

PRS consultation February 2021 – notes for Making Music members

Online consultation.

Deadline: 12 March

About: Online Live Concert license proposal

[Access the consultation on the PRS website](#)

BACKGROUND

In the last year, since lockdown and the loss of in-person events, PRS has been strangely silent and for those who tried to understand what licenses were required for online activity, it has been quite an uphill struggle to get helpful or clear answers.

The LOML (Limited Online Music Licence) has been the answer to most people's questions; you can purchase it for 6 months for £73 or one year for £146. This covers any online activity that isn't a timed costed-ticket event, on platforms other than Youtube, Instagram and Facebook. These three platforms (and some other big ones – but we haven't been able to find out which) have blanket licenses with PRS and therefore for any activity on those platforms, the royalties are taken care of.

The LOML itself is not cheap, but at least clear and easy to obtain. Then before Christmas, news trickled through of online concert licensing rates of between 7-18% of event income (for your information: currently the popular music tariff for live in-person events is 4.5% and for classical music events is 4.8%). After an outcry from the industry, PRS then introduced a 'small concert rate' – the current Online Live Concert license it is here consulting on (after introducing it). This stipulates a flat payment of £22.50 + VAT on any online live event of up to £250 income and £45 + VAT on any online live event of up to £500 income. No rate is suggested for income above that.

These rates equate to 9% minimum (i.e. they correspond to 9% of the £250 income, the percentage rises if you make less money than that), i.e. at least double the current live in-person tariffs.

Following another outcry, this time from music creators who were hosting their own events (this will be a duo streaming live from their living room, say, or a singer songwriter), PRS have now exempted online concerts from the license if the performer is also the creator of the music.

And rather belatedly, i.e. after all these announcements, PRS are now consulting with the industry on how Online Live Concerts should be licensed! Still, better late than never, so please do complete the survey if this topic is relevant to you.

Obviously complete the survey from and with your own view. The notes below are hopefully helpful in explaining what underlies some of the questions and what issues broadly you might want to be thinking about.

Why all this is important

- We are all dependent for our music activity on music creators (composers and arrangers) and those music creators need to make a living. Music groups contribute to that living by commissioning arrangements and new music, and by paying royalties on in-copyright music they sing, play and present.
- The sustainability of music creators' incomes needs to be balanced with the sustainability of music groups which has always at best been 'just so', but has been strongly impacted by Covid. And if more groups fold, there will be fewer commissions for music creators and fewer royalty payments.
- Whilst commission money goes straight from music groups to music creators and arrangers, PRS is the body that collects royalties for music performed at live events and distributes it to the music creators who are their members.
 - This is a hugely complicated business to administer if you consider how music events are (normally) everywhere; keeping track of it and collecting and allocating it accurately is therefore no mean task.
 - However, there is a growing feeling, not just amongst those paying the royalties, but also those supposedly in receipt of them, that PRS isn't doing a great job, particularly in how it distributes money.
 - Allocated via algorithm, we now know from last years A-level fiasco how that can go wrong; or put it another way: if your concert features a work in copyright and you pay £50 royalties, the composer will not receive £50 from PRS for this or even £50 minus 11% (their figures) admin. They are likely to receive a much smaller sum and that upsets both groups (who would like the money to go to the right person) and music creators (who feel, quite rightly, that it's their money).

Why this context

- It is important to make clear to PRS that we are all aiming for the same thing and that it is in everyone's interest that music creators are adequately recompensed for their work
- **But** because PRS goes about making that happen in an often disastrously incompetent way communications-wise (as in this instance) or by coming up with blatantly unfair schemes (partially in this instance), there is often an outcry – as there most certainly is in this case.
- PRS then uses the outcry not to improve its communications or consultations or indeed the fairness of its licenses, but to claim that it alone stands up for music creators and that all the rest of us who dare complain about PRS proposals want to see artists starve in their freezing attics etc..
- Therefore always emphasise your commitment, which I'm sure you have, to seeing artists properly remunerated for their copyright. And only then comment on the quality of PRS consultation and/or license proposals...

Next steps and current validity of licenses

The survey closes 12 March and then they're crunching the data, so announcements are not expected till April/May at the earliest.

Meanwhile, in theory, the already announced Online Live Concert license applies, but PRS have said verbally that they would not be enforcing it at the moment.

See below for the questions in the survey and some notes.

Are you a:

- PRS or MCPS Member
- Member representative
- Artist (non-PRS Member)
- Venue
- Promoter **Note: this is probably you – even if you're a performing group, it's about the concerts you put on**
- Let me type

Before the pandemic did you hold, or perform at, physical live concerts?

- Yes
- No

The rest of this feedback form is dependent on your answer to the following question.

