

**Consultancy  
services to support  
an impact  
assessment for  
proposed changes  
to UK copyright  
law**

**Final Draft Report to**

**UK Intellectual  
Property Office**

**Prepared by**

**London Economics**

**June 2008**

**Consultancy services to support an  
impact assessment for proposed changes  
to UK copyright law**

**Final Draft Report to**

**UK Intellectual Property Office**

**Prepared by**

**London Economics**

**June 2008**

---

# Contents

*Page*

<b>Executive summary</b>	<b>1</b>
<b>1 Introduction</b>	<b>5</b>
1.1 Objective of the study	5
1.2 Background	5
1.3 The policy options to be considered	9
1.4 Structure of the document	10
<b>2 Methodology and data collection</b>	<b>11</b>
2.1 Overview of methodology	11
2.2 Data collection	12
2.3 Questionnaires	14
2.4 Cost-benefit analysis	14
<b>3 Qualitative assessment of the Options</b>	<b>17</b>
3.1 Respondents' views and assessment of the Options	17
<b>4 Quantitative assessment</b>	<b>27</b>
4.1 Number of organisations exempt from PPL licensing	27
4.2 Impact of removing the exemptions	28
4.3 Licence costs	29
4.4 Administration costs	33
4.5 Cost of additional disputes	34
4.6 Financial impact of Options 1, 2 and 3	35
4.7 Impact of Option 4	39
<b>5 Summary and discussion</b>	<b>40</b>
5.1 Option 1	40
5.2 Option 2	40
5.3 Option 3	41

---

<b>Contents</b>	<i>Page</i>
5.4 Option 4	41
5.5 Discussion	42
<b>Annex 1 Questionnaires</b>	<b>43</b>
Questionnaire to PPL	43
Questionnaire to PRS	48
Questionnaire to Users	51
Questionnaire to Umbrella Bodies	53

---

## Tables & Figures

*Page*

<b>Table 1: Current exemptions under Sections 67 and 72</b>	<b>8</b>
<b>Table 2: Responses by PPL</b>	<b>17</b>
<b>Table 3: Responses by PRS</b>	<b>19</b>
<b>Table 4: Responses by Sport England and CCPR</b>	<b>21</b>
<b>Table 5: Responses by Charity Commission</b>	<b>22</b>
<b>Table 6: Responses by BMR</b>	<b>24</b>
<b>Table 7: Responses by Community Matters</b>	<b>25</b>
<b>Table 8: PRS income and average licence fee from tariffs for non-commercial premises</b>	<b>30</b>
<b>Table 9: Selected PPL tariffs for background music (per annum)</b>	<b>31</b>
<b>Table 10: PRS and PPL tariff for background music in shops and stores</b>	<b>32</b>
<b>Table 11: Financial impact of Options 1 and 2 (excluding impact on PRS)</b>	<b>35</b>
<b>Table 12: Sensitivity of impact of Option 1 on Users from non-awareness of requirement for PPL licence (£m)</b>	<b>37</b>
<b>Table 13: Possible 'utility' impact of Option 1 on Users</b>	<b>37</b>
<b>Table 14: Possible 'utility' impact of Option 2 on Users</b>	<b>38</b>
<b>Table 15: Possible 'utility' impact of Option 3 on Users</b>	<b>38</b>
 <b>Figure 1: Component elements for an analysis of the impact of the four Options</b>	 <b>15</b>

## Executive summary

### *Introduction*

London Economics was commissioned by the UK Intellectual Property Office (UK-IPO) to provide an assessment of four options (“the Options”) for the revision of the current conditions for exemption from payment of music licensing fees for the public performance of musical works.

At present the flow of royalties from music users to creators in the UK is managed principally by two major collecting societies: Phonographic Performance Limited (PPL), which represents performers and record producers, and the Performing Rights Society (PRS) which represents composers and lyricists.

Under the current law (the 1988 Copyright, Designs and Patents Act), various charitable and not-for-profit organisations are exempt from payment to PPL (but not PRS).<sup>1</sup> The motivation behind the possible need for change arises from the fact that this group of exempt Users may be too wide, covering a range of bodies from large international charities with multi-million pound budgets to small community groups operating on very small budgets.

The Options on which this impact assessment is based are outlined below.

- Option 1:** To repeal the exemptions currently in place and thus confer on PPL the right to require licensing from all Users currently exempt.
- Option 2:** To recast the exemptions to cover only charitable bodies with turnover < £20,000 thus conferring on PPL new licensing rights in relation to charities with turnover above that limit and removing PRS’ rights in relation to the lower turnover charities.
- Option 3:** To remove the current exemptions and replace them with a ‘right of equitable remuneration’, which implies that PPL can charge previously exempt Users for use but only to the extent that these charges are deemed ‘equitable’.
- Option 4:** To introduce a formal exemption for the NHS, which would not be expected to have an immediately noticeable impact given that neither PPL (believe not to be entitled) nor PRS (entitled but choosing not to) are currently requiring collection from the NHS.

---

<sup>1</sup> In particular the exemptions from licensing of copyright sound recordings provided under Sections 67 and 72(1B)(a) of the Act and performers’ rights under paragraphs 15 and 18(1A)(a) of Schedule 2 of the Act.

## ***Methodology***

The impact assessment sought to understand, and where possible quantify, the likely costs and benefits of implementing each of the Options, including the likely impact on the fees collected by the collecting societies and the probable effect on the relevant Users.

This involved both quantitative and qualitative data collection, in order to provide a rounded assessment of the likely impact of the Options. Quantitative data consisted of publicly available information from the collecting societies and other sources, while qualitative insight and judgement was elicited through a series of interviews and questionnaires with expert informants.

## ***Discussion and estimated impact of the Options***

For each of the Options we estimated the likely impact on Users and the collecting societies if they were implemented. However, it should be noted that these estimations are necessarily only indicative, due to lack of available data regarding the number of organisations affected, as well as difficulty in estimating the likely tariffs that would be charged by PPL in each scenario. In particular, the estimations below are based on *all* organisations in the affected sectors purchasing a license following the removal of an exemption, as well as assuming that tariffs will be charged on a “per-organisation”, rather than a “per-premises” basis.

### **Option 1**

Option 1 would materially affect a very large number of organisations, including very small ones. In total, we estimated a total cost (including administration costs) of £47.7 million over almost 400,000 organisations. PPL would benefit from an estimated increase in revenue (net of administration costs) of £21.3 million.

This Option would have no impact on PRS and is unlikely to raise uncertainties in relation to licensing rights that would lead to an appreciable increase in litigation.

There could be litigation at a more institutional level. This could be not in relation to the setting of the fees but in relation to maintenance of ‘rights’ to exemptions. This possibility is intrinsically difficult to quantify and we chose not to attempt to do so.

### **Option 2**

Option 2 would remove current exemptions only for those with turnover greater than £20,000 while simultaneously introducing PRS licensing exemptions for those with turnover below that threshold.

PRS were unable to help us estimating the number of current licensees that have turnover below the £20,000 threshold, as they do not possess the relevant information. However, based on our discussions with PRS, it appears that this number is small, as PRS licenses *premises* (which tend to require a full time member of staff, and hence have higher turnover) rather than *organisations*.

Our estimates for the impact of this option on Users are of a cost of £17.5 million and for PPL a net benefit of £9.0 million. Total administration plus litigation costs are estimated to add up to £6.6 million.

It is likely that a threshold based on turnover would give rise to a basis for litigation. This is very difficult to quantify but, in order to differentiate across the Options in terms of their differing impacts on the likelihood of increased litigation, we have estimated that this Option would raise litigation costs in the order of £100,000.

### **Option 3**

Option 3 would introduce a “right of equitable remuneration” for currently exempt Users. The number of organisations affected will be the same as under Option 1. We have assumed that as Option 3 is a narrower right, PPL will be likely to anticipate that the same level of fees as under Option 1 might result in excessive litigation (because all the fees can be appealed in terms of whether or not they are equitable). As such, we would predict that PPL would choose to put lower fees – although not so low as to completely rule out the possibility of litigation.

To put an order of magnitude here we assumed that fees would be 15% lower than under Option 1 and litigation costs for PPL would be about as much as what they currently spend in a year (this is in the neighbourhood of £500,000 or about 2.5% of the additional fees collected relative to status quo). At the same time, we assume that Users would spend a comparable amount in litigation.

This resulted in an estimate of cost for Users of £43.9 million; net benefit for PPL of £17.0 million; and total administration plus litigation costs of £23.1 million (including an estimate of just over £1 million for litigation).

### **Option 4**

Based on our discussions with PPL and PRS, it appears that neither currently collects from the groups of Users (NHS patients, and similar) that would be affected by Option 4. As such, we predict that Option 4 will not have a financial impact on any of the groups considered. However, despite this, PRS were not in favour of the Option, and believed that they should retain flexibility over the right to charge.



## *Summary*

The Options have very different levels of fee collection for rights' holders and very different levels of administration costs. Since collection relies heavily on small amounts from many organisations, increasing fee revenue can be at the expense of large increases in admin costs. This is the case of Option 1, the most successful in terms of net collection for rights' holders but also the most burdensome in terms of the aggregation of costs it imposes on numerous very small organisations.

Option 2 is more balanced in that it imposes considerably smaller admin costs but this is achieved at the expense of collecting less than half the fee revenue and opening the door to disputes over status of exemption.

Option 3 does not seem to improve on any of the negative aspects of the other 2 and correspondingly meets with generalised scepticism from respondents.

In relation to Option 4, while it does not appear likely that it will have any noticeable financial impacts, it is still negatively received by representatives of music rights' holders.

