

Ticketed popular music events

Summary of responses to consultation



PRS
forMUSIC

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ADDITIONAL DOCUMENTS AVAILABLE:

Consultation Document <http://www.prsformusic.com/customerconsultation>

Introduction

This document summarises the responses we received to an open consultation on our licensing tariffs for popular music events. These events are currently licensed using Tariff LP for popular music events and Tariff DP for dance parties.

The open consultation ran for an extended period of 28 weeks, ending on 31 December 2010. A full [consultation document](#) was presented, which included the proposal for a new tariff structure.

We wrote to all existing customers licensed under Tariffs LP and DP, informing them about the consultation and inviting their response. We also accepted responses from any interested party. The responses we received were predominantly from music users rather than music creators.

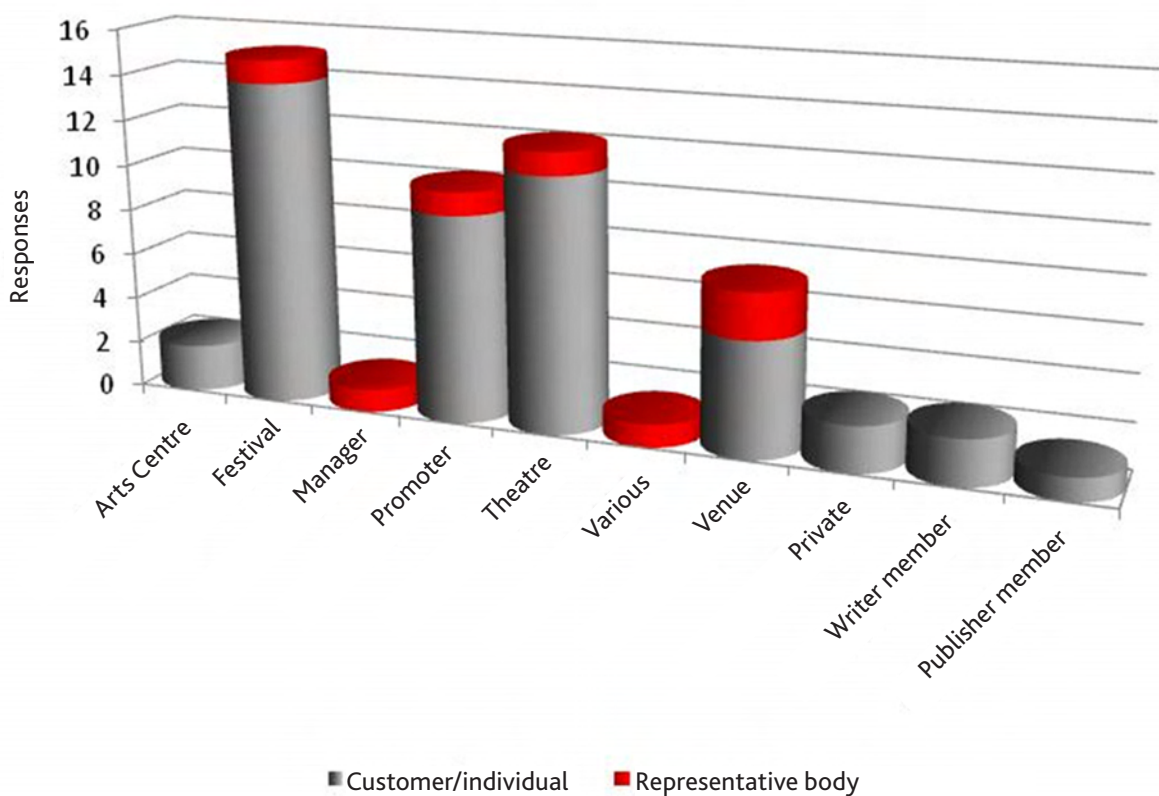
We would like to thank all those who have taken part in this consultation for their valuable contribution to this process.

We received 53 responses, seven of which were from representative organisations spanning the breadth of the live music industry.

Twenty-two respondents gave permission to publish their name, and 19 of those allowed us to attribute comments to them. Where we have been given permission to do so, respondents are listed in Appendix A.

This document refers to the public performance licensing activities of the Performing Right Society Limited ("PRS") trading as *PRS for Music*. It represents a summary of the responses received and does not in any way represent *PRS for Music's* views of the consultation subject matter.

