

Cinemas Tariff 'C' (minimum term 1st Jan 2005 to 31st Dec 2009)



As agreed with the Cinema Exhibitors' Association Limited

1. Scope of tariff

This tariff applies to public performances of *PRS for Music's** repertoire* given in the course of, or in connection with, the exhibition of films* (and as listed below), at **cinemas** or other premises at which the commercial exhibition of films regularly takes place on not fewer than three days weekly for a period of not less than four months during the year. Licences issued under this tariff shall cover the following categories of public performances of *PRS for Music's* repertoire:

- (i) as an accompaniment to the exhibition of films including filmed advertisements whether the repertoire is performed by means of the sound track of a film or otherwise;
- (ii) performances for intermission, play in, and play out purposes;
- (iii) performances of music in a cinema foyer under the control of the Licensee*, except as excluded in section 3 below.
- (iv) performances in the form of not more than three items of variety entertainments introduced before, during or after each exhibition of the complete picture programme.
- (v) a simulcast event*.

2. Term

This tariff, which supersedes all previous editions, shall have effect from 1st January 2005 for a minimum of five years.

* See Definitions, section 12

3. Exclusions

This tariff does not apply to performances of *PRS for Music's* repertoire other than those expressly mentioned in paragraph 1 hereof. In particular it does not apply to any performance of *PRS for Music's* repertoire in any area within the said premises let to or controlled by any third party or in any separate pub or bar, restaurant, café, shop or other area within the said premises controlled by the Licensee to which another *PRS for Music* tariff applies.

This tariff does not apply to performances of *PRS for Music's* repertoire given in the course of, or in connection with, entertainments to which there is no charge for admission either in money or money's worth, other than entertainments taken into account for the purpose of calculating Actual receipts* and Actual admissions*.

Any licence granted by *PRS for Music* under this tariff is subject to the condition that the Licensee shall notify *PRS for Music* of all entertainments or events with music held at the said premises, and shall pay all royalties due for them in accordance with the appropriate tariff(s).

4. Annual returns

Not later than the 31st January in each Licence-year*, a Licensee under this tariff shall furnish to *PRS for Music* a statement, certified, at the option of the Licensee, by either an accountant who is qualified to be appointed auditor to a public company or who is approved by *PRS for Music* or by a board director of the Licensee, showing separately and for the preceding Accounting period* Actual receipts and Actual admissions pursuant to paragraph 6 below, and Actual receipts pursuant to paragraph 7 below.

5. Audit

(1) *PRS for Music* shall, at its request and its expense, be entitled on reasonable written notice to a Licensee under this tariff to inspect, during normal working hours, the relevant books and records (including any item forming part of the computer-based system) of the Licensee in order to verify Actual receipts and Actual admissions for up to the three preceding Accounting periods. Such inspection shall be undertaken by a person or persons approved by both *PRS for Music* and the Licensee (such approval not to be unreasonably withheld or delayed) and who has entered into an undertaking in a form acceptable to *PRS for Music* and to the Cinema Exhibitors' Association Limited (such acceptance not to be unreasonably withheld or delayed) to keep confidential and not to disclose to *PRS for Music* or any third party any information obtained as a result of such inspection save to the extent necessary to report to *PRS for Music* as to the verification or otherwise of the said Actual receipts and Actual admissions.

* See Definitions, section 12

- (2) Unless the inspection revealed a disparity in favour of *PRS for Music* of more than five percent between either of the Actual receipts and/or Actual admissions certified by the Licensee under paragraph 5 and those disclosed by the inspection, *PRS for Music* shall not be entitled to give further notice under paragraph 5(1) until the expiry of one Accounting period thereafter.
- (3) The Licensee shall be entitled to request and to receive forthwith after such request a complete copy of any report produced in relation to any inspection.
- (4) If an inspection undertaken in accordance with paragraph 5(1) reveals a disparity between either of the Actual receipts and/or Actual admissions certified under paragraph 5 and that disclosed by the inspection, then the amount of the adjustment to the royalty calculated in the light of the disparity must be paid within 14 days of receipt of both a written demand and a copy of the report referred to in paragraph 5(3) above by the party in whose favour the disparity exists. Subject to any payment due from the Licensee being so made, no further inspection in relation to those Actual receipts and Actual admissions shall be made.