# 1 Introduction

## 1.1 Objective of the study

London Economics was commissioned by the UK Intellectual Property Office (UK-IPO) to provide an assessment of four options (“the Options”) for the revision of the current conditions for exemption from payment of music licensing fees for the public performance of musical work.

Under Government consultation rules, an impact assessment must be carried out for any proposal to amend UK legislation. Such an assessment needs to consider the costs and benefits of any change, including consideration of the administrative burdens associated with the proposals.

This document provides the results of that assessment, and highlights particular recommendations for UK-IPO.

## 1.2 Background

Copyright protects original work by artists and allows an original work to be considered a property that is owned by somebody. Copyright legislation gives rights holders the right to control and in particular to charge for a variety of uses of their work.

In the particular case of music, copyright applies both to the rights of composers and lyricists and those of performers and record producers. Collecting societies manage the flow of royalties from user to creator. Two major collecting societies are present in the UK.

**Phonographic Performance Limited (PPL)** PPL represent performers’ and record producers’ interests, collecting from organisations and individuals that allow the music to reach an audience or be performed in public.<sup>2</sup>

**Performing Rights Society (PRS)** PRS represent the interests of composers and lyricists, and collect from those who wish to use the original musical work in recordings and performances and from those responsible for the music reaching its audience (i.e. the Users, as defined above).

---

<sup>2</sup> For the purposes of this impact assessment, we define those organisations and individuals responsible for music reaching a public audience as “the Users”.

---

Under the current law, various charitable and not-for-profit organisations are exempt from payment to PPL (but not PRS). The motivation behind the possible need for change arises from the fact that this group of exempt Users may be too wide, covering a range of bodies from large international charities with multi-million pound budgets to small community groups operating on very small budgets.

The relevant law is the 1988 Copyright, Designs and Patents Act, and in particular the exemptions from licensing of copyright sound recordings provided under Sections 67 and 72(1B)(a) of the Act and performers' rights under paragraphs 15 and 18(1A)(a) of Schedule 2 of the Act.

The particular exemptions in question are as below:

***67 Playing of sound recordings for purposes of club, society, &c***

*(1) It is not an infringement of the copyright in a sound recording to play it as part of the activities of, or for the benefit of, a club, society or other organisation if the following conditions are met.*

*(2) The conditions are -*

*(a) that the organisation is not established or conducted for profit and its main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare,*

*(b) 48 that the sound recording is played by a person who is acting primarily and directly for the benefit of the organisation and who is not acting with a view to gain,*

*(c) that the proceeds of any charge for admission to the place where the recording is to be heard are applied solely for the purposes of the organisation, and*

*(d) that the proceeds from any goods or services sold by, or on behalf of, the organisation -*

*(i) in the place where the sound recording is heard, and*

*(ii) on the occasion when the sound recording is played,*

*are applied solely for the purposes of the organisation.*

***72 Free public showing or playing of broadcast***

*(1) The showing or playing in public of a broadcast to an audience who have not paid for admission to the place where the broadcast is to be seen or heard does not infringe any copyright in -*

*(a) the broadcast;*

*(b) any sound recording (except so far as it is an excepted sound recording) included in it; or*

*(c) any film included in it.*

*(1A) For the purposes of this Part an "excepted sound recording" is a sound recording -*

*(a) whose author is not the author of the broadcast in which it is included; and*

*(b) which is a recording of music with or without words spoken or sung.*

*(1B) Where by virtue of subsection (1) the copyright in a broadcast shown or played in public is not infringed, copyright in any excepted sound recording included in it is not infringed if the playing or showing of that broadcast in public -*

*(a) forms part of the activities of an organisation that is not established or conducted for profit; or*

*(b) is necessary for the purposes of -*

*(i) repairing equipment for the reception of broadcasts;*

*(ii) demonstrating that a repair to such equipment has been carried out; or*

*(iii) demonstrating such equipment which is being sold or let for hire or offered or exposed for sale or hire.*

A schematic representation of these exemptions may be helpful to understand the somewhat complex nature of the changes that will be introduced by the different Options. This is provided in the Table below.

Table 1: Current exemptions under Sections 67 and 72

Conditions:		Organisation is non-profit and...		
		main objects are charitable	concerned with the advancement of religion, education or social welfare	Other non-profit
Playing of sound recordings	a) Part of the activities or for the benefit of the organisation; and b) For the benefit of the organisation; and c) Proceeds solely for organisation	67 a) exempts	67 a) exempts	67 a) n.a.
	Otherwise	67 a) n.a.	67 a) n.a.	67 a) n.a.
Sound recordings in broadcasts	a) Part of the activities of the organisation; and b) non-paid admission	72 1B) (a) exempts	72 1B) (a) exempts	72 1B) (a) exempts
	Otherwise	72 1B) (a) n.a.	72 1B) (a) n.a.	72 1B) (a) n.a.

Under current exemptions PPL retains the right to collect in relation to public playing of sound recordings by some non-profit organisations as long as they are neither charitable nor otherwise concerned with the advancement of religion, education or social welfare. Also, the public playing of the recording has to meet all three conditions summarised above.

For sound recordings in broadcasts, the types of organisations benefiting from the exemption are broader (any non-profit organisation) but the conditions are stricter – the broadcast must be part of the activities of the organisation and any instances of paid admission automatically lose the right to the exemption.

## 1.3 The policy options to be considered

The Options on which this impact assessment is based are outlined below.

- Option 1:** To repeal the exemptions currently in place and thus confer on PPL the right to require licensing from all Users currently exempt.
- Option 2:** To recast the exemptions to cover only charitable bodies with turnover < £20,000 thus conferring on PPL new licensing rights in relation to charities with turnover above that limit and removing PRS' rights in relation to the lower turnover charities.
- Option 3:** To remove the current exemptions and replace them with a 'right of equitable remuneration', which implies that PPL can charge previously exempt Users for use but only to the extent that these charges are deemed 'equitable'.
- Option 4:** To introduce a formal exemption for the NHS, which would not be expected to have an immediately noticeable impact given that neither PPL (believe not to be entitled) nor PRS (entitled but choosing not to) are currently requiring collection from the NHS.

We outline some of the implications of these Options in a brief discussion below.

Under Option 1, the exemptions in all five cases described in Table 1 would be repealed.

Under Option 2, the exemptions would be repealed for organisations with turnover greater than £20,000. Current exemptions would be maintained in relation to organisations with turnover below that limit and the exemptions would be extended to licensing in relation to music and lyrics recorded on the sound recording.

Under Option 3, the exemptions would be replaced with a right of equitable remuneration.

Under Option 4 a new exemption would be introduced in relation to certain uses within the NHS. These exemptions would be in relation to both the recordings and the music and lyrics on the recordings. They would apply both to playing of sound recordings and to broadcasting of music and recordings.

PRS are not currently collecting from these uses within the NHS but do collect from other uses within the NHS. The situation in relation to PPL is less clear – we have asked PPL what is their current policy for collection within the NHS and whether collection would be affected by the changes proposed under Option 4. In addition to the consideration of the Options above, the present impact assessment also considers the likely impact of a “quick low-cost dispute resolution tribunal”, particularly with reference to the introduction of an “equitable right of remuneration” under Option 3. However, since this work was undertaken the IPO has informed us that they no longer intend to propose a new Tribunal as part of this consultation. They are instead planning a separate consultation on reform of the Tribunal to be undertaken as a separate exercise.

## **1.4 Structure of the document**

The remainder of the document is set out as follows. Section 2 outlines the methodology used, and identifies the key remaining evidence gaps. Section 3 summarises and appraises the results of the impact assessment for each of the Options. Section 4 then provides the conclusions from the impact assessment, and makes recommendations as to UK-IPO’s future actions.

## 2 Methodology and data collection

### 2.1 Overview of methodology

The methodology used for the impact assessment can be set within the context of a conventional model, based on the following main elements:

- 1 Purpose and intended effect - objective, background and rationale for the intervention.
- 2 Options under consideration - description and consideration of the Options' feasibility.
- 3 Costs and benefits – the body of the analysis naturally focuses on the costs and benefits of each Option. This can be broken down into the following components.
  - a) The sectors and groups affected - ways in which each option is likely to impact relevant groups.
  - b) Analysis of costs and benefits, comprising:
    - i) analysis of benefits;
    - ii) analysis of costs;
    - iii) policy and administrative costs;
    - iv) coverage of costs and benefits;
    - v) costs and benefits occurring over time; and
    - vi) quantitative and qualitative assessment;
  - c) Summary and balance of costs and benefits identified.

It is common for an impact assessment study to include a section with a “small firms impact test” and a “competition assessment”. In this case it was decided, following consultation with UK-IPO, that these were not relevant to the current impact assessment.



## 2.2 Data collection

### 2.2.1 Overview of data collection

The major component of the impact assessment was the identification of and collection from relevant data sources. The focus of the data collection phase of the project was understanding, and where possible quantifying, the likely costs and benefits of implementing each of the options, including the likely impact on the fees collected by the collecting societies and the probable effect on the relevant Users. This included both quantitative and qualitative elements, in order to provide a rounded assessment of the likely impact of the Options.

In undertaking the data collection exercise, we sought to cover to the greatest extent possible the following areas of interest:

- Number / type of users affected by each Option:
  - likely number of users affected;
  - distribution of affected Users by size/turnover categories.
- Impact on PPL/PRS:
  - increased admin costs of collecting;
  - increased admin costs of determining exemption status;
  - increased admin costs (for PPL) of managing potentially many different levels of fees;
  - impact on fee collection;
  - cost of obtaining a decision on remuneration from the proposed quick dispute resolution UK-IPO Tribunal.
  - variation depending on size of User
- Impact on Users:
  - impact of fees;
  - admin costs for Users obtaining the licences;
  - if/how either of these costs varies with type of User;
  - NHS current licensing fee payments that may be affected by the Options, if any;
  - cost of obtaining a decision on remuneration from the proposed quick dispute resolution UK-IPO Tribunal;
  - variation depending on size of User.
- Impact on UK-IPO:
  - costs to UK-IPO of having/running a quick dispute resolution Tribunal.