Responses by interest represented



Summary

Respondents largely supported the consultation process and said it was sensible to review the tariff after 20 years. They widely accepted that the live music market had changed significantly in that time. However, respondents suggested that folk events and small theatre venues were an exception, as the market had not changed significantly, although funding may have become more difficult.

- Respondents did not generally provide details of income generated from events, focusing instead on the costs incurred. The current economic climate and rising overheads were core issues, particularly VAT, health and safety costs, security rates, insurance cover and artist fees.
- The inclusion of auxiliary revenues in the consultation was viewed with some concern, despite respondents revealing that these income sources are used to improve the chance of a show being profitable.
- Venue operators, event organisers and promoters largely claimed not to be involved in marketing secondary ticketing and they questioned the potential inclusion of this revenue stream in royalty assessment, although there were some exceptions.
- The majority of respondents suggested that European comparators were either irrelevant or should be considered as part of a global picture that included countries such as USA, Canada and Australia.
- Some respondents argued for a decrease in the tariff, stating that *PRS for Music's* income from events had grown significantly since 1988.
- Festival organisers argued that their significantly different cost structure should be reflected in their licensing charges. They said that festivals require large investment on a per-event basis in order to effectively create the venue, and requested a separate tariff.
- Large venues and events were not supportive of the charge being calculated on a progressive scale of ticket receipts.
- The concept of introducing concessions for accommodation and camping, non-music content and a reduced minimum charge per event were widely supported, although the mechanisms used to value these concessions were less popular.

Considering the real value of music

Auxiliary revenues, secondary ticketing, European comparators, discussing a revised charge.

Pages 5-7 of the [Consultation Document](#)

We asked:

1. Do you agree there have been significant changes in the live music market over the last 20 years? What are the significant changes?
2. Do you agree with the use of a progressive scale based on capacity as proposed? If not, what alternatives do you think would be fair?
3. Do you agree it is reasonable to consider European comparators or is there a justification for the lower percentage rate charged in the UK? In your experience, what, if any, are the significant differences between the UK market and other European territories?
4. What changes have you experienced in ancillary incomes since 1988? What ancillary incomes do you think could be considered as part of a revised base of income?
5. How has the rise of the secondary market affected your business? Do you agree there is an increasing gap between the face value of a ticket and the actual amount paid by the music fan? Do you currently sell tickets through secondary ticketing agents (or your own re-sale service) or are you planning to do so in the future?

Market

Feedback confirmed that the live industry has changed significantly in the past 20 years. With live music becoming a more professional enterprise, it has also become a thriving mainstream leisure activity. It was suggested that as the market has grown, so too have the costs, in areas such as health and safety, policing, emergency services, employment law compliance and artist fees. VAT was also a focal point, particularly the most recent increase.

Respondents said that a scarcity of talent was still driving artist costs upwards. With the ability to significantly enhance their earnings, artists are more willing to play live than before. Figures provided by respondents suggested that, on average, a performer earns much more than the songwriters and publishers for the performance of their work.

A number of responses suggested that the consultation document did not fully consider the current economic climate. The poor trading environment drew varying degrees of pessimism regarding the effect it will have on the live music industry, and a few respondents suggested that tariff rates should not be increased.

Promoters argued that *PRS for Music* has benefited greatly from promoter risk taking, with the promotion of more, and larger, events.

Significantly, there were some different perspectives from small venue owners and organisers of specialist shows. They said that it was increasingly difficult to secure funding (such as Arts Council Funding) and it had become more challenging to sell out shows. One respondent noted that funded arts expenditure in the UK is far below the rest of Europe and was further hit during the recession. Respondents noted that popular music events were sometimes used to subsidise other types of event such as orchestral or classical music concerts.

Regional venues were also said to be struggling due to a lack of funding. One respondent suggested that there was a north/south divide in the market, with the north being more difficult to operate in.

Considering the real value of music

Auxiliary revenues

One respondent identified that the 'face value of a ticket no longer represents the true cost to customers...distancing music creators from the value they help to create'.

Many respondents suggested that auxiliary revenues should not be included in any *PRS for Music* royalty assessment.

It was also highlighted that not all ancillary income is controlled by the licensee.

For one particular festival, anecdotal evidence suggested that auxiliary revenue had grown at almost the same rate as ticket revenue. Smaller venues tended to report that auxiliary revenue had either remained the same, or dropped over time – however they did not comment specifically on the detail of these revenues.

Many respondents highlighted that auxiliary revenues were used to help make the overall event profitable or sustainable.

