



## Using copyright music – do we need a licence?

**Just about every voluntary arts group will use copyright music at one time or another, whether performed live or played in recorded form.**

The list of examples is endless, but here are some of the most common:

- curtain music for a play;
- songs performed in a pantomime;
- the accompaniment to a dance performance;
- background music during an arts and crafts exhibition;
- a classical concert including modern compositions;
- music played during keep fit or dancing classes in village halls etc.;
- a fund-raising concert by a tribute band.

The most obvious starting point is to ask 'Is our group using music in any form?', and, if so, 'Do we need a licence to do so?'. Knowing the answers to those questions puts you in a good position to be able to comply with UK music licensing regulations and ensure that the composers and musicians that created the music you use are being properly recompensed for their work.

Do remember, even if the venue you use has a licence from the Local Authority, under the Licensing Act, this doesn't give you the right to use copyright music. You'll still need to obtain your own separate authorisation.

### Background

#### What is copyright music?

People who compose music professionally earn their living through money paid for the right to perform that music, or to play it in recorded form. Equally, a company producing a recording of music not only earns money by selling copies of the record, but also by payments for the right to play that record in public.

An essential point is that there are two separate copyright issues to be dealt with:

- **Copyright in a composition** – this relates to the right of the person who composed or created the original music, and endures until 70 years after their death. Copyright in a composition is relevant both when you perform a piece of music and when you play a recording of that music, because in both situations you are using the original composer's copyright material.
- **Copyright in a recording** – this relates to the right of the producer of a particular recording. So even though Beethoven's 9th Symphony or a Gilbert and Sullivan opera can be performed without any licence or permission,

recordings of those pieces may still be copyright-protected. Copyright in a recording is relevant only when you play a recording of that music.

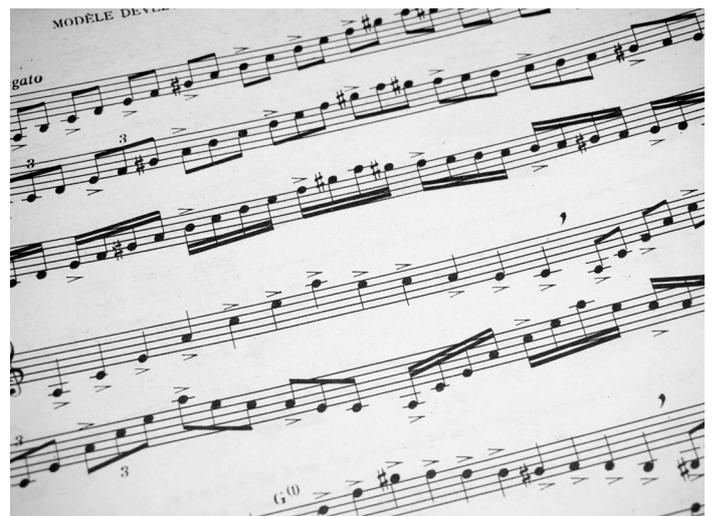
#### Who issues the licences?

Copyright in compositions is generally controlled by PRS for Music Ltd (PRS). Copyright in recordings is mostly controlled by Phonographic Performance Ltd (PPL). Both of these organisations issue licences permitting the use of the music/ recordings and charge fees for those licences. The money raised through those licence fees is then filtered back to the relevant composers and record companies.

#### Who needs to be licensed?

In terms of copyright controlled by PRS, normally it is the venue which needs to hold a licence rather than the group performing or playing it. PPL licences, in respect of recordings, are generally needed by the group playing the recordings, wherever this takes place.

Of course, in cases where voluntary arts group has its own venue, it would usually be responsible for acquiring both licences. However, if that venue meets the relevant criteria (see below) it can take advantage of being classed as a 'community building'.



### Community buildings

#### Combined licences for 'community buildings'

In a recent change to help simplify things, PRS and PPL have introduced a new method by which venues that fall under the definition of 'community buildings' can apply for a combined PRS and PPL licence.



To qualify as a community building, the venue must be run by a voluntary organisation. Typical examples are village and church halls, small local theatres and Scout huts. Buildings run by Local Authorities or other public bodies such as schools or healthcare trusts are not included within the definition.

There is one other important criterion if a venue is to qualify as a community building – the annual ‘defined income’ of the voluntary organisation running the venue must be less than £75,000. Defined income includes profits from the sale of food and drink, payments for hiring and tickets and subscriptions, but does not include bank interest, donations and grants.