### 2.2.2 Quantitative data collection

Given the short timescale of the project, the main focus for the collection of quantitative data was publicly available information from the collecting societies and other sources. The main sources of information were the interviews with the collecting societies, their websites and the submissions that they prepared for us and information collected during interviews with umbrella organisations of Users and, where available, from their websites as well.

### 2.2.3 Qualitative data collection

The quantitative data was supplemented with a qualitative insight and judgement elicited from expert informants through a series of interviews and questionnaires.

A series of face-to-face interviews were carried out with representatives from the collecting societies and from User groups. Each interview was structured around a questionnaire, agreed in advance with UK-IPO, which was sent to each organisation in advance (see section 2.3 for the full questionnaires used). In addition, several of the above organisations provided additional factual information during and following the interviews.

In total 5 interviews were undertaken, with the following organisations consulted:

- PPL;
- PRS;
- British Music Rights;
- the Charity Commission; and
- Sport England / Central Council of Physical Recreation (CCPR).

In addition to the interviews conducted with the groups above, a number of other umbrella bodies, representing the users likely to be affected by the four Options, were contacted in writing:

- The Scout Association;
- Association of Chief Executives of Voluntary Organisations;
- National Association for Voluntary and Community Action (NAVCA);
- Community Matters;

- The National Council for Voluntary Organisations Regent's Wharf;
- Wales Council for Voluntary Action; and

## 2.3 Questionnaires

As discussed above, questionnaires were used to provide structure to the face-to-face interviews, as well as being sent directly to several Users groups. In the appendix we transcribe the questionnaires that were used with each of the different types of stakeholders that were interviewed for this study: PPL, PRS, Users and Umbrella bodies (contacted in writing).

## 2.4 Cost-benefit analysis

Following the data collection exercise, we undertook an evaluation of the costs and benefits associated with each of the Options. This was structured around an initial framework, illustrated in Figure 1.

**Figure 1: Component elements for an analysis of the impact of the four Options**

	Option 1	Option 2	Option 3	Option 4
	repeal the exemptions	recast exemptions - only charities with turnover < £20,000 are exempt	remove exemptions and introduce right of equitable remuneration	exemption for the NHS
<b>Impact on UK-IPO</b>	-	-	UK-IPO to incur the cost of a dispute resolution Tribunal	-
<b>Impact on Copyright Tribunal</b>	(low) potential for more cases	(low) potential for more cases	potential for more cases but some move to UK-IPO Tribunal	unlikely
<b>Impact on PPL</b>	gain licensing rights across all areas currently exempt	gain licensing rights for charities with > £20,000 turnover	gain right to equitable remuneration across all areas currently exempt but admin costs of possible disputes	currently believe not to be entitled thus not licensing NHS use so no impact (check for entitlement / future licensing plans)
<b>Impact on PRS</b>	none	lose licensing rights for charities with < £20,000 turnover	None	currently entitled to but not licensing NHS use so no impact (but check for intention to license in the future)
<b>Impact on currently exempt Users</b>	cost of licensing fees and admin costs of obtaining the licenses	if turnover < £20,000 PRS fees decrease; if > £20,000 PPL fees increase	cost of "equitable" fee and admin costs of obtaining the licenses; cost to obtain a decision on remuneration from UK-IPO	none; no current impact on NHS (but potential for future impact?)
<b>Impact on rights holders</b>	license fee revenue increased	on balance, fee revenue likely to increase	license fee revenue to increase but may need to obtain a decision on remuneration from UK-IPO	no current impact on rights holders (but potential for future impact?)
<b>Admin costs</b>	for both Users and PPL	different impact on different Users	same as Option 1 in obtaining and issuing licenses but wider scope for dispute-related costs to emerge	no current impact on admin costs (but potential for future impact?)

Source: London Economics.

We will not be attempting to quantify the impact of the proposals on either the UK-IPO or the Copyright Tribunal. We believe that for either of these two bodies the UK-IPO is better placed to make this assessment. We will however state, under each Option, the extent to which we predict that it will result in higher numbers of disputes. At present, however, the precise role of an eventual quick dispute resolution tribunal has not been defined so it would be hard to predict how up-coming disputes would be split between the two Tribunals.

### 3 Qualitative assessment of the Options

In this Section we provide a qualitative discussion of the impact of the different Options. The qualitative discussion is based on the comments made to us by stakeholders during interviews.

#### 3.1 Respondents' views and assessment of the Options

We have collected a range of qualitative assessments of the Options by respondents as a result of the interviews carried out and the questionnaires sent as well as from additional information sent to us by the stakeholders.

We organise this information in table-form below. Each table reports comments by a particular stakeholder organised by Option to which they relate.

**Table 2: Responses by PPL**

Overview	<p>PPL collects for record companies and performers, with total turnover of c. £130 m (including VPL, which relates to video rights);</p> <p>Collects from about 250,000 sites, many of which pay very little</p> <p>Fees agreed through negotiations, generally with trade organisations</p> <p>Size of fee based partly on basic metrics (e.g. sqm - £100 for businesses under 100sqm)</p> <p>Competition implications, particularly between private and public sector</p> <p>New BBC license based on comparator commercial organisations</p> <p>Distinction made between section 67 (under which charities are exempt in relation to all sound recordings) and 72(1B)(a) which exempts all not-for-profit organisations, but only for recordings within broadcasts</p>
----------	--

**Table 2: Responses by PPL**

<b>Admin costs</b>	<p>PPL considered that an assumption of admin costs at 15% of license fees would be a useful starting point for the analysis. The cost may be higher than average for smaller organisations, but it may also be possible to obtain economies of scale as the number of organizations collected from increases.</p> <p>PPL already collects from a very large number of very small organisations so the structure of the collecting base is unlikely to change significantly with the addition of the not-for-profit sector.</p>
<b>Option 1</b>	<p>PPL is in favour of Option 1.</p> <p>PPL raised the issue of section 721B(b) – relating to the repair and demonstration of music and television sets, which is not included in the presented options and, they feel, should also not benefit from an exemption</p> <p>PPL stated that they would expect to collect from all relevant organisations</p> <p>Many non-profit organisations (e.g. schools) already require licenses for some (non-broadcast) purposes</p> <p>Fees from the new non-exempt groups of Users will be negotiated only if and after the exemptions are removed so, to some extent, it is not possible to know in advance how much those fees will be.</p>
<b>Option 2</b>	<p>It is not clear how many organisations would be affected by “&lt;£20,000” exemption and PPL views that a condition of this type is hard to monitor. Licenses do not use turnover as a criterion, so this would be particularly difficult to assess and would impose additional transaction costs</p>
<b>Option 3</b>	<p>Likely outcomes of move to “equitable remuneration” unclear but there is a perception in the industry that this is less valuable than “exclusive rights”. One important aspect is that this would remove the deterrent effect of current legal framework which works well in view of the very small number of infringements.</p> <p>In principle, PPL would be in favour of quick dispute tribunal</p>
<b>Option 4</b>	<p>PPL do currently collect from NHS organisations, but have not confirmed the exact nature of collection</p> <p>Currently, nursing homes’ private rooms are treated as domestic, but communal areas are not</p>
<b>litigation</b>	<p>Options 2, 3 and 4 would be expected to lead to more litigation; as soon as an exemption of some type is granted, it is likely to be tested.</p>

**Table 2: Responses by PPL**

<b>Conclusions</b>	<p>PPL consider the only reasonable Option to be Option 1. Options 2, 3 and 4 are likely to lead to a combination of disputes and high transaction costs. It was not clear during the interview what the impact of Option 4 would be on PPL and we were promised further clarification on the areas within the NHS where PPL already collects.</p> <p>Overall, we found that PPL already collects from a some not-for-profit organisations and we were not clear on whether this was because of the distinction between sections 67 and 72 or a matter of interpretation of the exemptions. However, PPL stated that the remaining exemptions remained wide in scope, with a large impact on their members.</p>
--------------------	---

**Table 3: Responses by PRS**

<b>Overview</b>	<p>PRS licenses premises: church halls, leisure centres, community buildings – the premises are licensed not the users. The users report to the premises' owner the type of music use they make, the owner reports to PRS who then invoice a license fee according to the overall use of music in the premises.</p> <p>PRS currently chooses to set a zero rate in relation to some uses which the members agree to allow. This is the case for hospital wards and treatment rooms, both private and public hospitals, residential homes for the elderly. All music used during worship is exempt, as well as weddings music both church and civil.</p> <p>Their rates are designed to be in accordance with strict principles of fairness and non-discrimination.</p>
<b>Admin costs</b>	<p>PRS attempts to be as efficient as possible in their collection of license fees. They do not license on a yearly basis but rather have a rolling license under which just a brief update is required from licensees.</p> <p>PRS has moved to flat rates where practical to lower admin costs for both itself and users.</p> <p>In terms of whether or not it is cost effective to collect from the very small charitable users, PRS say that they already take that into account – they only choose to license where the collection more than compensates for admin costs.</p>
<b>Option 1</b>	<p>PRS did not consider that there were any particular drawbacks in relation to this Option while at the same time it entails no benefit to PRS.</p>



