



PRS for Music  
Classical Music Concerts and Recitals Tariff 'LC'

# Summary of Responses

Published: March 2020



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# Introduction

Tariff LC is the pricing structure under which classical live performance royalties are charged. In August 2019, *PRS for Music* launched a formal consultation to obtain the views of its licensees and members on the new terms of the tariff. In accordance with its Code of Conduct, *PRS for Music* approached 954 Tariff LC licensees and 3,264 *PRS for Music* members (who have received royalty income from events licensed under Tariff LC). Comments were also welcomed from other interested parties and relevant stakeholders.

Initially, the consultation was expected to run for a period of eight weeks from 1 August to 30 September 2019. However, following licensee requests for further information and time to respond, the deadline was extended twice, first to 30 November and then to 31 December.

The consultation resulted in a total of 131 responses. Of these, 34 responses were by *PRS for Music* members, including 12 publishers who represent over 1,500 classical music composers, 93 responses were from licensees, or their representative bodies, and 4 from other interested parties. In total the responses represented the views of a wide range of classical music venues, performing groups (professional and amateur), promoters, classical composers and music publishers.

This report summarises the consultation responses received.

# Feedback on Rationale for Review of Tariff LC

## Historic differential between Tariff LC and Tariff LP

### *Licensee responses*

Many licensees did not accept that there were historic reasons why the Tariff LC rate should be higher than that of Tariff LP (tariff for live performances of popular music) or that a relationship should exist between the two different tariffs.

One licensee asserted that the current Tariff LC rate (which was established as part of a negotiated settlement in 2003) is, in part, the result of licensees' inability to continue funding the Copyright Tribunal proceedings that were ongoing at the time.

Another licensee said that the 2003 settlement did not infer any principle that (a) there must always be a differential between Tariff LP and LC or (b) that the differential should remain proportionate between those tariffs, or that either point had been accepted by all the licensees who now use the tariff. The licensee pointed out that it, and doubtless others, were not a party to that settlement.

Additionally, one respondent said that because the 2003 Copyright Tribunal order relating to Tariff LC was only effective for a 10-year period, this could imply a rationale for a different or lower tariff to apply to live classical performances after that period. Additionally, this respondent said that specifically for its members, two differential tariffs for live music makes no sense as nearly all members performing classical music perform mixed repertoire regularly.

### *Member responses*

Representatives of musicians, composers and songwriters agreed that the differential between Tariff LC and Tariff LP is justified and should be maintained and that a review of Tariff LC should take place given how long the current terms had been in place.

Another respondent said that the precedent established in 2003 when Tariff LC was set in relation to the value of Tariff LP was of key importance. The difference in rate levels was due to the greater level of endeavour required to produce classical music, that live performance was almost always the primary, and often only, possible exploitation method for classical repertoire, and that classical music had less likelihood of commercial exploitation outside of live performance.

## Effects of grants and subsidies on ticket prices

### *Licensee responses*

Several licensee responses stated that grants and funding were not a new development in the market since the last review and that this funding had decreased significantly, in real terms, in recent years.

One respondent asserted that even if *PRS for Music* did not obtain direct benefit from subsidies, *PRS for Music* would need to show that these had increased during the period since 2003 or the effect of subsidies/Orchestral Tax Relief (OTR) had changed since 2003 for this factor to justify an increase in the tariff.

A common response from venues was that they were ineligible for public funding and grants and therefore *PRS for Music's* argument on this point was not relevant to them. Additionally, it was noted that almost no public funding goes to amateur performing and promoter groups. It was asserted that funding from local authorities and other public funding bodies to these groups reduced by 67% between 2010 and 2016.

Many respondents said they believed that *PRS for Music* and its members were beneficiaries of subsidies and tax reliefs asserting that otherwise ensembles and venues would fail, resulting in reduced royalties due to there being fewer classical events. It was said that public policy interventions were necessary to address the risk of market failure.

One funding body said that its public investment allows orchestras and other classical ensembles to produce a higher number of concerts which results in increased ticket sales. It said that over the 2015 – 2018 investment period classical/orchestral funding recipients had almost tripled the number of performances held per year.