For ‘community buildings’, the annual licence fee is 2 per cent of the defined income of the relevant organisation. The licence allows both the performance and playing of copyright music with no need to keep records of ticket sales and the individual pieces of music used. There is an annual return form to be completed and returned to PRS, but this is simple and will probably take no more than ten minutes to complete.

If you run a venue which is hired by other groups, your hirers will no longer need a separate licence from PPL to cover the use of copyright music recordings in your venue. However, your licence will not authorise those hirers to use such recordings elsewhere – they will still need to check the licensing arrangements for any other venues they may use.

## Other venues

### What if we run a venue that doesn’t qualify as a community building?

This is where things might be slightly more complicated for many voluntary arts groups, and it is wise to be prepared.

Venues which are not defined as ‘community buildings’ are licensed by PRS under a wide variety of tariffs, which cover every type of copyright music use that PRS have been able to think of – and they are still thinking! Separate PPL licensing will be necessary for the groups using the venue.

The biggest impact of being licensed under the various PRS tariffs arises from the records which the licence-holding group will need to keep. If you run a community theatre where you only put on your own productions of plays, then this will not be too difficult. If, on the other hand, your venue is used by a variety of different groups, producing plays and musicals, putting on dance shows, staging concerts of both popular and classical music and holding social events when background music is performed or played, then the necessary record-keeping can be more time-consuming.

Be certain to keep a copy of the programme for every show held at your venue, because PRS will want to see them when you send in your annual return form.

### How will PRS calculate our licence fee if we are not a community building?

As indicated above, PRS use different tariffs to charge licence-holders to perform or play copyright music in different situations. It can be quite confusing to deal with these tariffs unless you have both the tariffs and the explanatory notes that go with them, in front of you. These are available on the PRS website, but the best bet is to ask PRS to send them to you by email - they will normally do this at no cost.

The tariffs which voluntary groups are most likely to encounter are:

- **Tariff T** (theatrical presentations) – this includes mainly plays, but a small number of musicals as well.
- **Tariff V** (variety shows) – this includes pantomimes.
- **Tariff LP** (concerts of popular music) – this includes tribute bands.
- **Tariff LC** (concerts of classical music) – although music by Mozart and Beethoven may be out of copyright, modern arrangements of their music may not be.
- **Tariff GP** (general purposes) – this includes dance shows, background music in many different situations and almost every other use of copyright music that a voluntary group is likely to be involved with.

**Tariff T**

Productions of plays will almost always involve the use of some music, most regularly as curtain or incidental music (see below), but also sometimes as what PRS call 'interpolated music'. This is defined as copyright music which is performed by, or intended to be heard by, one or more of the characters in the play.

The use of interpolated music is not covered by a regular PRS licence, and separate one-off permission has to be obtained. What is not apparent from the literature published by PRS to explain their various tariffs is that responsibility for obtaining this permission lies not with the group holding the licence for the venue, but with the group producing the play. The licence holder would be well advised, though, to check that their hirers fulfil all the requirements (these involve no less than 30 days notice to PRS, giving details of the music to be played or performed). If PRS hear of the unlicensed use of music in this way, it will be the venue which has to deal with the initial inquiries.

Every other type of music use under this tariff has to be covered by the venue's own licence. There are two categories – (a) 'overture, entr'acte and exit music' and (b) 'incidental or curtain music'.

Overture, entr'acte and exit music attract an annual royalty payment, depending on the location and size of the venue. Voluntary groups aren't likely to be running West End theatres seating over 1,500 people (the most expensive), but a theatre outside of Central London seating less than 1,000 people will have to pay an annual royalty of £262.04.

Incidental and curtain music attract royalties calculated on a weekly basis. Again, the location and the seating capacity are the deciding factors, but as an example, a venue outside of Central London seating less than 1,000 people will need to pay £10.67 for every period of 7 days during which this type of copyright music is performed or played.

Copyright in the majority of modern musicals is not administered by PRS. Under a system known as 'Grand Right', permission to perform *Oliver* or *Chess*, for example, will be given directly by the copyright holder in return for payment of the appropriate royalty.

**Tariff V**

Thousands of amateur pantomimes take place in the UK every year. PRS tariff V applies to every single one (except those in 'community buildings') which involves copyright music, either as songs included in the show, as an overture or as walk-down music. Another good example of where tariff V will apply is 'songs from the shows' productions, or even old time music hall shows if any of the songs are still in copyright.

The basic royalty payable under this tariff, payable by the licence holder for the venue, is two per cent of the gross ticket receipts for all variety shows during the licensing year. Venue operators should be aware that you really do need to impress on your hirers that they must give you this information as quickly as possible after the end of the run of their production.