**Table 3: Responses by PRS**

Option 2	<p>The fees depend on the number of devices playing music, size, type of use. The fees are not charged with respect to turnover. It would be very difficult to know which people have more and which have less than £20k turnover. This would be a source of disputes and would increase costs for PRS in trying to get this information.</p> <p>Two very important points</p> <ul style="list-style-type: none"> <li>- fees are not charged in relation to turnover and PRS has no information about licensees turnover</li> <li>- PRS does not classify licensees into charities or non charities – no information therefore on their charitable status</li> </ul> <p>Thus, at both these levels, it would be impractical for PRS to implement an exemption as that proposed under Option 2</p> <p>Furthermore, PRS is concerned that the proposed exemptions may be in contravention of international treaties on copyright.</p> <p>PRS is opposed to the exemption – they feel that they are reasonable and fair and discuss their individual rates with the relevant umbrella organisations. In some cases members waive the right to collect fees altogether. They believe that this should come from the sentiment of the members and not be imposed by law. The members are the ones who own the music that is played by users and so should have the final word.</p> <p>In their experience, representative organisations of users generally accept that it is fair to pay for the music which they choose to use.</p>
Option 3	<p>Although the option is not directed at PRS, they believe it could affect them indirectly. If PPL are going to have only right to equitable remuneration and this may result in fees that are lower than those currently collected by PRS the result may be that people will dispute PRS's fees and find them unfair. PRS may feel constrained to reduce their fees as a result. Can ultimately lead to disputes, disagreements, etc.</p>
Option 4	<p>PRS is not entirely happy about Option 4 because they feel that this exemption could increase dispute costs to them. It would probably not have a financial impact, at least not directly, because they are currently not collecting from the areas within the NHS for which the exemption would apply. However, an exemption is very different from a choice not to license. In particular, the way it feels to the members is different.</p> <p>Also, as soon as you introduce an exemption you are likely to create disputes. Users will try to claim that they are entitled to that exemption.</p>

**Table 3: Responses by PRS**

Litigation	<p>PRS is worried about the implications of the proposed Quick Resolutions Tribunal. They would need to know a lot more about its proposed role before stating a view.</p> <p>PRS feel that they already deal with several issues raised by Users and invest a lot of resources for that purpose. They do not feel that it would necessarily be efficient for IPO to enter this area – PRS have more experience dealing with this.</p> <p>Such a Tribunal may give rise to a huge number of queries and be very costly in terms of resources. It may encourage Users to complain twice.</p> <p>Ultimately PRS feel that it all depends on how it is defined. It may work but it may also just add to the costs.</p>
Conclusions	<p>PRS consider that the only Option to which they do not object is Option 1. Option 2 has significant costs for them and they do not feel serves a purpose of fairness as Users’ representatives accept the principle that they should pay for the music they use. Options 3 and 4, although not directly affecting PRS, are, in their opinion, likely to raise the number of queries and disputes significantly.</p> <p>PRS feel strongly that the owners of the music should be the ones having the power to decide whom to allow the use of music for free.</p>

**Table 4: Responses by Sport England and CCPR**

Overview	<p>The majority of the 151,000 voluntary sports clubs are non-asset holding (e.g. do not own the premises on which they operate). It is therefore not entirely clear how fee collecting societies would treat them. If PPL license premises rather than Users, the impact on sports clubs will be more indirect</p>
Admin costs	<p>Most of these clubs are run by volunteers; there are no admin functions at all and no one that could easily take them on. Clubs don’t understand why and what they need to pay.</p> <p>A large number of clubs do not at present pay PRS (either because they do not realise that they should or because they do not own their own premises and therefore it is the premises owner that is responsible for music licensing)</p>

**Table 4: Responses by Sport England and CCPR**

Option 1	SE and CCPR are strongly against Option 1 and consider that it can have a devastating effect on the great majority of the 151,000 voluntary sports clubs in operation in the UK. As a result, it would be likely to lead to a lot of litigation as most clubs would simply be unable to pay.
Option 2	SE and CCPR consider the £20,000 cut-off too low. If it were raised to £50,000 it would exempt practically all sports clubs  There were questions about the wording of Option 2, which was felt to be incorrect.
Option 3	This Option is unappealing because it would entail costs to Users both in terms of fees and in setting up appropriate negotiating structures to consider their equitability
Litigation	A quick resolution Tribunal would treat symptoms, not the causes.
Conclusions	Option 2 is the preferred choice but raising the exemption threshold from £20,000 to £50,000.  Negotiations of rates should be implemented through the respective umbrella bodies in order to save on admin costs  Sports' representatives fear that the fees will not be set at an appropriate level and fail to see that there are mechanisms in place to protect them from 'excessive' fees.

**Table 5: Responses by Charity Commission**

Overview	The Charity Commission for England and Wales is established by law as the regulator and registrar of charities in England and Wales.
----------	--

**Table 5: Responses by Charity Commission**

Option 1	<p>The Charity Commission (CC) considers that this could be a public relations disaster. There are large numbers of very small organisations for whom music licensing fees could be a significant fraction of their yearly income.</p> <p>Some of the very small organisations are not covered by an umbrella organisation and would have difficulty negotiating with the collecting societies.</p>
Option 2	<p>The CC does not believe that this Option would be particularly difficult to implement or that it would give rise to a large number of disputes around the value of an organisation's turnover. On the contrary, the CC also makes requirements on charities it regulates that are different for different levels of turnover. For example, the lower turnover charities do not have to submit accounts to the CC, but all charities with turnover &gt;£10,000 have an obligation to submit accounts and furthermore these accounts are publicly available from the CC's website.</p>
Option 3	<p>See conclusions</p>
Option 4	<p>The CC did not anticipate noticeable effects to arise from this Option.</p>
Litigation	<p>The CC expects that removing exemptions will result in uneasiness in the charities sector and a greater potential for litigation.</p>
Conclusions	<p>The CC considers that Option 3 together with Option 2 are the two most reasonable Options.</p>

**Table 6: Responses by BMR**

Overview	British Music Rights is an umbrella organisation whose four members (British Academy of Composers & Songwriters, Mechanical-Copyright Protection Society, Music Publishers Association, and Performing Right Society) collectively represent more than 50,000 British music creators and publishers in the UK.
Option 1	BMR supports this Option
Option 2	BMR suggested that the this Option would be very costly to PRS, perhaps in the order of £10 million, although the basis for this estimate was not clear.
Option 3	<p>Exclusive right is expected and right of equitable remuneration is not a close substitute – it is very different in nature. When owners of the music only get a right of equitable remuneration they depend on someone else. For example, since 1995, libraries can lend out music and owners have right of equitable remuneration only. The Government pays a compensation for music used in this way. This results in music rights holders being at the mercy of the possibilities and choices of the Budget. Some years they may be paid less because the Government cannot fit it in the Budget.</p> <p>Rights holders also feel that they should be entitled to prevent certain uses of their music if they object to the context of use (these are often referred to as ‘moral rights’). Under right of equitable remuneration this is not possible.</p> <p>Option 3 limits the rights under which to bring suit. PPL will have more lawsuits against people who have already used the music (since no longer right to stop or prevent music use). These type of lawsuits are costly and payment is highly uncertain.</p>
Option 4	<p>In the NHS, music clearly has a value for patients. Again it should be up to the rights’ holders to decide whether or not to give an exemption.</p> <p>Disputes between BMR and the legislator would be likely under this Option.</p>
Litigation	<p>BMR is very much in favour of the introduction of a quick dispute resolution Tribunal. At the moment only the Copyrights Tribunal exists and suits there are expensive, slow and cumbersome.</p> <p>BMR particularly supports in this context of the conclusions of the 2007 IPO review of the Copyright Tribunal. The music industry in general is eagerly waiting for the conclusions there to be put into practice.</p>

**Table 6: Responses by BMR**

<b>Conclusions</b>	Anything but the repeal of Section 72 will be challenged. In other words, BMR feel that any but Option 1 would end up in court disputes between the Government and representatives of music rights' holders. BMR would further consider suing the UK Government in front of the European Commission or the Court of First Instance.
--------------------	---

**Table 7: Responses by Community Matters**

<b>Overview</b>	<p>Community Matters is the nationwide federation for community associations and similar organisations, with more than 1100 member organisations across the UK. Currently Community Matters' members include:</p> <ul style="list-style-type: none"> <li>- 915 community associations and similar multi-purpose community organisations</li> <li>- 24 Local Federations of Community Organisations and 93 other local supporting organisations</li> <li>- 124 local authorities and housing associations</li> </ul> <p>Community Matters were surprised by our assertion that the entities they represent should be exempt from PPL licensing. On the contrary, Community Matters already operates a PPL/Community Matters national agreement for community organisations.</p> <p>As another general remark, Community Matters requested that in this process due account be taken of the Charities Act 2006, The Charities Trustee Investment Scotland Act 2005 and the proposals in the Northern Ireland Charities Bill.</p> <p>Finally, Community Matters expressed extreme concern for only having become aware of the present Options as a result of the contact by London Economics</p>
<b>Option 1</b>	Community Matters reiterated the fact that their members are not currently exempt from PPL licensing and that far from accepting any removal of the exemptions Community Matters will be advocating for any changes to the Act to clarify the charitable exemptions and give exemption without exceptions for activities carried out by charities.

**Table 7: Responses by Community Matters**

<b>Option 2</b>	<p>Community Matters consider that the threshold of £20,000 is irrelevant for their organisations as practically none would be below that level. They would consider a level of £100,000 a realistic one.</p> <p>In addition, Community Matters feel very strongly that 'turnover' used for these thresholds should in no case include grants and restricted reserves.</p>
<b>Option 3</b>	<p>Community Matters were unclear about the difference between Option 1 and Option 3. They suggested that as a starting point turnover taken into account for music licensing collection should exclude voluntary income, grants and fundraising. A guide could be provided by the rules provided in HMCR to decide on the turnover for VAT purposes.</p>
<b>Litigation</b>	<p>Community Matters did not discuss the possible impact of the different Options on the likelihood of litigation.</p>
<b>Conclusions</b>	<p>Community Matters are against any of the 3 Options being considered and instead feel that their members should be exempt from music licensing fees. In reality, however, as they are not currently exempt (and assuming that this is correct) (a fact of which we were unaware), none of the Options is likely to impact upon their member organisations.</p>

## 4 Quantitative assessment

In this section, we provide an indicative assessment of the level of financial impacts that may occur under the various Options.

