



PRS for Music

Tariff 'UC' University colleges and other
institutions of higher education

Response Summary

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Introduction

Methodology

On 14 September 2015 *PRS for Music* launched an eight week consultation¹ on the terms of tariff UC which is used to license the use of copyright music, controlled by *PRS for Music*, at the premises of universities, colleges, and similar institutions of higher education, as part of the Licence Simplification Programme. The aim of the consultation was to invite customers and trade bodies to review and comment on the proposed future charging structure.

The consultation was undertaken in accordance with *PRS for Music's* Code of Conduct, which states that PRS will consult relevant parties whenever significant changes regarding our Public Performance Tariffs are proposed.

As part of the consultation process we approached directly 370 Tariff UC higher education sector customers, including institutions and student unions, for their views on the proposed changes in our public performance of music licensing of the sector. We also invited comments from all interested parties, including representative bodies. To solicit the views, we included a number of questions in the consultation, designed to address the main changes in how *PRS for Music* would license the higher education sector in future. We accepted responses via email to the consultation inbox or by a web form through the dedicated Higher Education consultation section on the PRS website, which also hosted all relevant consultation materials and documentation.

The consultation resulted in a total of 11 direct responses, representing 13 customers, all received directly from our customers.

The subsequent sections of this document follow the questions asked as part of the response form set out in the consultation. In each section we have gathered the responses received and summarised them.

Next steps

PRS for Music will now consider the views and feedback provided through consultation and continue discussions with the customers and representative bodies with the aim to agree a simplified tariff for the higher education sector. Reflecting the general consultation response received, the starting point for these discussions will be the proposed simplified tariff structure and metrics outlined in the consultation document Section 2.¹ Further updates on our progress in simplifying this tariff, as well as all other Public Performance tariffs that are currently part of the project will be provided via the Licence Simplification Programme website.²

With regard to the recent announcement of a new joint venture between *PRS for Music* and PPL, both organisations will continue to develop, consult and set their Public Performance tariffs independently and there are no immediate plans to consolidate tariffs.

PRS for Music would like to thank all those who have responded to the consultation and who continue to assist with the development of the higher education tariff.

¹ Available at www.prsformusic.com/users/businessesandliveevents/tariff-simplification/higher-education-consultation/Pages/default.aspx

² The aim of the programme is to simplify, streamline and consolidate over 40 public performance tariffs, creating a smoother experience for *PRS for Music* customers that makes it easy to purchase and manage a licence, and allows businesses to receive the full benefits and value of music in a simpler way. www.prsformusic.com/users/businessesandliveevents/tariff-simplification/Pages/default.aspx

Tariff UC - Current situation

Question 2.1 – please outline any key challenges associated to the current Tariff UC, from your perspective.

A majority of the university and student union respondents perceived the current higher education tariff and the licensing process to be complicated and time consuming. Several respondents stated that gathering and declaring the required music usage data accurately from different departments across the institution is difficult, time consuming and makes it challenging to ensure compliance. One university response felt that the complicated process could lead to a risk of over/underpayment in some years while a student union response noted that there generally are no large variations in their licence fees from year to year. Another student union noted that the licence documents seem to differ from year to year.

A university respondent stated that the current tariff comprises too many charges and that the music usage return form should be an online form instead of a spreadsheet, enabling management by exception if conditions do not change from year to year. The response viewed that the current tariff's charging basis is not transparent and hence might not be objective nor fair.

Another university respondent welcomed the opportunity to comment on the proposed higher education tariff and agreed that there is scope for improvement, further adding that their investment in gathering the fragmented music usage data that is currently required has not been proportionate to the licence value.

One university response added that one of their premises has a 1,000 person capacity but rarely attracts a sizeable audience which is not reflected in the current tariff fees. Another university would like to have better visibility of whether artists are PRS registered to clarify when a licence is required.

A university respondent concluded that the requirement for both PRS and PPL licences add to customer's costs and workload and that internally they struggle to explain the tariff as well as when and why a licence is required outside the purposes permitted by law.

Tariff UC - Future approach

Question 3.1 – do you agree with the proposed simplified tariff structure (Core charge + variable Bolt-on charges)?

Answer	n
Yes	8
No	2
No response	1
Total	11

Question 3.2 – if there is a tariff structure that you would find more appropriate, please outline it here. Please be specific in your description

A university responded stated that one simple tariff which covers all activity falling outside of the educational exemptions is needed for the sector. Another university noted that a move towards a licence with a “blanket” model might be useful.

