highly active and effective in combating some of the tactics deployed by these providers and highlight a couple of potential pitfalls in respect of Trusts' licence and media agreements below.

What has happened?

There have recently been a number of NHS Trusts encountering issues with their incumbent IT licence providers. For example, Trusts have been grappling with alleged audit exposures to their longstanding IT licence suppliers, who have claimed that they owe hundreds of thousands of pounds for a number of years' backpay in respect of thousands of items/licences. These claims are purportedly supported by a number of complex documents, spreadsheets and historic correspondence.

Upon one instruction of DAC Beachcroft, the licensing provider was offering to accept a payment by the Trust of circa 50% of the "full" amount allegedly outstanding to resolve the issue quickly, and the Trust was considering making this payment. However, DAC Beachcroft successfully countered the claims made by the licence provider. We disputed the basis upon which the provider claimed any monies were outstanding, and subsequently resolved the alleged exposure without any payment being made by the Trust.

Separately, we have also seen several of our NHS clients targeted by e.g. media companies which purport to pay Trusts to install and maintain TV screens on their premises for free, with the Trusts being able to use them for announcements / the provision of hospital information. The companies then generate proceeds from the advertising which they procure to put on the screens. However, the media companies' contracts have been highly unfavourable to the Trusts and sometimes obtained without the Trusts fully understanding their terms or consequences, or obtaining appropriate internal approval or legal counsel. In other instances, issues have then been encountered by the Trusts concerning the inappropriate content of the advertising sourced by the media companies.

The media companies have also issued several claims against Trusts for allegedly not complying with their contractual obligations, for hundreds of thousands of pounds. DAC Beachcroft has assisted a number of these Trusts in successfully countering these claims, and working to remove the company and their screens from NHS premises.

What we do

As part of our renowned dispute resolution services, we provide time-critical, comprehensive and commercial advice to a range of clients across a variety of sectors, including Health, the Public Sector, Real Estate and Hospitality. In particular we have a well-developed understanding of IT license audit issues and media dispute problems facing NHS Trusts, and minimising Trusts' exposure which can arise as a result.

If you are experiencing any of the issues set out above, or would like any further information or have any queries, please contact Jan Levinson at jlevinson@dacbeachcroft.com or Stephen Fenton at sfenton@dacbeachcroft.com. Alternatively, you can contact them on 0161 934 3260.

Authors



Jan Levinson

Manchester

+44 (0)161 934 3043

jlevinson@dacbeachcroft.com