### 4.1 Number of organisations exempt from PPL licensing

Two major groups of organisations are currently exempt from PPL licensing: charities and non-for-profit clubs (particularly sporting in nature).

Approximately 190,000 charities are registered with the Charity Commission in England and Wales, of which around 20,000 are subsidiaries or constituents of other charities. In addition, a further 80,000 charities are not registered with the Charity Commission, implying a total of 270,387 organisations<sup>3</sup>.

There are currently 151,000 voluntary sports and recreational clubs who are represented by the CCPR, which covers the majority of relevant organisations. Based on a CCPR survey<sup>4</sup>, 9% of these organisations are organised as companies (either limited companies or limited by guarantee), while 8% are registered charities (and so will be included above). As such, around 125,330 organisations will currently be affected by the exemptions.<sup>5</sup>

It should also be noted that a number of these organisations currently obtain PPL licences for some activities (e.g. community centres holding discos). However, if the exemptions were removed, a greater range of activities would likely become “collectable”, and so there is still likely to be a incremental effect through a higher licence tariff.

---

<sup>3</sup> Given that licences are generally offered for premises, rather than organisations, it is appropriate to include charities that are constituents or subsidiaries of other charities.

<sup>4</sup> CCPR (2007) *Sports Club Survey*. Available at [www.ccpr.org.uk/ourcampaigning/uk/](http://www.ccpr.org.uk/ourcampaigning/uk/).

<sup>5</sup> The remaining organisations consist of 31% registered community amateur sports clubs, 30% unincorporated association, 3% private members clubs, and 19% of organisations in other categories.



## 4.2 Impact of removing the exemptions

### 4.2.1 Number of organisations affected

While the discussion above estimates that nearly 400,000 organisations are currently exempt from PPL licensing, the number of organisations that would be affected by removing the licence may be significantly smaller.

First, it is possible that not all of the exempt organisations currently use music in their activities, and so would be affected by the change. It is difficult to estimate this figure and so, in order to provide an indicative estimate of the effects, we have assumed that *all* affected organisations utilise music.<sup>6</sup>

Second, the number of organisations affected will depend on the way in which licence tariffs are structured. A number of organisations (particularly sporting clubs), operate in community or other communal facilities (e.g. leisure centres, village halls, churches, schools). Under the PRS licensing system many of the organisations (such as community buildings and churches) pay a flat fee per annum, which covers any relevant activities within the premises. This has important implications, particularly in terms of the administrative burden associated with the removal of the exemptions, as many clubs will not be directly affected (although the cost of the licence may be passed on to them by the owner of the facilities).

However, our understanding is that PPL tends to provide licences based on organisations, rather than premises. Licences for community centres, for instance, do not cover the activities of other groups or hirers using the premises.<sup>7</sup> As such we assume that all organisations using music will be eligible for PPL licences if the exemptions were removed.

### 4.2.2 Proportion of firms with turnover < £20,000 per annum

The Charity Commission indicated that 56% of the main charities (i.e. excluding subsidiaries and constituent charities) have annual income of under £10,000, and 85% have income beneath £100,000 per annum. Assuming that non-registered and “subsidiary” charities are small (i.e. have turnover lower than £20,000), then around 195,000 organisations would be exempt from PPL licensing under Option 2.

---

<sup>6</sup> The only estimate we found was provided by a survey carried out for PPL, which found that 35% of workers in the private sector can hear music, and 19% in the not-for-profit sector. However, this survey only included workers and not volunteers; and did not include organisations such as sports clubs, which are affected by the exemption.

<sup>7</sup> See [www.communitymatters.org.uk/services/phono\\_perf.php](http://www.communitymatters.org.uk/services/phono_perf.php).

CCPR estimated that around 75% of organisations had turnover of under £20,000 per annum, implying that 94,000 organisations would be exempt under Option 2.

### 4.3 Licence costs

Two reference points are available to estimate the likely licence fee for organisations, if the current exemptions were removed:

- current PRS tariffs for those organisations; and
- current PPL tariffs for the most comparable non-exempt organisations.

We discuss each of these in turn below.

#### *Current PRS tariffs*

PRS does not classify companies based on their charitable status, and many events and licences are charged standard tariffs (such as that for shops and stores). However, there are six tariffs designed particularly for non-commercial premises, two of which are particularly relevant: Community Buildings and Members' Clubs. Table 8 provides information on the fees generally charged to these premises.

**Table 8: PRS income and average licence fee from tariffs for non-commercial premises**

User group	Premises licensed	Total PRS income (£m)	Avg. licence fee per premises (£)	Lowest licence fee (2007) (£)
Community buildings	5,700	0.67	117	39.00
Members' clubs	11,900	5.50	1,200	78.79
Churches	c. 11,000	0.63	n.a.	£19.53
<b>Total</b>	<b>28,600</b>	<b>£6.80m</b>	<b>n.a.</b>	<b>n.a.</b>

Note: Excluding schools, universities, further education and nurseries.

Source: PRS response to London Economics information request, table 4. Church licence fee information based on information from CCLI website.

An important point to note is that PRS licences are generally charged on a per-premise basis. As such, those organisations without premises are not required to pay licences (such as sports clubs operating in local authority facilities). As such, the average fee here may be inappropriate for many currently exempted organisations.

Second, the fees reported here include both playing background music and live musical performances. If (as seems likely) organisations with live musical performances are more likely to have acquired PRS licences then this will again lead to the average fee here being inappropriately high.

This is reflected in the results of a study carried out for CCPR, which found that the average cost of a PRS licence to sports clubs is £369.54 per annum. This latter cost corresponded closely to the tariff paid for a club using a television (with a screen under 26 inches) with a video, and a stereo/CD player. Further 53% of clubs surveyed indicated that they did not currently possess a PRS licence, although under 5% did not possess any of the relevant instruments.

### ***Current PPL tariffs***

The second potential source of comparison is current PPL licences for other organisations. However, although this information is useful, it should be borne in mind that, if the exemptions were lifted, PPL may introduce different tariff structures to help accommodate not-for-profit organisations. This is the approach taken to some extent by PRS (as discussed above) and also by PPL in its approach to community centres, who are able to pay a flat fee for all their activities.<sup>8</sup>

<sup>8</sup> See [www.communitymatters.org.uk/services/phono\\_perf.php](http://www.communitymatters.org.uk/services/phono_perf.php).

As shown in Table 9 and Table 10, PPL offers a range of different fees depending on the type of music use.

<b>Table 9: Selected PPL tariffs for background music (per annum)</b>	
<b>Tariff</b>	<b>Cost (£)</b>
Minimum PPL licence fee	38.38
Puppet / marionette / magic show	44.71
Dance teacher (annual attendance <2001)	45.83
Practice dance	50.36
Spectator sports	67.14
Exercise (aerobics etc), < 200 classes pa	72.66
Members' club	91.02

*Source: PPL response to London Economics information request.*

**Table 10: PRS and PPL tariff for background music in shops and stores**

Audible area (sqm)	PPL Licence fee	PRS licence fee	PPL as % PRS
Up to 100	106.50	131.40	81%
101 to 200	159.75	192.10	83%
201 to 300	213.00	252.80	84%
301 to 500	266.25	313.50	85%
501 to 750	319.50	374.20	85%
751 to 1,000	372.75	434.90	86%
1,001 to 1,250	426.00	495.50	86%
1,251 to 1,500	479.25	556.20	86%
1,501 to 1,750	532.50	616.90	86%
1,751 to 2,000	585.75	677.60	86%
2,001 to 2,500	639.00	738.30	87%
2,501 to 3,000	692.25	799.00	87%
3,001 to 3,500	745.50	859.60	87%
3,501 to 4,000	798.75	920.30	87%
4,001 to 4,500	852.00	981.00	87%
4,501 to 5,000	905.25	1041.70	87%
5,001 to 6,000	958.50	1102.40	87%
6,001 to 7,000	1011.75	1163.10	87%
7,001 to 8,000	1065.00	1223.70	87%
8,001 to 9,000	1118.25	1284.40	87%
9,001 to 10,000	1171.50	1345.10	87%
Every additional 1,000 (or part of)	53.25	60.7	88%

Note: All figures exclude VAT.

Source: PPL website; PRS response to London Economics information request.

### *Likely size of tariff*

Based on the discussion above, we make the following assumptions over the average licence fee that would be charged were the exemptions removed:

- Turnover <£20,000 per annum: £50 (excl. VAT)
- Turnover >£20,000 per annum: £100 (excl. VAT)

In making these assumptions we have relied primarily on the current PPL tariffs. The PRS tariff structure is less detailed, due to its focus on premises rather than activities, making it more difficult to draw detailed comparisons. Further, given that, as discussed above, many of the organisations affected by the proposed changes may not own or operate their own premises, these tariffs may not be as appropriate.

For small organisations we assume a tariff of £50 per annum, to reflect the various tariffs displayed in Table 9 above, taking into account that some organisations, although having low turnover, may be assessed under more costly fee tariff structures.

For large organisations, we assume a higher tariff of £100 per annum, as these organisations are more likely to operate within their own premises, and so the tariff for a small shop seems a relevant comparator. However, some organisations (such as members' clubs) with their own premises may fall into smaller tariff categories.