A response from a student union was largely in favour of the proposed licensing approach, adding that it appeared streamlined. However, the response noted that some ambiguity still remained in classification of licensable events, some elements of capacity usage and the live music tariff ('tariff LP') which is subject to a separate review.

The response added that basing the licence fee on Full Time Equivalent student numbers could be problematic as many of the union’s members are based outside campus and do not use the union’s facilities which is why paying a licence fee including these students would seem unfair. *PRS acknowledges that union facilities are not or are unlikely to be used 100% for the HEI’s students; by the same token, however, those facilities, including the provision of PRS-licensable music use, are required to be available to all of the students concerned and therefore a metric that takes as its starting point the number of FTEs in the HEI is a reasonable one. That not all students use the facilities is reflected in the amount per FTEs, which has been set at a level that, when the aggregated royalty is calculated, reflects variations in individual student “consumption” of the Society’s repertoire. In addition, our intention is to set the Core charge so that on average the current level of licence fee revenue covered by it would not change for the student unions or higher education institutions as a whole. Currently some 13% of the tariff’s licence revenue from student unions is attributable to the types of music usage that we have proposed to cover with the Core charge in future.*⁴

One student union response viewed that the proposed core charge would not be proportionate to its organisation and suggested that it be linked to number of student union staff members.

To further clarify the proposed future licensing model, the following two figures illustrate the changes for higher education institutions (Figure 1) and student unions (Figure 2):

⁴ See section 2.3. in the Higher Education tariff consultation document:
www.prsformusic.com/users/businessesandliveevents/musicforbusinesses/customerconsultation/universities/Documents/universities-hi-consultation.pdf

Current approach

University Premises:
Multiple music uses in multiple rooms; all charged separately

Staff office with 2 radios for staff use.	Music In the Workplace (Tariff I)	£98
Canteen for staff/students with 1 stand-alone radio and 1 television.	Background Music (current Tariff UC)	£122
Room 1 with Television with satellite/cable facility.	Background Music (current Tariff UC)	£122
Room 2 with One tape player with radio.	Background Music (current Tariff UC)	£204
Room 3 with two compact disc players with radio.	Background Music (current Tariff UC)	£204
Room 4 with one compact disc player with television.	Background Music (current Tariff UC)	£204
Room 5 with 2 stand-alone radios and 1 television.	Background Music (current Tariff UC)	£122
Room 6 with one digital music system.	Background Music (current Tariff UC)	£183
Room 7 with one record player with television.	Background Music (current Tariff UC)	£204

TOTAL:
£1,463

Future approach

University Premises:
PRS invoices the university centrally

Licensing done on a consolidated level for the university; premise/ room-specific declaration not necessary.

Core Charge (new Higher Education Tariff)

*Reporting of devices not required aside from a general verification that music is being used in the university premises. Core charge for the university calculated as 10,000 * charge-per-FTE student*

£1,430

TOTAL:
£1,430

Figure 1: Illustration of the current and future proposed licensing approach of higher education institutions. Per-room and device-specific charges are replaced with one central core charge based on the number of full-time equivalent students registered at the higher education institution. This example excludes any variable bolt-on charges (for an illustration of these, see Figure 2 below). PRS will invoice the university on a consolidated basis ("one customer – one invoice"). Current price information as per *PRS for Music* Tariffs I (March 2015 edition) and UC (September 2015 edition)

Current approach

Various Union Premises:
Multiple music uses in multiple rooms; all charged separately

Student union office with 1 stand-alone radio and 1 television	Music In the Workplace (Tariff I)	£98
Student hall with 1 television with sat/cable facility and 5 radios	Background Music (current Tariff UC)	£122
TOTAL:		£220
Gym and fitness centre with Television with satellite/cable facility	Background Music (current Tariff UC)	£122
200 aerobics classes per year featuring music (up to 30 capacity)	Aerobics Classes (current Tariff UC)	£290
120 aerobics classes per year featuring music (over 30 capacity)	Aerobics Classes (current Tariff UC)	£217
TOTAL:		£629
Student union bar with Radio.	Background Music (current Tariff UC)	£81
Student union bar with Audio Jukebox	Jukeboxes (current Tariff UC)	£216
20 free-admission live gigs per year (up to 100 persons capacity):	Featured Music (current Tariff UC)	£90
5 charged-admission events per year (av. box office receipts £200):	Featured Music (current Tariff UC)	£30
TOTAL:		£417
TOTAL:		£1,266