This was discussed in many contexts, with venues using auxiliary revenue to provide more competitive rates to promoters or subsidise promoter payments, to provide additional funding, subsidise concert activity, and to help lower the break-even point for an event or cover additional charges. Some respondents suggested that auxiliary revenue is vital to the survival of their venue.

Festival organisers said that they could suffer disproportionately from the inclusion of ancillary incomes in any royalty assessment, due to the different ways in which these events function when compared to events at fixed venues. Festivals, for example, provide various ancillary services to allow people to stay for a number of days.

Finally, some discomfort was highlighted with the 2008 and 2009 Adding up the music industry papers published by PRS for Music, which attempted to size the value of the live music market.

Booking fees

The specific comments regarding booking fees varied, depending on the circumstances of the respondent.

Unattributed comments include:

- Making tickets available through a wider selection of ticketing agents benefits all, why include booking fees?
- Promoter has control over booking fees charged - should be included in the base.
- Booking fees are already covered by face value of ticket for this event.
- Booking fees cover the agents' costs and profits... not relevant to *PRS for Music*.

Sponsorship

Respondents identified a number of different types of sponsorship that exist in the live music industry, noting that the beneficiary may vary each time. It was widely suggested that sponsorship should not be included in the base for calculation. Respondents also agreed that sponsorship is a vital income, without which many performances would not take place. It was suggested that this is a commercial relationship entirely separate to the music.

- Artists: venue/promoter is unlikely to benefit
- Venues: sponsorship can be presented as a gift and attract gift-aid benefits, with the suggestion that inclusion in the tariff base for calculation may discourage this practice. Sponsorship is not specific to music and could consist of multiple-year deals, sometimes including equity. Sponsorship of venues allows them to provide competitive hire fees and operate at a higher standard.
- Events: sponsorship is often concluded in advance and before booking acts. However, one respondent noted that the target demographic is known, and from this the genre of music may be inferred. There is concern that inclusion of sponsorship in the base will reduce the existing levels of sponsorship.

Considering the real value of music

Merchandising

Respondents suggested that growth in large arenas had driven a growth in merchandising. They said that merchandising is either run at cost (smaller venues) or that any monies go directly to the artist. Sometimes the venue may attract a facility fee.

Secondary ticketing market

Respondents disliked the suggestion of including secondary ticketing revenues in the royalty assessment. Many said that secondary ticketing is outside the reach, and control, of those running the events.

International comparisons

It was suggested that further international comparisons should be made; that it would be more reasonable to consider territories where the percentage of receipts used is lower such as Australia, New Zealand, Canada and USA.

It was also highlighted that the international comparisons did not include details about the rates applied in Europe, such as subsidies and differing structures, and even that the costs for collecting may be higher.

It was suggested that the low rate in UK may have helped the live music industry succeed, and that a higher rate may make it more difficult to attract artists in the future.

However, some respondents suggested that European rates provide a suitable comparison, and that standardisation of rewards for creators in the EU would be reasonable.

Charging structure

Many views were presented regarding the proposed, scaled charging structure of % ticket receipts. Many respondents commented that they would prefer to know the proposed rate at the same time.

More generally, larger venue and event organisers were opposed to the idea of scaling charges in line with the size

of the event, regarding it as punitive. Some suggested that ancillary revenues do not form a larger proportion of income at such events. Smaller venues and event organisers were more positive towards a scaled rate.

Some respondents indicated that it may be appropriate to have a finer scale with more tiers, and that the capacity used for calculation should be the capacity to which the venue or event has been sold to, with many venues offering a flexible capacity. One response suggested that any venue with a capacity of over 1,000 should pay the highest rate.

Feedback from festival organisers was that it would be impractical to calculate the capacity of their events, and more specifically, impractical to calculate the capacity of the various elements of the festival (used to assess proportion of music usage in the consultation). It was suggested that the tariff structure should account for both the type and the size of a festival.

Different options were presented to offer a sliding scale of charging, based on income levels, funding status, content of works controlled by *PRS for Music* and the age of an event.

Rate

A number of respondents referenced the previous Tribunal position regarding the relative value of the musical work versus the performer and the performance.

Details shared in the consultation suggested that, on average, the performer will receive many times the remuneration of the songwriters and publishers, and that the promoter will also receive a significant proportion more than the songwriters and publishers.

Some respondents argued that where *PRS for Music* live revenues had grown to exceed ticket price inflation, the balance should be restored through the lowering of the rate applied.

Respondents appeared concerned that *PRS for Music* is paid regardless of the risk of the event. A few suggested that perhaps the royalties should be calculated based on the profit of the show.