The same body said that its investment had significant direct benefits to *PRS for Music* members as the funding was often used to support composers to develop and showcase new work e.g. in 2017 – 18 classical/orchestral funding recipients commissioned 272 new works.

Finally, one association stated that OTR was irrelevant to the case for a higher Tariff LC rate because it could only be claimed on costs incurred before the concert itself. They said that the Treasury's aim for OTR is to reduce the amount of money needed to put on orchestral performances thereby encouraging more orchestras to put on more events that can lead to increases in income.

In relation to ticket prices, it was argued that *PRS for Music* did not present evidence that subsidised classical concerts have become cheaper in real terms and that, from an economic perspective, there is no reason to expect that ticket prices should be lower following funding as there is no connection to pricing.

Respondents said that even if subsidies resulted in any lowering of ticket prices it is entirely possible and a common finding in practice as well as economic theory that revenue increases as prices fall and that it is the overall revenue obtained from licensing events that is relevant to *PRS for Music*.

Certain respondents remarked that they had in fact been able to slightly increase average ticket prices during the period, despite receiving subsidies.

Finally, a representative for amateur groups said that 89% of its members were charities with public benefit aims including bringing music to their communities and therefore saw it as a duty to offer concessionary or free tickets to people in need and to keep ticket price levels as affordable as possible in order to be accessible to all.

#### *Member responses*

One association for music creators said that public subsidies can work to keep ticket prices extremely low for concertgoers, especially when compared to popular music events. This is often a requirement of grant support in order to improve access and inclusion of diverse audiences. However, it also maintained that the setting of low ticket prices should not be at the expense of remuneration of the composers who relied on these royalties to sustain their careers and repay the investment in time and resources they have made in the creation of music.

A response on behalf of a publisher member referred to analysis by UK Music of official Arts Council England (ACE) figures. This analysis showed that of the £368m made available to National Portfolio Organisations (NPOS) by ACE in the period 2018 – 2022, 8% of the total funding was awarded to bids relating to popular music, while classical bids received 23% and opera 62%. The publisher was of the view that the difference in funding levels clearly differentiates LC and LP and that LC venues/performers receive a higher level of grant/subsidy than their LP counterparts and therefore so should classical composers receive a higher royalty.

Several responses on behalf of publisher members said that given subsidies and tax reliefs were a source of funding/income flowing into the sector that were not accounted for when determining the royalty paid for events (which is linked to a % of revenue derived from an event), they supported the rationale for increasing Tariff LC and for preserving the difference between Tariffs LP and LC.

Another publisher member said that *PRS for Music* had made some powerful observations concerning the effective reduction in live performance royalties earned by classical composers as an unintended consequence of various subsidies that support classical venues and orchestras.

## **PRS for Music licence fee and licensees' cost base**

### *Licensee responses*

Several responses on behalf of licensees said that in the consultation document *PRS for Music* had referred to the turnover figures of licensees. They said that these figures were not relevant because they were not solely for live performance of music under Tariff LC and that the total turnover of business was not a meaningful representation of how financially successful it was. For *PRS for Music* to show that the share of income to *PRS for Music* members was unfair, the analysis would need to relate to profit, not turnover.

## **International comparators**

### *Licensee responses*

Several licensee respondents said that in comparing Tariff LC with rates in continental European countries, *PRS for Music* had identified only a narrow set of countries which prevented meaningful conclusions from being drawn.

One respondent said that *PRS for Music* had cherry picked tariffs charged in other countries that happened to be greater than the UK. It said that these European countries benefitted from higher levels of public subsidy than in the UK and that Australia, Canada and the USA had lower percentage charges than those in Tariff LC.

Another respondent said that the UK Copyright Tribunal has repeatedly taken the position that comparisons with licences in other territories are not meaningful in assessing the reasonableness of licences in the UK.

### *Member responses*

A classical music publisher said that in their view the Tariff LC rate was below the prevailing market rate in other major European countries and that at its present level it did not recognise the full value of classical composers and publishers.

## **The skill and labour entailed in writing a classical work**

### *Licensee responses*

Several licensee respondents questioned whether classical works entail some degree of greater skill and labour to write than popular works on the basis that demand for the work was also a determinant of value, rather than just considering how long it takes to supply the work.