6. Annual royalties (films*)

- (1) Save in relation to simulcast events, the annual royalty payable by a Licensee under this tariff shall be calculated:
- (a) by reference to the following percentage of the Licensee's Actual receipts in respect of films for the Accounting period, OR
- (b) if, for each cinema site, the Licensee gives notice in writing for that cinema site to *PRS for Music* to be received not later than 31st January in each licence-year for that licence-year at the following monetary rates as applied to the Licensee's Actual admissions in respect of films for the Accounting period.

Licence-year		percentage of Actual receipts	rate per Actual admission
1 st January 2005 to	31 st December 2005	1%	4.00 pence
1 st January 2006 to	31 st December 2006	1%	4.13 pence
1 st January 2007 to	31 st December 2007	1%	4.26 pence
1 st January 2008 to	31 st December 2008	1%	4.40 pence
1 st January 2009 to	31 st December 2009	1%	4.54 pence
1 st January 2010 to	31 st December 2010 and each year thereafter	1%	previous year's rate plus 3.25%, rounded to two decimal places

The resulting royalty charge is then subject to any applicable discount shown in paragraphs 6(4) and 6(5) below.

- (2) As the actual royalty payable by the Licensee in respect of paragraph 6 cannot be ascertained until the Actual receipts and Actual admissions for that year have been certified pursuant to

* See Definitions, section 12

paragraph 5 of this tariff, the Licensee shall, when the certified statement is submitted to *PRS for Music*, make a payment on account of the royalty due equal to the Actual receipts and/or Actual admissions for the preceding Accounting period in respect of films multiplied by the net royalty rate for the current Licence-year and any additional sum due under clause 6(1) for the preceding Accounting period.

- (3) When a licence is issued hereunder on the opening of a new cinema, or the re-opening of a cinema after a closure, a provisional royalty shall be calculated:
- (a) in respect of the initial licence period on the basis of the Licensee's estimate of the Actual receipts in respect of films for the relevant Accounting period and shall be adjusted on the basis of the Actual receipts and/or Actual admissions as certified under paragraph 4 of this tariff, and;
- (b) in respect of the next full Licence-year on the basis of an estimate of the Actual receipts and/or Actual admissions for the full Accounting period for that year in respect of films arrived at by a proportionate adjustment of the Actual receipts and/or Actual admissions for the preceding Accounting period. This provisional royalty shall be adjusted on the basis of Actual receipts and/or Actual admissions for the full Accounting period in respect of films as certified under paragraph 5 of this tariff.
- (4) If the certified statements from the Licensee in respect of films are submitted and the amounts due are paid on or before 31st January next after the relevant Accounting period the Licensee shall be entitled, but not otherwise, to a **prompt payment discount of 6%** to be deducted from both the payment on account under paragraph 6(2) and on any additional payment or refund due under paragraph 6(1).
- (5) Where the number of admissions to a cinema site* of the Licensee in any Accounting period in respect of films falls within the following bands the Licensee shall be entitled to the following discounts on the royalty at 6(1)(a) and 6(1)(b) which would otherwise be payable:

Number of admissions	Discount
Less than 60,000	25%
60,000 – 69,999	20%
70,000 – 79,999	15%
80,000 to 89,999	10%
90,000 to 99,999	5%

- (6) The **minimum** annual royalty per cinema site in each accounting period in respect of films shall be not less than £75 multiplied by the number of screens at that site.