While these tariffs are assessed based on the current tariffs offered by PPL, this may not be appropriate in the context of Option 3. In particular, both PPL and PRS commented that the imposition of a "right of equitable remuneration" would be likely to lead to lower levels of fee.

It was generally agreed that the extent to which fees discounted was hard to predict, and in particular, that it would be likely to be determined following a series of disputes. For indicative purposes below, we have assumed a 15% discount in the case of Option 3.

## **4.4 Administration costs**

Extending the number of organisations that require a licence will lead to administration costs for both PPL and for the organisations involved.

For PPL, we assume that administration costs account for 15% of revenue received from each licence, based on information provided in the interview.

For organisations paying for a licence, we assume that acquiring and organising a licence would take an individual half a working day. Based on ONS figures for gross median income, this translates to a financial cost of £45.60 per organisation.<sup>9</sup>

For Option 3, we have assumed that Users and PPL face the same administration costs as in Option 1, as there is no reason that the change to a right of equitable remuneration should reduce costs.

## 4.5 Cost of additional disputes

The interviews with stakeholders indicated a belief that the removal of the exemptions had the potential to lead to a greater number of disputes, particularly in the case of Option 2 and Option 3.

The largest impact is likely to be in the case of Option 3, where the introduction of a right to “equitable remuneration” may lead to a number of Users disputing the level of fee charged. In this case, we assume that litigation costs will be equal to 5% of the revenue raised by PPL once the exemptions are removed (split equally between PPL and Users). It should be noted that the level of this is likely to be closely linked to the extent that the move to an equitable right of remuneration leads to a lower licence fee (as discussed above).

Clearly this assumption over the cost of additional disputes should only be treated as indicative. We note that the estimation of the additional PPL dispute costs under Option 3 (see below) of £533,000 would imply approximately a 100% increase on the current provision for legal costs of £455,000 made in the PPL accounts.

Option 2 is also expected to lead to a greater number of disputes, due to the difficulty of assessing whether businesses are exempt, once this is based on turnover. However this is likely to be significantly lower than under Option 3, and as such we assume that it will equate to 1% of the additional revenue achieved by PPL (split equally between PPL and Users).

---

<sup>9</sup> Based on ONS (2007) *Annual survey of hours and earnings*.

## 4.6 Financial impact of Options 1, 2 and 3

### 4.6.1 Impact of changing PPL exemptions

Based on the above discussion, we are able to estimate the financial impacts of removing the exemptions under Option 1 or Option 2. The results are displayed in Table 11.

<b>Table 11: Financial impact of Options 1 and 2 (excluding impact on PRS)</b>			
<b>Assumptions</b>	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>
<b>Users affected</b>			
No. Users with turnover <£20,000	288,905	0	288,905
No. Users with turnover >£20,000	106,425	106,425	106,425
<b>Tariff per User</b>			
Users with turnover <£20,000	£50	n.a.	£43
Users with turnover >£20,000	£100	£100	£85
<b>Administration costs</b>			
PPL	15% of licence revenue	15% of licence revenue	See note
Users	£46.20 per User	£46.20 per User	See note
<b>Total litigation costs (% PPL revenue)</b>	<b>n.a.</b>	<b>1%</b>	<b>5%</b>
<b>Financial impacts</b>			
Gross additional fee income for PPL (£m)	25.1	10.6	21.3
PPL administration costs (£m)	(3.8)	(1.6)	(3.8)
Litigation costs	0.0	(0.1)	(0.5)
<b>Net benefit for PPL (£m)</b>	<b>21.3</b>	<b>9.0</b>	<b>17.0</b>
User payments to PPL (£m)	(25.1)	(10.6)	(21.3)
User administration costs (£m)	(18.3)	(4.9)	(18.3)
User VAT costs (£m)	(4.4)	(1.9)	(3.7)
Litigation costs	0.0	(0.1)	(0.5)
<b>Net benefit (cost) for Users (£m)</b>	<b>(47.7)</b>	<b>(17.5)</b>	<b>(43.9)</b>

Note: Option 3 tariffs at a 15% discount to Option 1. Total admin costs assumed same in Option 3 as Option 1.

Source: London Economics estimates.



### 4.6.2 Non-payment of PPL licences

In the estimates above we have also implicitly assumed that all organisations that require PPL licences actually pay. As indicated in the survey carried out for the CCPR, referred to earlier, this is unlikely, with almost 50% of eligible firms not paying. Further, it may be that following the imposition of music licensing, some smaller groups may be unable to pay or choose not to pay, and hence stop playing music altogether. While it is not possible to quantify the size of these effects, below we indicate the impacts at various levels of non-payment.<sup>10</sup>

Two major effects can be identified. First, if not all organisations choose to pay the licence fee (or do not pay because they are unaware of the requirement), the size of the effects above will be reduced. However, there will also be a second effect, as under current licensing arrangements organisations that play music in advance of obtaining a licence are liable to pay a 50% surcharge on the licence fee.

The potential impact of this could be large. For instance, if 20% of both small and large Users do not obtain a licence then there would be initial saving of £5 million in licence fees ( $20\% \times £25.1$  million), £4 million from reduced administrative costs ( $20\% \times £18.3$  million), and £1 million in reduced VAT payments ( $20\% \times £4.4$  million). On the other hand, if 20% did not pay initially, but were then faced with a surcharge, then Users would face additional licence fees of £3 million ( $50\% \times 20\% \times £25$  million), and additional VAT payments of £0.4 million ( $50\% \times 20\% \times £4$  million).

As such therefore, if 20% of Users did not pay at all, and 20% paid late, there could be an impact of £6.6 million, meaning that the total impact on Users would be **£41.1 million**. This is illustrated in Table 12, along with potential impacts if the fraction of users not paying or paying late were different.

---

<sup>10</sup> Alternatively, non-payment may occur because many Users do not utilise music at present.

<b>Table 12: Sensitivity of impact of Option 1 on Users from non-awareness of requirement for PPL licence (£m)</b>						
		% organisations paying late				
		0%	10%	20%	30%	40%
% Organisations not paying	0%	(47.7)	(49.2)	(50.7)	(52.2)	(53.6)
	10%	(43.0)	(44.4)	(45.9)	(47.4)	(48.9)
	20%	(38.2)	(39.7)	(41.1)	(42.6)	(44.1)
	30%	(33.4)	(34.9)	(36.4)	(37.8)	(39.3)
	40%	(28.6)	(30.1)	(31.6)	(33.1)	(34.5)

Source: London Economics estimates.

If some Users stop playing music altogether as a result of the introduction of PPL fees, we should consider the loss that not being able to use music entails. This is very difficult to quantify but we would choose a value below the estimated level of the license fee.

If we assumed that 20% of all organisations considered here either did not play music before or choose to stop playing music after the exemptions are lifted, and we assume that the average valuation for these organisations is about half the value of the fee that they would have to pay if they used music, we can estimate a loss for these organisations in the following way:

<b>Table 13: Possible 'utility' impact of Option 1 on Users</b>				
	<b>Users affected</b>	<b>tariff</b>	<b>20% do not play music ex post</b>	<b>Average value lost</b>
No. Users with turnover <£20,000	288,905	£50	57781	£25.0
No. Users with turnover >£20,000	106,425	£100	21285	£50.0
<b>Total value lost</b>				<b>£2,508,775</b>

Table 14: Possible 'utility' impact of Option 2 on Users				
	Users affected	tariff	20% do not play music ex post	Average value lost
No. Users with turnover <£20,000	106,425	£100	21285	£50.0
No. Users with turnover >£20,000				
<b>Total value lost</b>				<b>£1,064,250</b>

Table 15: Possible 'utility' impact of Option 3 on Users				
	Users affected	tariff	20% do not play music ex post	Average value lost
No. Users with turnover <£20,000	288,905	£43	52002.9	£21.3
No. Users with turnover >£20,000	106,425	£85	19156.5	£42.5
<b>Total value lost</b>				<b>£1,919,213</b>

### 4.6.3 Impact on PRS

In addition to the impacts displayed in Table 12 above, Option 2 may also have a financial impact through the extension of the existing exemptions to PRS licensing, for those organisations with annual turnover of under £20,000. PRS has intimated that it is not possible to quantify the expected impact, as they do not have the requisite data (identifying charitable status and turnover).

However, it should be noted that this impact may not be that large, as PRS expect that, as they base their licensing on premises rather than organisations, very few organisations that are currently charged would become exempt (as a permanent member of staff is generally required). The main exception to this may be community buildings, which are currently charged a tariff based at 1% of income. As indicated in Table 8 above, the *total* PRS revenue from this tariff is £670,000 per annum.

PRS have also noted that Option 2 would increase their costs, as it would require system changes to capture the status of an organisation, as well as turnover.

Although PRS have suggested that Option 1 would not affect them directly, there is the potential for an indirect effect if the removal of the PPL license exemptions led to a number of organisations deciding to stop using music and hence not purchasing PRS licenses. However, as discussed above, it is not possible to quantify this effect.

Similarly, PRS have suggested that they could be indirectly affected by Option 3, as if PPL tariffs were reduced this may lead to pressure to reduce their own tariff levels.

## 4.7 Impact of Option 4

We were unable to obtain detailed information on the likely impact of Option 4, although it appears that the financial impact would be low. PRS stated that, at present, they do not charge for music use in patient areas or treatment rooms. PRS do however licence communal areas (e.g. canteens) at an average value of £276 per annum across around 580 hospitals. PPL suggested that a similar approach is taken, but this was not confirmed.

Given that it appears that none of the relevant NHS activities are currently licensed, the financial impact of extending an exemption would be zero. However, PRS stated that they wished to continue to hold flexibility in this regard (particularly where patients are charged for music facilities at the bedside).