One organisation said that its members recognised the skill and labour entailed in writing a classical work which was why they paid out significant sums in commissioning fees each year.

One licensee respondent said that there had been no increase in the skill and labour involved in composing a classical work from that involved in 2003.

### *Member responses*

A member response said that without underestimating the challenges of writers whose works are licensed under Tariff LP, the complexity and length of the compositional process for a classical composer does place the composers work in a different economic model. New works can be months and years in the making and very precise materials need to be produced for the performers. In contrast, works licensed under Tariff LP may not be notated at all and the performing ensemble will nearly always be smaller. These creative process differences do go some way to explaining the historic differential between the two tariffs. The additional responsibilities and duties of a classical publisher means that they too have a different and additional cost base to their 'pop' counterparts.

One member response was that all music writing takes time and dedicated work, but it must be recognised that concert music is often of a significantly greater duration, involving large forces, which can take substantial time and effort to score.

A publisher respondent said that classical careers develop slowly over many years, and the publisher is usually the main engine for career development. To ensure that composers and publishers continue to have an appropriate incentive to create new repertoire and to foster breadth and diversity in their classical offering, the respondent felt that the review of Tariff LC was appropriate and justified.

Another publisher said in its submission that substantial investment in creating performing materials and seeking commission opportunities for composers was front-loaded in the life of a work. Future earnings potential is unknown at the outset and varies greatly from work to work, while investment requirements remain constant.

Finally, many composer members commented on the greater amount of time taken to write and orchestrate a 20–30 minute orchestral work as vastly longer than the time typically taken to write a pop song.

## **Classical music income streams**

### *Licensee responses*

One response said that live performances were not the only income stream for classical composers and that its membership groups commissioned an average of 500 pieces of music a year. It also pointed out that composers earn royalties from the sale or hire of sheet music which was a considerable percentage of its members costs when putting on classical concerts.

Another said that when it commissioned a piece of classical music, the composer obtained financial benefit from the commissioning fee, a royalty from the public performance, together with payment from any broadcasts of the concerts.

Finally, a major performing group said it was unreasonable to ignore the substantial investment it made towards current and future *PRS for Music* members through music hire fees paid to publishers or direct commission fees to composers.

### *Member responses*

A response from a publisher member said that unlike other genres the money generated by the live performance of classical music is the principal earning source for classical composers and publishers and that mechanical income and streaming/download revenues were minimal in comparison.

Several publisher members agreed that classical music had a greater reliance on live performance as an income stream than popular music. They commented that there were only two classical radio stations in the UK market with comparatively small audiences and that relative to popular music, modern classical music was rarely streamed on digital music services. They said that comparatively, popular music could benefit from multiple live performances on a tour, but modern classical pieces were often performed only once.

## **Other**

### *Licensee responses*

A group of licensee respondents argued that while it may be true that the specific works being performed are sometimes crucial to promotional activities this does not necessarily mean that a higher Tariff LC is warranted.

The same respondent also rejected the argument that the specific classical work being performed is critical in the promotion and marketing of classical concerts and is always specified in contrast to live popular music events. It said that to the extent that specific works have always been used in the promotion and marketing of classical concerts there had been no change in that practice since 2003.

Several respondents said that the performance of new popular works are just as likely to create a premium value for a venue as performing newly commissioned classical works.

Another added that commissioned classical works form a relatively small part of the repertoire performed at most live classical concerts and therefore the *PRS for Music* argument that commissioned works create a premium value for venues and performers was unreasonably being used to justify an increase for the composers of all controlled works.

One response said that its members took the view that specific works were only critical in the promotion of classical concerts in relation to older and popular works which the audience was likely to know of. For new works, their members said that new music was a hard sell first to their own players or singers and then to their audiences. Therefore, far from promoting a new work in their marketing materials, it is more likely they will programme it amongst more widely known pieces.

#### *Member responses*

A composer member said that a further point should be added to the qualitative factors. Classical composition was formally recognised as research by the various Higher Education Funding Councils for the UK regions and therefore considered qualitatively equivalent to research in science, social sciences and other arts and humanities subjects. This is a factor which distinguishes classical music from popular music: in short, and to use academic terminology, it is primarily a form of intellectual inquiry whose outcome is music.