* See Definitions, section 12

7. Royalty (simulcast events)

- (1) The annual royalty payable by a Licensee in relation to simulcast events shall be calculated at the following royalty rates:

Licence-year		percentage of Actual receipts
1 st January 2005 to	31 st December 2005	1%
1 st January 2006 to	31 st December 2006	1%
1 st January 2007 to	31 st December 2007	1%
1 st January 2008 to	31 st December 2008	2%
1 st January 2009 to	31 st December 2009	3%
1 st January 2010 to	31 st December 2010 and each year thereafter	3% or 1% see (3) below

- (2) These rates will not be subject to any payment on account, any prompt payment or low admissions discounts, and will not be subject to the minimum charge.
- (3) From 1st January 2010 the rate will continue at 3%, unless there has been no growth* in simulcast events up to 31st December 2009, in which case the rate shall be 1% as from 1st January 2010.
- (4) *PRS for Music* reserves the right to approach the Licensee, during the licence-year, to require a declaration of Actual receipts from any simulcast event(s) and to require the Licensee both to pay *PRS for Music's* subsequent invoice in relation to the simulcast event(s) within 30 days of the date of the invoice and to supply details of the musical works used.

8. Applications for licences

- (1) Applicants for a licence under this tariff are required to give *PRS for Music* such information on *PRS for Music's* appropriate form as may be reasonably necessary to enable *PRS for Music* to decide whether the tariff is applicable. *PRS for Music* shall not unreasonably withhold the grant of a licence to an applicant who requires a licence for the public performance of *PRS for Music's* repertoire given in the course of, or in connection with, the exhibition of films or other musical performances and falling within this tariff.
- (2) *PRS for Music* is not bound to offer a licence or permit under this tariff in respect of any performances unless application has been made in advance of the relevant performances.

9. Favoured party

If at any time during the term of this tariff *PRS for Music* licenses any public performance falling within the scope of this tariff on terms which, if applied to a Licensee under this tariff, would be more favourable to the Licensee than those applicable under this tariff, then *PRS for Music* shall forthwith offer such terms to each Licensee under this tariff in substitution of the terms applicable under this tariff.

* See Definitions, section 12

10. Change of ownership

When a change of proprietorship of any cinema for which *PRS for Music* has granted a licence hereunder shall take place, *PRS for Music* will issue to the new proprietor a new licence hereunder commencing from the date of such change.

11. Value Added Tax

Every Licensee under *PRS for Music's* tariffs will pay to *PRS for Music* in addition to the royalty due, a sum in respect of Value Added Tax calculated at the relevant rate on the royalty payable.

12. Definitions

- 12.1 Accounting period** normally means the period following the last Thursday in any relevant calendar year and ending on the last Thursday in the following calendar year.
- 12.2 Actual admissions** means all admissions to the cinema screen(s) of the Licensee during the Accounting period in connection with any exhibition of films to which Tariff 'C' applies including where admission is by advertising or advertisers' tokens or vouchers in lieu of cash or otherwise paid for in money's worth, the amount of which would have been paid had normal prices been charged.
- 12.3 Actual receipts** means all box office admission charges received by the Licensee during the Accounting period (excluding any element thereof in respect of Value Added Tax and any other payments levied as a matter of law on actual receipts) in connection with either any exhibition of films or any simulcast event to which Tariff 'C' applies and, where admission is by advertising or advertisers' tokens or vouchers in lieu of cash or otherwise paid for in money's worth, the amount which would have been paid had normal prices been charged.
- 12.4 cinema site** means cinema premises with one or more screens operated by the Licensee.
- 12.5 film** means any exhibition of moving pictures except a simulcast event.
- 12.6 growth** means an increase of 20% (or more) in average Actual receipts for simulcast events for the calendar years 2008 and 2009 when compared with the average Actual receipts for such events for the calendar years 2005, 2006 and 2007.
- 12.7 licence-year** means the period commencing the 1st January in any relevant year and ending on the 31st December in the same year.
- 12.8 Licensee** means the company or persons to whom *PRS for Music's* licence is granted.
- 12.9 PRS for Music** is the trading name of the Performing Right Society Limited.
- 12.10 PRS for Music's repertoire** means all and any musical works (including any words associated therewith), the right of public performance in which is controlled by *PRS for Music* or by any of the societies in other countries with which *PRS for Music* is affiliated.
- 12.11 simulcast event** means the public screening in a cinema (as distinct from the separate act of transmission) of a live event taking place at a remote location and relayed to the cinema for simultaneous exhibition.