## 5 Summary and discussion

### 5.1 Option 1

Option 1 would materially affect a very large number of organisations, including very small ones. We estimated the average cost per organisation at £104.95 for those with turnover <£20,000 and £163.70 for those with turnover >£20,000 (estimated fee plus admin cost of handing the licensing and fee paying processes)

This average aggregates to a total amount of £47.7 million over almost 400,000 organisations

Option 1 would benefit PPL in a net estimated amount of £21.3 million

The total spent in admin costs by PPL and Users adds up to £22.1 million

This Option would have no impact on PRS and is unlikely to raise uncertainties in relation to licensing rights that would lead to an appreciable increase in litigation.

There could be litigation at a more institutional level. This could be not in relation to the setting of the fees but in relation to maintenance of 'rights' to exemptions. This possibility is intrinsically difficult to quantify and we chose not to attempt to do so.

### 5.2 Option 2

Option 2 would remove current exemptions only for those with turnover greater than £20,000 while simultaneously introducing PRS licensing exemptions for those with turnover below that threshold.

PRS were unable to help us estimating the number of current licensees that have turnover below that threshold. Our expectation is that this number is small. PRS licenses premises rather than organisations. So, while there are a large number of organisations with turnover below £20,000, there are probably very few premises that operate below that. The response from Community Matters confirmed this saying that a cut-off of £20,000 would in essence be 'no concession at all' in relation to their member organisations.

Our estimates for the impact of this option on Users are of a cost of £17.5 million and on PPL a net benefit of £9.0 million.

Total admin plus litigation costs are estimated to add up to £6.6 million (including £0.1 million of additional litigation costs).

It is likely that a threshold based on turnover would give rise to a basis for litigation. This is very difficult to quantify but we feel that we must attempt to make an estimate in order to differentiate across the different Options in terms of their differing impacts on the likelihood of increased litigation. We have estimated that this Option would raise litigation costs in the order of £100,000.

### 5.3 Option 3

We have estimated the impact of Option 3 with reference to Option 1 but assuming that PPL would choose lower fees under Option 3 than under Option 1. Because Option 3 is a narrower right, PPL will be likely to anticipate that the same level of fees as under Option 1 might result in excessive litigation because all the fees can be appealed in terms of whether or not they are equitable. As such, we would predict that PPL would choose to put lower fees while not so low as to completely rule out the possibility of litigation.

To put an order of magnitude here we assumed that fees would be 15% lower than under Option 1 and litigation costs for PPL would be about as much as what they currently spend in a year (this is in the neighbourhood of £500,000 or about 2.5% of the additional fees collected relative to status quo). At the same time, we assume that Users would spend a comparable amount in litigation.

This resulted in an estimate of cost for Users of £43.9 million; net benefit for PPL of £17.0 million; and total admin plus litigation costs of £23.1 million (including an estimate of just over £1 million for litigation).

### 5.4 Option 4

We predict that Option 4 will not have a financial impact on any of the groups considered, as PRS and PPL do not currently collect from the affected Users.

## 5.5 Discussion

The Options have very different levels of fee collection for rights' holders and very different levels of administration costs. Since collection relies heavily on small amounts from many organisations, increasing fee revenue can be at the expense of large increases in admin costs. This is the case of Option 1, the most successful in terms of net collection for rights' holders but also the most burdensome in terms of the aggregation of costs it imposes on numerous very small organisations.

Option 2 is more balanced in that it imposes considerably smaller admin costs but this is achieved at the expense of collecting less than half the fee revenue and opening the door to disputes over status of exemption.

Option 3 does not seem to improve in regards to any of the negative aspects of Options 1 and 2, and correspondingly meets with generalised scepticism from respondents.

While Option 4, does not appear likely to have any noticeable financial impacts, it is still negatively received by representatives of music rights' holders. These stakeholders feel strongly that it should be up to the 'owners' of the music to decide which music users to collect from, rather than being imposed on them through legal exemptions..

---

## Annex 1 Questionnaires

### Questionnaire to PPL

The UK-IPO wishes to assess the impact of 3 Options containing proposed changes to the UK Copyright, Designs and Patents Act. Options 1, 2 and 3 are alternatives; option 4 would only be implemented in addition to option 2.

In particular, the Options deal with current exemptions from PPL licensing of copyright sound recordings provided under Sections 67 and 72(1B)(a) of the Act and performers' rights under paragraphs 15 and 18(1A)(a) of Schedule 2 to the Act.

In the Table below we summarise the 4 Options under discussion and the way in which they are likely to affect PPL.

#### IMPACT ON PPL

Option 1	Option 2	Option 3	Option 4
repeal the exemptions in section 67 and 72(1B)(a) and paragraphs 15 and 18(1A)(a) of Schedule 2	recast the exemptions - exempt only charitable bodies with turnover < £20,000 from PPL licence  - extend exemption to playing music and lyrics recorded on the sound recording so no need for PRS licence for these charitable bodies	remove exemptions in section 67 and 72(1B)(a) and introduce 'right of equitable remuneration'	exemption for the NHS covering a) patients in wards b) treatment rooms c) operating theatres and d) patients' day rooms
PPL to gain licensing rights across all areas currently exempt	PPL to gain licensing rights for charitable bodies with > £20,000 turnover	PPL to gain right to equitable remuneration across all areas currently exempt	PPL would still be entitled to licence and collect in relation to use in staff areas, canteens, restaurants and similar areas.



---

The exemptions in sections 67 and 72(1B)(a) are in relation to organisations not established or conducted for profit. Section 67 only exempts organisations whose main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare.

Q1- types of Users PPL expects to start collecting from under Option 1 (i.e. types of non-profit organisations currently exempt but from whom PPL would start collecting if the exemptions were repealed) – see table below, tick all that apply and please specify relevant sub-categories, if appropriate, and/or add additional types that may have been left out.

UNDER OPTION 1	Q1 – would start collecting from (yes/no):	Q2 – estimate of number of Users affected	Q3 – admin collecting costs per User in each category	Q4 – expected individual fee and expected total collection
Charities				
Associations				
Clubs				
Societies				
Unions				
Higher education institutions/ Universities				
Churches				
Professional bodies				
Livery companies				
...Theatres and opera houses				
...Classes (eg exercise classes)				

---

Schools				
---------	--	--	--	--

Q5- types of Users PPL expects to start collecting from under Option 2 (i.e. types of non-profit organisations, with turnover > £20,000, currently exempt but from whom PPL would start collecting as the exemptions would no longer apply to them) – see table below, tick all that apply and please specify relevant sub-categories, if appropriate, and/or add additional types that may have been left out.

UNDER OPTION 2	Q5 – would start collecting from (yes/no):	Q6 – estimate of number of Users affected	Q7 – admin collecting costs per User in each category	Q8 – expected individual fee and expected total collection
Charities				
Associations				
Clubs				
Societies				
Unions				
Higher education institutions/ Universities				
Churches				
Professional bodies				
Livery companies				
...Theatres and opera houses				
...Classes (e.g. exercise classes)				

---

Schools				
---------	--	--	--	--

Q9- types of Users PPL expects to start collecting from under Option 3 (i.e. types of non-profit organisations, currently exempt but from whom PPL would start collecting if the exemptions were repealed and replaced with a 'right of equitable remuneration') – see table below, tick all that apply and please specify relevant sub-categories, if appropriate, and/or add additional types that may have been left out.

<b>UNDER OPTION 3</b>	Q9 – would start collecting from (yes/no):	Q10 – estimate of number of Users affected	Q11 – admin collecting costs per User in each category	Q12 – expected individual fee and expected total collection
Charities				
Associations				
Clubs				
Societies				
Unions				
Higher education institutions/ Universities				
Churches				
Professional bodies				
Livery companies				
...Theatres and opera houses				
...Classes (e.g. exercise				

---

classes)				
Schools				

<b>UNDER OPTION 4</b>	Q13 - is PPL currently licensing any of these uses within the NHS?	Q13a - if so, how many entities are licensed and what is the total collected?	Q14 - had PPL made any plans for future licensing in these areas?	Q14a - if so, how many entities would likely be affected and what was the estimated total collection?
a) patients in wards				
b) treatment rooms				
c) operating theatres				
d) patients' day rooms				

Q15 - does PPL believe Option 4 would have any impact on its copyright fees collection?

Q16 - does PPL envisage an increased likelihood of litigation under any of the Options?

[Q17 - would PPL expect the availability of a quick dispute resolution tribunal to have an impact on the number of disputes?

---

Q18 – does PPL see the introduction of a quick dispute resolution tribunal as a positive development? Please explain.]

## Questionnaire to PRS

The UK-IPO wishes to assess the impact of 3 alternative Options containing proposed changes to the UK Copyright, Designs and Patents Act. Options 1, 2 and 3 are alternatives; option 4 would only be implemented in addition to option 2.

In particular, the Options deal with current exemptions from licensing of copyright sound recordings provided under Sections 67 and 72(1B)(a) of the Act and performers' rights under paragraphs 15 and 18(1A)(a) of Schedule 2 to the Act. This is almost exclusively carried out by PPL in the UK.

In the Table below we summarise the 4 Options under discussion and the way in which they are likely to affect PRS.

### IMPACT ON PRS

Option 1	Option 2	Option 3	Option 4
repeal the exemptions	recast the exemptions - exempt only charitable bodies with turnover < £20,000 from PPL licence  - extend exemption to playing music and lyrics recorded on the sound recording so no need for PRS licence for these charitable bodies	remove exemptions and introduce 'right of equitable remuneration'	exemption for the NHS covering playing sound recordings and music and lyrics recorded in them in a) patients in wards b) treatment rooms c) operating theatres and d) patients' day rooms
none	PRS to lose licensing rights for charities with <£20,000 turnover	None	PRS loses ability to collect in relation to these four types of use

The exemptions in sections 67 and 72(1B)(a) and paragraphs 15 and 18(1A)(a) of Schedule 2 to the Act are in relation to organisations not established or conducted for profit. Section 67 only exempts organisations whose main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare.