Concerns were also highlighted about the use of ticket receipts as a factor when calculating the licence fee, saying that it was unfair to use total ticket receipts rather than the music-related element of ticket receipts.

Considering the real value of music

Large venues and events:

Said that they assume greater risk, require greater investment and are more expensive to operate than smaller venues and events.

A further argument was that these larger venues and events are already charging higher ticket prices, which in return make the *PRS for Music* contribution higher.

There was resistance to paying higher rates than smaller venues and events.

Festivals:

Argued that their cost structure is significantly different to that of fixed venues. They are required to create the infrastructure to support the event each time it is held. They also commented that festivals carry greater risk than a fixed venue events because they can be affected adversely by other external factors outside their control, such as the weather.

Festival organisers would like their rates to be lower than the equivalent venue rates. The Irish Music Rights Organisation (IMRO) Tariff MS (for multi-stage events) was highlighted.

Smaller venues and events:

Presented a picture in which they struggle, both with funding and in selling out events, thus limiting their ability to absorb an increase in costs. A number requested that we simplify the requirements for these types of venues, perhaps completing returns only once a year.

There was also a call for reduced rates for venues that are run as charities, and a warning that a rate increase may prove to be a disincentive to the progression of talent from small to larger venues.

Other significant points:

One respondent raised concerns that any increase in the Tariff LP will be carried through to other tariffs.

A few respondents suggested that it may be appropriate to provide different rates based on the charitable, educational or commercial nature of a venue or event.

One suggested that recorded music may benefit from the reduction in consumer spending, to the detriment of spend on live music.

Small venues and events

Reduced minimum charge, rate for events with no/low admission charge.

Page 8 of the [Consultation Document](#)

We asked:

6. What do you think about the proposed reduction to the minimum charge and the new rate for events with no/low admission charges? How will this affect your business? Do you support the proposed reduction?

Customers widely supported a reduction in the minimum charge for events, saying that it would help smaller venues and events, and encourage the development of new acts.

Some creators said they did not support the reduction, citing the already poor returns for creators from such small venues and adding that this would only reduce them further.

There were concerns about the introduction of charges for events with no/low admission (under £5 admission price).

Respondents noted that smaller events may be badly affected by this change.

One submission suggested that we consider assessing such events based on attendance rather than capacity.

Concession

Proposed proportional charge for non-music content, concession for accommodation and camping.

Page 9 of the [Consultation Document](#)

We asked:

7. What do you think about the proposed reduction to the minimum charge and the new rate for events with no/low admission charges? How will this affect your business? Do you support the proposed reduction?

Camping and accommodation

It was felt that this concession is overdue and that perhaps there is no statutory basis for collection to include such revenues.

Although many agreed with the concession in principle, it was felt that the £15 limit was too low and that an uncapped 15 percent concession may be more appropriate due to the relative cost of providing such facilities.

Non-music content

This concession appears to have been misunderstood, interpreted instead as a concession for music content not controlled by *PRS for Music*, rather than a reduction based on the provision of entertainments without any music.

Respondents referred to the impracticality of declaring works used in advance and coping with last minute changes to line-up.

Some respondents called for a concession based on the proportion of controlled-works.

One suggested either an increase in bands for application of the reduction for non-music content, or a sliding scale with stringent penalties for misreporting.

A number of customer responses suggested that non-music concessions were overdue for festivals.

Improved definitions

Definition of a music event. Ticket receipts, complimentary tickets.

Page 10 of the [Consultation Document](#)

We asked:

8. Do you have any comments on the proposed clarifications?

Many respondents agreed that it is appropriate to clarify the definitions in the tariff, although it was generally felt that this should be accomplished once the structure of the tariff is completed.

Where some changes were suggested, significant comments were made about the inclusion of complimentary tickets at an assumed value within box office receipts.

Specific concerns were raised regarding tickets for carers and event workers, including stewards.

Respondents also queried why songwriters should benefit from tickets that, in their view, do not benefit the promoter or venue directly, or increase the success of the event, such as tickets issued to journalists.

Improved governance and process

Programme returns, revision of payment terms, higher royalty rate, changes to audit provisions.

Page 11 of the [Consultation Document](#)

We asked:

9. What do you think about the current process for set list collection? Do you have any suggestions for improving the current set list process? For example, would you be willing to submit set lists online?
10. Do you think it's reasonable to take steps to protect music creators from events and festivals that refuse to pay a licence fee or do not make timely payments?
11. Do you have any comments on the proposal to add a higher royalty rate to the tariff?
12. What do you think about the proposed amendments to the audit process?
Do you think the approach is fair and reasonable for rightsholders and customers?