One composer member commented on the centrality of the composition in live classical performances compared to pop, stating that classical audiences remained seated and did not speak or applaud during the performance.



# Licensee Feedback on *PRS for Music* Proposals and Changes Required to The Licensing Process

## Headline rate

One licensee respondent said that the rates proposed by *PRS for Music* did not represent increases that are proportionate to the Tariff LP rate increases endorsed by the Copyright Tribunal in 2018 and that the percentage increases proposed for the Tariff LC were greater than those for the Tariff LP.

One response argued that since 2003 there had been a reduction in demand for classical music in relation to the demand for popular music. Further, they argued, that there was reason to believe that LC music, rather than non-copyright classical music, had seen the largest reduction in demand. As a result, this response concluded that it may be appropriate to reduce the Tariff LC rate.

This licensee also argued that under the Fixed Percentage rate in Tariff LC, the revenue attributable to any public domain works reported for an event was distributed to *PRS for Music* members who own the controlled works performed in the same event. The result was that those *PRS for Music* members benefit from a distribution payment equal to more than 4.8%, and thus a larger royalty payment. It said that, further, this was particularly relevant going forwards as substantial numbers of popular classical works are now moving into the public domain.

One response said that it was unreasonable that for a licensee to pay royalties on the Variable Percentage rate they must choose to do so in advance for all events in an entire licence year. This licensee's view was that under Tariff LC it should be enough that the licensee has applied in advance for a continuing licence from *PRS for Music* and give 3 months' notice in advance of the individual event that it intends to report on the variable percentage basis.

Another organisation said that it was rare for an orchestra to determine whether the fixed or variable rate under Tariff LC was applied and that this was usually a matter for the venue as the *PRS for Music* licensee. They state that this could be to the disadvantage of the orchestras who ultimately pay the royalty so greater flexibility in selection of the rate, even on a per concert basis, would be welcome.

A performing group who said that its concert programme consisted almost exclusively of newly commissioned works and pieces written in the late 20th century stated in its response that it would be concerned if an increase in Tariff LC charges reduced the profitability of venues and promoters, leading to a general move towards more conservative programming choices (e.g. fewer premieres of new / recent repertoire). This response acknowledged that the *PRS for Music* licence helped to support composers which aligned to its own mission, but it was concerned that a steep increase in Tariff LC may discourage the performance of new works.

Finally, several small licensees stated that they opposed any increase in the rate of Tariff LC. However, two smaller licensees said that they supported the proposed increase on the grounds that composers need to be paid properly for their work and it would support the creation of new, original classical music.

## Gross receipts definition

One licensee group commented on the proposed inclusion of ticket booking fees in a revised definition of gross receipts, that for amateur performing groups and promoters these booking fees were levied and retained by the 3rd party ticket sellers (e.g. Eventbrite and Ticketsource). This revenue was not part of their income and therefore if there was a requirement to account to *PRS for Music* for ticket booking fees in any form, this would represent a further absolute increase in the level of *PRS for Music* licence fees payable by them. The response said that the amateur music sector needed an easy to understand structure and very simple processes and reporting systems.

The response from a major orchestra said that the proposal to charge *PRS for Music* royalties on gross receipts instead of net receipts was not pragmatic. They stated that the box office which dealt with their events would be faced with *PRS for Music* charges on income that it did not receive. The box office currently charged a booking fee per transaction, regardless of how many tickets and how many different events are part of that transaction. With the venue hosting a wide variety of events it would be impossible to work out how to split this booking fee between the various events involved.

One organisation said its members reported that complimentary and discounted tickets are often a statutory requirement e.g. carer's seats and therefore they did not believe that complimentary and discounted tickets should be included in "gross receipts". They said that press tickets should not be included in gross receipts, in agreement with *PRS for Music*'s proposal, as they did not form part of a commercial arrangement.

The same organisation's members did not believe that income from programmes should be included in the revenue calculation. They reported that programme sales invariably cover the cost of production, and programmes are sometimes given to customers free of charge.

Several other licensee respondents were opposed to the inclusion of programme sales in the revenue definition.