Future approach

All Union Premises:
PRS invoices the union centrally

<p>Licensing done on a consolidated level for the union; premise/room-specific declaration not necessary.</p> <p>Reporting of devices not required aside from a general verification that music is being used in the union premises. Core charge for the union calculated as 10,000 * charge-per-FTE student</p>		£510
320 aerobics classes per year featuring music	Classes (new Fitness & Dance tariff)	£496
20 free-admission live gigs per year (up to 100 persons capacity):	Featured Music (new Universities Tariff)	£120
5 charged-admission events per year (av. box office receipts £200):	Featured Music (new Universities Tariff)	£30
TOTAL:		£1,156

Figure 2: Illustration of the current and future proposed licensing approach of higher education institution student unions. Per-room and device-specific charges are replaced with one central core charge based on the number of full-time equivalent students registered at the higher education institution. The variable bolt-on charges (in grey) are charged based on the music usage in the covered activities. PRS will invoice the union on a consolidated basis ("one customer – one invoice"). Current price information as per *PRS for Music* Tariffs I (March 2015 edition) and UC (September 2015 edition).

Question 3.3 – do you agree with the proposed Core charge metric (number of Full Time Equivalent students at the associated higher education institution)?

Answer	n
Yes	8
No	2
No response	1
Total	11

Question 3.4 – If there is an alternative Core charge metric that you would find more appropriate, please outline it here. Please be specific in your description and include any supporting data (e.g. as a separate file) to enable evaluation of the alternative metric

A university response felt that the number of students registered at the institution would not be appropriate to determine the fee for an on-campus bar, as their licence stipulates that only those students residing on the campus can use the premises. These students represent only a fraction of the total number of students. As noted in our clarification to questions 3.2. above, *the proposed Core charge, to be based on the number of Full Time Equivalent students, does not assume that 100% of the students use all facilities and in this case, the on-campus bar would be covered by the core charge along with the rest of the university premises whereas its music usages relating to e.g. live events would be licensed on an event-by-event basis. This is illustrated in Figure 1.* Another university noted that some of their other licences use the institution’s number of staff and/or turnover as the charging metric but viewed that the number of Full Time Equivalent students is most likely a more common metric.

Another university pointed out that the proposed student data from Higher Education Statistics Agency (‘HESA’) also includes students on a ‘year abroad’ study and those out of residence for other reasons. These could amount to 5% of the total roll so in any case, at their university it would essentially be all Full Time in any event.

One student union agreed with the proposed Core metric but questioned being potentially charged for the students residing outside the campus, noting that it is a small number but a relevant flaw in the proposed licensing approach. Another student union stated that the core charge would not be proportionate to their organisation and that it might be more appropriate to use (student union) staff members as their metric instead.

Question 3.6 – what is your view on the principle of aligning Ticketed Live Event Charges with Tariff LP from time to time, including any changes that may in future be made to that tariff by Order of the Copyright Tribunal (see section 2.5. in the Consultation document)? Please be specific in your answer.

Two universities stated that they agreed with the proposed alignment. Two other universities stated that the alignment would not be relevant to them, with one of them adding that they do not charge for entry at live events.

One university response viewed that the standard university tariff should cover these events otherwise while another university saw the logic behind the alignment but expressed concern over potentially having to consider multiple tariffs in ensuring that they have the required licences, concluding that this already is the situation in the current licensing approach.

A university student union's response noted that the impact of the alignment on them would be limited as the ticketed live events represent a small part of their activities. The response pointed out that any increase in the tariff could restrict the student union's ability to host live music events.

Question 3.7 – what is your view on the changes proposed to the Formal dances charge (see section 2.6. in the Consultation document)? Please be specific in your answer and outline any alternative approach(es) if relevant.

One university response viewed both the current Formal Dances charge approach (1% minus food and drink) and the proposed approach (1% fixed rate) to be unfit for purpose. The response proposed instead a percentage charge on the combined cost of live and recorded music expenditure at the event, without any deductions. The response stated that the Formal Dances charge should be treated as a separate tariff consideration from the current tariff simplification project.

Another university response expressed concerns over potential cost increase that could be brought by the changes proposed by PRS. This could result from removal of the food and drink deduction unless it was offset by a cost decrease from cessation of administrative work required to claim the deduction.