Programme returns

A significant proportion of customer respondents agreed that the programme return arrangements could be improved, and offered to work with *PRS for Music* to achieve this. Similarly, there was a positive reception for online submission, though some stakeholders are content with the current paper based system.

It was suggested that we should seek to reduce the requirements for smaller and minimum charge events.

The idea was also floated that an incentive should be introduced for programme returns, though nothing specific was suggested.

Payment terms

Many music users and creators think it is reasonable to protect content creators, but encourage caution in applying new payment terms.

Organisers of smaller events advised that the processing of numbers can take a long time and others suggested there may be issues with payment up front because monies may not be available, such as monies collected by credit card companies.

There were a number of requests to consider a prompt payment discount or a tariff reduction for advance payment. It was suggested that payment restrictions should be balanced so as not to discourage new entrants.

Higher royalty rate (HRR)

Different perspectives are shared, from HRR being unreasonable and questioning how many licences would this apply to, through to agreeing that such measures are reasonable and will encourage people to apply in time, reducing the admin costs of finding unlicensed events.

Auditing

Customer responses varied; some suggested that auditing is unreasonable, others said that it is reasonable but that caution should be exercised with regard to audit costs. Smaller venues and events organisers were concerned with the potential cost, suggesting that *PRS for Music* should pay for the cost of audit. Others said that if a discrepancy of 10 percent or greater is found, the customer should pay.

Termination of Tariff DP (Dance Parties)

Definition of a music event. Ticket receipts, complimentary tickets.

Page 12 of the [Consultation Document](#)

We asked:

13. Do you think recorded music events need their own tariff or different charges to other ticketed music events? If yes, how should this charge differ to the standard charges under Tariff LP?

A few respondents suggested that Tariff DP should be retained. However, most respondents agreed that the same tariff should be applied to both live and recorded music events.

Additional comments

Page 12 of the Consultation Document

We asked:

14. Do you have any comments or suggestions not covered by the consultation document?

15. Do you have any comments on the tariff document provided in appendix C of the consultation document?

PRS for Music and PPL

Some respondents remained unclear of the distinction between the two collecting societies and the rights they administer on behalf of their respective members.

Distribution

More information was requested about how we distribute income, specifically for events assessed with Tariff LP.

Many other additional comments have been included in the appropriate sections.

Next steps

While rightsholders consider that there are a number of objective reasons for making changes to Tariffs LP and DP, *PRS for Music* has decided that no changes will be made to these tariffs at this time. The consultation is now closed.

The consultation has proven to be an effective tool for engaging with the industry and has identified areas for further consideration.

We have reopened discussions with a number of stakeholders and will continue to work with the industry over the coming year.

In doing so, we want to further understand the economic realities of the live music industry.

This will allow us to create a sustainable tariff going forward that recognises the contribution of all parties involved in success of the UK live music industry, and will help to ensure that it continues to be successful.

Appendix A: list of respondents

Respondents who gave permission for us to share their names:

Business/Organisation name	Name
Alchemy Festival Ltd	Jeff Gordon
Bomber Music Ltd	Donagh O'Leary
Chester Folk Survivors	Cheryl Hunt
Chichester Real Ale and Jazz Festival	Mark Hoult
Concert Promoters Association	Stuart Littlewood
Corn Exchange Theatre, Stamford	Mr C R Jones
EMI Publishing Ltd	Jane McMillan
Festival Republic Ltd	
Haverhill Arts Centre, Haverhill Town Council	Gordon Mussett
Ledbury Amateur Dramatic Society	Brian Hudson
Marsden Jazz Festival	Barney Stevenson
Music Managers Forum	John Webster
Rye Festival Council	Miss M Howse
SandPit Theatre, Sandringham School	Rachel Lloyd
Society of London Theatre and Theatrical Management Association	Marsha Ferguson-Yarde
Solo Promoters Ltd	Robert Langford
The Bancroft Players, Queen Mother Theatre, Hitchin	K J Crook
The Queen's Theatre, Hornchurch	Katie Milton
Thurso Players, The Mill Theatre, Thurso	Betty Bradstreet
Twinwood Events Ltd	David Wooding
Venue Cymru/Theatr Colwyn (Conwy County Borough Council)	Sarah Ecob
Whitby Folk Week Ltd	Barry Evans
-	Eddie Walker

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