Q1- types of non-profit Users, with turnover < £20,000, PRS currently collects from and that would be lost under Option 2, per type of non-profit organisation – please see table below, tick all that apply and specify relevant sub-categories, if appropriate, and/or add additional types that may have been left out.

<b>UNDER OPTION 2</b>	Q1 - currently collecting from (yes/no):	Q2 - estimate of number of Users affected	Q3 - admin collecting costs per User in each category	Q4 - current individual fee and total collection
Charities w/ turnover < £20,000				
Associations w/ turnover < £20,000				
Clubs w/ turnover < £20,000				
Societies w/ turnover < £20,000				
Unions w/ turnover < £20,000				
Higher education institutions/ Universities w/ turnover < £20,000				
Churches w/ turnover < £20,000				

---

Professional bodies w/ turnover < £20,000				
Livery companies w/ turnover < £20,000				
...Theatres and opera houses				
...Classes (e.g. exercise classes)				
Schools				

	Q5 - is PRS currently licensing any of these uses within the NHS? If yes, how many organisations are targeted and what is the total collected?	Q6 - had PRS made any plans for future licensing in these areas? If yes, how many organisations would be targeted and what is the expected collection fee?
a) patients' wards		
b) treatment rooms		
c) operating theatres		
d) patients' day rooms		

Q7 - does PRS believe Option 4 will have any impact on its copyright royalties collection?

Q8 - does PRS envisage an increased likelihood of litigation under either Option 2 or 4?

[Q9 - would PRS expect the availability of a quick dispute resolution tribunal to have an impact on the number of disputes?

Q10 – does PRS see the introduction of a quick dispute resolution tribunal as a positive development? Please explain.]

## Questionnaire to Users

	Option 1	Option 2	Option 3
Type of User	repeal the exemptions	<b>recast the exemptions</b> – exempt only charitable bodies with turnover < £20,000 from PPL licence - extend exemption to playing music and lyrics recorded on the sound recording so no need for PRS licence for these charitable bodies	remove exemptions and introduce 'right of equitable remuneration'
<b>Non-profit organisation with turnover &lt; £20,000</b>	cost of PPL licensing fees and admin costs of obtaining the licenses	stop paying PRS fees and continue exempt from PPL fees	cost of "equitable" fee and admin costs of obtaining the licenses;
<b>Non-profit organisation with turnover &gt; £20,000</b>	cost of PPL licensing fees and admin costs of obtaining the licenses	cost of PPL licensing fees and admin costs of obtaining the licenses	cost of "equitable" fee and admin costs of obtaining the licenses;

Q1- Which types of previously exempt Users within the Group of Users you represent would have to start obtaining licences from PPL, under Option 1

Q2 - estimate of the number of Users per each category above



---

Q3 - admin costs of obtaining the new licences, per type of User above

Q4 - expected payment per type of User above

Q5- Which types of previously exempt Users within the Group of Users you represent would have to start obtaining licences from PPL, under Option 2

Q6 - estimate of the number of Users per each category above

Q7 - admin costs of obtaining the new licences, per type of User above

Q8 - expected payment per type of User above

Q5- Which types of previously license fee-paying Users within the Group of Users you represent would stop needing to obtain licences from PRS, under Option 2

Q6 - estimate of the number of Users per each category above

Q7 - admin costs saved in relation to licences no longer needed, per type of User above

Q8 - payment of licence fees saved per type of User above

Q9- Which types of previously exempt Users within the Group of Users you represent would have to start obtaining licences from PPL, under Option 3

Q10 - estimate of the number of Users per each category above

Q11 - admin costs of obtaining the new licences, per type of User above

Q12 - expected payment per type of User above

---

Q13 - Does your organisation envisage an increased likelihood of litigation under any of the Options?

[Q14 - Does your organisation consider that the availability of a quick dispute resolution tribunal would have an impact on the number of disputes?

Q15 - Does your organisation see the introduction of a quick dispute resolution tribunal as a positive development? Please explain].

## Questionnaire to Umbrella Bodies

Dear Sirs,

London Economics has been commissioned by the UK Intellectual Property Office (UK-IPO) to provide consultancy services to support an impact assessment of proposed changes to the UK Copyright, Designs and Patents Act. We are writing to ask for your collaboration on our analysis of the likely impact of these changes on the organisations that you represent.

The proposals focus on current exemptions from copyright for playing of sound recordings provided under Sections 67 and 72(1B)(a) of the Act. We transcribe the relevant excerpts below.

**67 Playing of sound recordings for purposes of club, society, &c**

*(1) It is not an infringement of the copyright in a sound recording to play it as part of the activities of, or for the benefit of, a club, society or other organisation if the following conditions are met.*

*(2) The conditions are -*

*(a) that the organisation is not established or conducted for profit and its main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare,*

*(b) 48 that the sound recording is played by a person who is acting primarily and directly for the benefit of the organisation and who is not acting with a view to gain,*

*(c) that the proceeds of any charge for admission to the place where the recording is to be heard are applied solely for the purposes of the organisation, and*

---

*(d) that the proceeds from any goods or services sold by, or on behalf of, the organisation -*

*(i) in the place where the sound recording is heard, and*

*(ii) on the occasion when the sound recording is played,*

*are applied solely for the purposes of the organisation.*

## **72 Free public showing or playing of *broadcast***

*(1) The showing or playing in public of a broadcast to an audience who have not paid for admission to the place where the broadcast is to be seen or heard does not infringe any copyright in -*

*(a) the broadcast;*

*(b) any sound recording (except so far as it is an excepted sound recording) included in it; or*

*(c) any film included in it.*

*(1A) For the purposes of this Part an "excepted sound recording" is a sound recording -*

*(a) whose author is not the author of the broadcast in which it is included; and*

*(b) which is a recording of music with or without words spoken or sung.*

*(1B) Where by virtue of subsection (1) the copyright in a broadcast shown or played in public is not infringed, copyright in any excepted sound recording included in it is not infringed if the playing or showing of that broadcast in public -*

*(a) forms part of the activities of an organisation that is not established or conducted for profit; or*

*(b) is necessary for the purposes of -*

*(i) repairing equipment for the reception of broadcasts;*

*(ii) demonstrating that a repair to such equipment has been carried out; or*

*(iii) demonstrating such equipment which is being sold or let for hire or offered or exposed for sale or hire.*

There are two music copyright collecting societies whose collecting and licensing rights will be variously impacted by the proposals. These are PPL and PRS. PPL's rights are in relation to music recordings and performers. PRS's rights are in relation to music and lyrics authorship.

Our understanding is that organisations such as that which you represent are currently exempt from PPL licensing fees but not from PRS's. The alternatives now being discussed would affect the status of this exemption.

In the Table below we summarise the 3 Options under discussion and the way in which they are likely to affect organisations that are Users of music.

	Option 1	Option 2	Option 3
Type of User	Repeal the exemptions	Recast the exemptions - exempt only charitable bodies with turnover < £20,000 from PPL licence  - extend exemption to playing music and lyrics recorded on the sound recording so no need for PRS licence for these charitable bodies	Remove exemptions and introduce 'right of equitable remuneration'
<b>Non-profit organisation with turnover &lt; £20,000</b>	cost of PPL licensing fees and admin costs of obtaining the licenses	stop paying PRS fees and continue exempt from PPL fees	cost of 'equitable' fee and admin costs of obtaining the licenses;
<b>Non-profit organisation with turnover &gt; £20,000</b>	cost of PPL licensing fees and admin costs of obtaining the licenses	cost of PPL licensing fees and admin costs of obtaining the licenses	cost of 'equitable' fee and admin costs of obtaining the licenses;

---

It would be very helpful for us, in the course of this impact assessment, if you could please consider the following questions and send to us your views in relation to these and any other pertinent aspects of the proposed changes.

- 1) are members of your organisation currently exempt from PPL licensing?
- 2) are members aware that they are/are not exempt?
- 3) if not exempt, do you have an estimate of the current level of PPL fees being paid?
  
- 4) are members of your organisation currently exempt from PRS licensing?
- 5) are members aware that they are/are not exempt?
- 6) if not exempt, do you have an estimate of the current level of PRS fees being paid?
  
- 7) are you and your members aware of the proposals to change these exemptions?
- 8) in particular, are you aware that under Option 1, presumably all of your members who use music would have to start paying a licence to PPL in addition to the licence to PRS?
- 9) what would be the costs for your member organisations of complying with this new requirement?
  
- 10) under Option 2, all organisations with turnover below £20k would be exempt from both PPL and PRS licensing. How many of your members do you estimate would benefit from this and how many would not?
  
- 11) under Option 3, a right of equitable remuneration is introduced instead of a right of exclusive licensing. Do you consider that this is more advantageous to your member organisations and if so in what way?

---

(note: Right of equitable remuneration is a somewhat weaker right from the perspective of PPL and PRS than the right to exclusive licensing. Under the latter, PPL and PRS can stop the use of the music recordings and have full legal enforcement tolls at their disposal. Under the former, a more consensual User fee has to be agreed.)

Please feel free to make any further comments on these proposals if you so wish.



11-15 Betterton Street  
London WC2H 9BP  
Tel: +44 20 7866 8185  
Fax: +44 20 7866 8186  
Email: [info@londecon.co.uk](mailto:info@londecon.co.uk)

London | Brussels | Dublin | Paris | Budapest | Valletta.