One university response viewed that Formal Dances should be included in the standard⁵ tariff while another one agreed with the change proposed in the consultation.

Future licensing process for higher education institutions

Question 4.1 – if you are responding on behalf of a higher education institution: Would you be willing to accommodate a consolidated PRS licence fee invoicing to your institution (“one customer, one invoice”)?

Answer	n
Yes	6
No	2
No response	3
Total	11

A university response viewed this proposition to be reasonable as long as the administration of licence bolt-on charges was simple, allowing the bypass of the individual responsible for the institution's centralised invoicing. Another university response also agreed in principle with the proposed centralised invoicing but pointed out that instituting it might initially translate into more work at the universities and there would need to be a person appointed to oversee the overall cost, after an internal agreement at the institution that the licence fee be a central cost.

⁵ We presume that the "standard tariff" may refer to the Core charge

Question 4.2 – if you answered “no” to question 4.1., please elaborate

A university response viewed that the proposed change could cause them to pay a higher charge as the university’s payments would be administered by staff member(s) unfamiliar with any specifics of different departments’ music usage and their internal communication would be unlikely to be able to mitigate this.

Also another university highlighted complexities and fragmentation in universities’ operational responsibilities that could lead to challenges in administering their licences. The response requested that PRS remain flexible with the number of points of contact at each university, allowing multiple university staff members to report the required licence information to PRS from their respective responsibility areas, if necessary.

Future licensing process for student unions

Question 5.1 – if you are responding on behalf of a student union: Would you be willing to accommodate a consolidated PRS licence fee invoicing to your union (“one customer, one invoice”)?

Answer	n
Yes	2
No	1
No response	8
Total	11

Question 5.2 – if you answered “no” to question 5.1., please elaborate

One university student union viewed that the core charge would not be proportionate to their organisation.

General comments to the consultation

A university respondent was welcoming of the simplification effort stating their support for the project and requested more clarity on the definition of 'featured' music (section 2.4. in the consultation). The response also requested clarity on why the higher education tariff is applied and a university held responsible for ticketed live popular concert events organised in the university premises when the event is promoted by third parties. *PRS would like to clarify this by noting that the higher education tariff is applied to events at the premises of universities, colleges, and similar institutions of higher education, **and** their student unions and organised by or specifically for the entertainment of students attending those institutions. If these requirements are not met, the event should not be licensed with the higher education tariff.*

One university respondent proposed that PRS allow an option for universities and their student union to operate a combined tariff.

Elaborating on their answer to the consolidated invoicing, another university respondent stated that the simplification should involve a review of replacing the spreadsheets that are currently used in the licence declaration process with an online portal where the user is guided through the process of providing the information required in a way that allows updating data when it is gathered. The respondent also wished for open dialogue between PRS and universities about the activities that do not come into the purview of the licence to foster better relationship between copyright owners and their customers and work collaboratively to agree on a set of comprehensive user guidelines.

One university respondent inquired about a possibility of charging exercise classes per hour instead of per class to reflect short duration, high intensity classes offered at fitness centres.

Another university respondent welcomed efforts to move to a 'blanket' licence in a cost neutral way but still considered the licensing landscape for music to be complex, while appreciating that this is partly due to circumstances outside PRS's control.

One university student union response expressed disappointment over not having been solicited for feedback in tariff LP consultation. *PRS would like to clarify that the tariff LP consultation was sent to all tariff LP customers, including promoters of concerts that take place at the premises of HEIs as well as PRS members who have received royalties under the tariff. Tariff LP only applies to concerts of light and popular music in respect of which a charge is made for admission "in any place not otherwise covered by an appropriate tariff" (our emphasis). It does not and is not intended to cover, for example, live ticketed concerts (of any description, including classical concerts, that take place at HEIs and which are promoted or organised for the entertainment only of students. Such concerts fall explicitly within the scope of tariff "UC" and it was for this reason that PRS did not actively solicit the views of HEIs and Student Unions. So far as this consultation is concerned, PRS has invited customers to submit views on the appropriate charging mechanism for live ticketed events falling within the scope of tariff UC, in particular the principle of introducing a "floating rate" that would shadow changes to Tariff LP from time to time. It did not and does not preclude the submission and consideration of comments and representations on the alternative charging mechanisms.*

⁶ For example, if and where ticket concerts are promoted to the public at large, Tariff LP will be the applicable tariff; please see also paragraph 3.6.



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