### **Minimum charge**

One licensee respondent said that it objected to the withdrawal from the review of a proposal for events with no/low admission charges as that prevented licensees from properly assessing the financial impact of any increases in the rates of the Tariff LC.

One small licensee stated that the current minimum charge should be abolished so that smaller venues paid proportionately the same as larger ones.

### **Television and Film Scores**

One group of licensees stated that historically *PRS for Music* has licensed 'Film Music' under both Tariff LC and Tariff LP and has in recent years solely applied Tariff LC. They stated that it is unclear on what basis *PRS for Music* might suggest that Film Music is classical music. They said that there are clear distinctions between classical music and Film Music and that absent proposals or evidence from *PRS for Music* are unable to conclude that it would be legitimate for *PRS for Music* to license concerts of Film Music differently from popular music and so other than under Tariff LP.

The response states that if *PRS for Music* wishes to outline a position in respect of Film Music in more detail they are open to further consideration of this issue.

Another licensee respondent did not think that there should be another rate for TV and film scores and that there should be transparency and further negotiation over whether film and TV scores should be categorised under Tariff LP or LC.

### **Other Feedback**

A representative of amateur groups said that 90% of its members were too small to be registered for VAT which they could not recover, and therefore this meant that they paid 20% more in *PRS for Music* licence fees compared to larger and professional classical music groups.

Several small licensee respondents commented on aspects of the licensing process under Tariff LC. Two points were made: firstly, that there should be a [lower] discrete tariff charge and licensing process for amateur / not-for-profit music making groups; and secondly, where small venues operated on a pure hire basis for music concerts the promoting organisation or performing group should be liable for paying the *PRS for Music* licence fee.

# Member Feedback on *PRS for Music* Proposals

One representative of music creators commented that the LC Tariff should be constructed in such a way that it encourages and supports the performance of contemporary classical music, both by living and deceased composers. It did not believe that the changes proposed by *PRS for Music* would negatively impact on the number of performances of copyright music by professional musicians and therefore supported the proposal to increase the Tariff LC rate. It noted a concern that the changes should not discourage amateur performances of copyright music.

Another representative said that the importance of the music composition to classical performances should be reflected in a higher royalty level. It said that some additional cost is clearly possible based on the analysis of the costs of licensees and promoters and when comparisons are made to royalties paid outside of the UK. It added that the live classical music scenes in countries across Europe are thriving with licensing rates substantially higher than the current and proposed *PRS for Music* Tariff LC.

The same representative said that it supported the changes proposed by *PRS for Music* to the Tariff LC rates and the definition of the revenue base. It said that retaining a variable rate is sensible to provide continued flexibility for licensees according to their programming strategy. They felt that the rates which *PRS for Music* aspired to were a better reflection of the true value that musical works brings to the live concert performance.

One respondent said that it believed the variable rate under Tariff LC should lock in licensees for a period to avoid licensees being able to elect a preferred rate and not pay composers fully.

A publisher member said the fact that composers and publishers share only 4.8% of box office receipts under Tariff LC is clearly inequitable and it is for that reason that they supported an increase in the tariff in conjunction with a revision of the gross box office definition of the revenue within scope. This respondent believed that the position was supported by economic analysis and that the increases as set out by *PRS for Music* were justified and appropriate. This response said that there is a clear and enthusiastic audience for new works and it did not believe that the affordable and phased increase proposed jeopardised the commissioning or programming of classical music.

Another member response supported the proposed changes to the definition of gross receipts which were in line with changes approved by the Copyright Tribunal in relation to Tariff LP. The respondent said that these changes would recognise the value earned by licensees which were directly connected to the programming of the licensed works.

Another publisher said that classical music had been so downgraded in value that the business model for publishing concert music no longer worked and composers and publishers, particularly those with no opera/grand rights works earning income, desperately need their position to improve.

Several publishers and composers said that charges should not be made by *PRS for Music* in respect of complimentary tickets where these were supplied as a part of the funding arrangements at a venue.

One group of members believed that *PRS for Music* should make it clear to licensees that the cost of the *PRS for Music* licence should be borne by the licensees/promoter and not passed on to performers. They were concerned about the evidence that this practice was increasing, and it was a concern when the composer was also performing and therefore asked to carry this cost/deduction from their performing fees.