However, there is a way in which, as a venue operator, you can save money, through a discount available on the royalty payable. This can be up to 75 per cent for each variety show, depending

on the running time of the copyright music as a proportion of the running time of the whole show. PRS have to be notified in advance of the show details, including details of the music to be used – hirers will have to be persuaded to provide this information in plenty of time.

**Tariff LP**

Concerts of popular music falling under this tariff probably don't provide the most regular involvement of voluntary groups with PRS. Tribute bands though are becoming increasingly popular, and a number of voluntary-run venues are booking them, often as fundraising events.

This is another example, unfortunately, where the information published by PRS is not altogether helpful. If you follow the requirements set out in the notes accompanying tariff LP, you pay an interim royalty within two days after each relevant performance. On the other hand, if you contact them and ask about this, you will probably be told to just pay at the end of the year with the rest of your licence fee.

What you must do however is to obtain the necessary report form from PRS (this is available on their website) on which the performers in the concert can list all of the pieces of music they are going to perform. This will then form the basis of the calculation of your annual royalty liability under this tariff.

**Tariff LC**

Classical music concerts, more often than not, will be of no interest to PRS, involving music which is out of copyright. There are, though, plenty of more modern composers whose music is still in copyright – Benjamin Britten, John Tavener, John Barry, Paul Mealor and Karl Jenkins are examples.

Remember too that modern re-arrangements of Bach or Handel etc. may well attract copyright in the arrangements as opposed to the original compositions.

Responsibility for royalty payments under this tariff can be complicated - some concert promoters will have PRS licences of their own, in which case they are liable for the royalty payments (although if they don't pay up, PRS can look to the venue for payment).

**Tariff GP**

This is probably the most all-encompassing of the PRS tariffs, and it covers just about every other use of copyright music with which your group is likely to be involved. Here are some examples:

- Discos, karaoke and music quizzes
- Background music in bars and cafeterias
- Aerobic, keep fit and dancing classes
- Workshops, demonstrations and other tuition classes
- Music integral to an artistic work which is not covered by any of the other tariffs

Each of the different types of music use attracts a different method of calculating the appropriate royalties. The notes provided by PRS on this tariff are helpful, if sometimes difficult to understand at first reading.

## What do we need to do?

Quite possibly, nothing. If you are already licensed by PRS as a community building and they are taking your money each year without any problems, then everything is fine.

However, PRS are looking again at all community building licences, as a result of the coordination between themselves and PPL. Some licensees have found, with very little warning, that they are being taken off the community buildings tariff and are now expected to start keeping records of ticket income and music use that they have never needed before. The reason for this is almost always because the people running the organisation are doing such a good job and attracting lots of hirers, the group's annual income has gone over £75,000.

The consequences of being taken off tariff CB for community buildings, oddly enough, can sometimes include a reduction of your annual licence fee. The considerable downside, of course, is the amount of administration time. New systems will have to be set up to collect and record substantial amounts of data. Also, for a venue that relies on outside hirers, those hirers will have to be taught about the information they need to provide, and when.

PRS has been known to agree to reinstate venues to community building status, even if their income does exceed £75,000 a year. The deciding factor will normally be whether PRS can be persuaded that your venue is not a commercial enterprise. Charitable status is a good indicator of this.

## Further Resources

In this Briefing it has only been possible to provide basic details and to point out some of the more obvious pitfalls. If your group, or you as an individual within your group, are faced with having to deal with copyright music licensing issues for the first time, a great deal of time, worry and sometimes money can be saved by knowing exactly how the system works.

Bear in mind that PRS and other organisations adjust their pricing on a regular, often annual, basis so it is important to check their current rates to ensure you are clear on the required fees.

PRS can at times appear to be a rather daunting organisation to deal with, but the individuals working there are generally helpful and prepared to explain things patiently.

**PRS for Music Ltd** – [www.prsformusic.com](http://www.prsformusic.com)  
020 7378 7555 (Monday to Friday 9am to 5pm)

**PPL (Phonographic Performance Ltd)** – [www.ppluk.com](http://www.ppluk.com)  
020 7534 1070 (if you do not have a PPL licence)  
020 7534 1450 (if you do have a PPL licence)

All enquiries about the use of copyright music in the Republic of Ireland should be addressed to the Irish Music Rights Organisation:

**IMRO (Irish Music Rights Organisation)** – [www.imro.ie](http://www.imro.ie)  
+353 1 6614844 (Licensing Department)

**Do you need this publication in an alternative format? Telephone 02920 395395 or email [info@voluntaryarts.org](mailto:info@voluntaryarts.org)**

### Organisation Information:

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