One classical composer member said that an option for a lower tariff for a first performance where the performing body has commissioned the work from its own funds (i.e. not through subsidy) might be worth considering as an incentive for commissioning.

One response appreciated that the Tariff LC had not been reviewed for a considerable period and that it was necessary to do so in order to ensure that classical concerts are licensed at the

appropriate rate. They felt that whilst writers of classical works were due a pay rise in this regard, this should not be to the detriment of the orchestral sector, and nor should it lead to less favourable conditions or fewer opportunities for writers.

The same respondents felt that the proposed increase to the tariff was potentially too high and could cause problems for the wider musical infrastructure. It felt that a lower phased increase would be more achievable and would both appropriately remunerate the writers of classical works and allow licensees to continue to promote new works.

Additionally, the respondents would be interested to see other improvements to the Tariff LC that could potentially benefit both licensees and writers e.g. a reduced term on the variable rate, to allow licensees the opportunity to use the variable approach without having to commit for a full twelve month period.

The response by another publisher member included the views of three of its prominent classical composers regarding the review:

"I have witnessed the gradual diminution of UK performing rights through my life; now they are at a level which is disappointing to say the least. Imagine a performance of a score for large ensemble which took two years to compose and yet – featured in a concert at a major London venue – only to receive a royalty of approximately £30.....The relative level of rights in the UK is much lower than in other comparable European countries. Furthermore, music publishers depend, to a large extent, on royalties to finance their support for new composers; if rates remain low it can't help but be detrimental for the ecology of the music scene here. Indeed, since royalty levels plunged so dramatically about 20 years ago, serious music publishers have had to promote more commercial idioms to maintain their existence; the effect of this has not always been positive."

"I fully support *PRS for Music* in its ambition to raise the classical concert tariff. Art-music of this type can involve years of work; even the creation of smaller-scale works represents a huge imbalance in terms of time expended in writing and financial recompense received. It is of course a privilege to work as classical composer and to have one's music performed in public – but to do so when there is no possibility of sustaining any kind of livelihood, I am in effect paying for this privilege. It is probably safe to say that everyone working in the arts sector does so out of love for the art, but within the context of professional performance the current framework expects only composers to be working literally out of love. There is therefore a significant issue of dignity as well financial gain that the proposed raising of the LC rate would address."

"Royalties from concert performances account for less than half a percentage of my career earnings from composition (including commission fees, hire fees and broadcast royalties). It is a common attitude amongst composers, borne from experience, that concert royalties are an almost negligible ingredient in sustaining a career. Only the biggest halls begin to yield any sums that are appreciable. A chamber work, even one regularly performed, will earn the composer a per-concert payment usually under an hour's pay at minimum wage – many concerts yield sums measured in pence. A piece designed for larger halls will have taken the composer far more time – often orders of magnitude more – than any soloist, conductor, player or producer will have spent on that concert. Yet it is only in the vanishingly small number of cases where a contemporary orchestral piece truly "enters the repertory" that this labour would begin to be reflected in royalties. I am encouraged to hear that this situation is being examined – whilst recognising the competing financial pressures on institutions and venues, it seems clear that the current system does not adequately remunerate composers for their labour.

With regards to Film Music, one response said that it endorsed the proposal for a dedicated rate in respect of the performance of television and film scores and the definition should also include music composed for video games. They said that it would like to support *PRS for Music* in the process of establishing what rate should be applied, reflecting that the live performance is a secondary exploitation of the original commission but that film/tv scores involved similar music forces and investment of time and resources to classical compositions.

Another response said that the Hollywood orchestral tradition was started by Austro-German Jewish composers fleeing persecution, among them composers such as Erich Korngold and Miklos Rozsa. The following generation of film composers such as John Williams studied and even worked with these figures. The response also states that Film Music is programmed and marketed as classical, being regularly performed on Radio 3 and Classic FM and that film-music composers win classical awards.

## Next steps

*PRS for Music* will now seek discussions with the sector to define the future approach for licensing live classical events, anticipating a revised tariff to be presented later in 2020.



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