Note: if you answer 'no', then all you get is the last question which is a free text box. If you tick 'yes', then you get taken to another set of questions. We recommend you tick 'yes' if you are at all considering the possibility of holding an paid-for online live concert. It is my view that your answer will carry more weight if you have or are planning to do online concerts than if you are not.

Have you held, or are you planning to hold, an online live concert?

- Yes
- No

In your view what specific issues should be considered when licensing an online live concert? Note: see below for suggestions of issues you might want to raise, depending on your situation and views.

Have you held, or are you planning to hold, an online live concert?

- Yes
- No

If you have held, or plan to hold, multiple events please answer with a 'typical' event or one particular in mind.

What was, or will be, the nature of the event?

- Popular concert
- Classical concert
- DJ event
- Theatrical production
- Other:

On what platform did you host, or are planning to hold, your online live concert?

- Major online platform – e.g. YouTube, Facebook, Instagram **Note: these are covered by blanket licenses with PRS, that's why they mention them separately**
- Video platform – such as Zoom, Teams
- Bespoke live streaming platform - e.g. Driift, Stageit, Patreon
- My own website
- Other:

How was, will, your concert be made available?

- Ticketed **Note: this, from PRS perspective, means a ticket that costs money; requiring registration for a free event does not count as ticketed, so if that applies to you, tick not this but the following option**

- Non-ticketed
- Charitable donation – mandatory **Note: a mandatory charitable donation is not a charitable donation, it is a ticket price; charitable donations ALWAYS have to be voluntary**
- Charitable donation – voluntary
- Other payment method – such as purchase of merchandise **Note: what PRS are looking to license is live online events with an ‘attributable income’, i.e. where an event generates revenue directly related to it, so do not tick this if an ancillary activity you also give attendees the link to the performers’ website selling CDs, e.g.**

Did you, or are you planning, to make the concert available to view again after the initial live performance? **Note: at the moment, an Online Live Concert license is valid for 24hrs because it is worldwide and so to allow for a “re-cast” in all possible timezones.**

- No
- Yes – it was made available for free
- Yes – it was accessible by purchasing a ticket/donation

Note: we have been given to understand that if a viewer purchased a ticket which enables them to watch the event between, say, 1 Feb and 1 March 2021, rather than ‘only’ on 1 Feb at 8pm, then that would not count as a ‘live’ event because it is the user, not the promoter who determines when they watch the event. Thus it would be covered by the LOML (Live Online Music Licence) which is available for 6 or 12 months, rather than for a specific live online event, which would require an OLC (Online Live Concert) licence.

If the concert was, will be, made available to view again after first viewing, for how long?

- Yes, for up to 24 hours **Note: see above, this would be covered by an OLC which lasts for 24 hrs.**
- Yes, for between 24-72 hours **Note: this would require 2 licences – the OLC for the first 24 hrs/the actual live event; and a LOML for the additional hours beyond the first 24 hrs**
- Yes, for longer than 72 hours **Note: as above – 2 licences required**

How much total revenue, charitable or through sales, did your event, or you are predicting will, generate? **Note: you cannot predict charitable donations as they are by definition optional; so if you are not talking about past events but about ones you may be planning to run in future with donations, do not answer this question. Unfortunately, I’m unable to test if you can leave it blank without making a submission. If you can’t, I suggest you tick the first option.**

- £0- £250
- £251 - £500
- £500 - £1,000
- £1,000 - £5,000
- £5,000 - £10,000
- Above £10,000

What were or will be your approximate costs of putting on the event?

Note: be sure to consider any of the following that may apply to your group –

- **Music hire/purchase**
- **Online platform costs (e.g. Zoom, website costs, commission from 3rd party provider, e.g. Vimeo)**
- **Ticketing costs (e.g. commission)**
- **Music director/accompanist – include costs of rehearsals directly related to the concert**

- **Other professionals (incl. e.g. sound engineer or digital producer)**
- **Promotional costs (e.g. paid Facebook advertising)**

What was/is the purpose of hosting the event?

- Generate income
- Charitable purposes **Note: this would apply even if you were not directly using the event to raise money for, e.g. NHS charities. Provided you are a charity, holding concerts is one way in which you usually fulfil your charitable purposes**
- Promotion of new/existing material
- Maintaining relationship with fans
- Other:

Are you intending to host another online live concert in the next six months?

- Yes
- No

Do you intend to continue to host online live concerts once the live sector has fully reopened? Note: I think they believe that, yes, this will continue even once in-person life resumes; we asked about hybrid events going forward – either due to the need for socially distanced audiences (i.e. being able to admit only a small number of people for each concert) or in order to reach a larger number of audience (i.e. potentially people who would never make it in person to your event because they're too far away or in a care home etc.). It seems that such events would require two licences: you would pay 'normal' PRS on a live concert for the audience in the room; and a second online license for the audience elsewhere – provided they paid for a ticket, i.e. there is identifiable revenue, not if the online offering is free.

- Yes
- No

In your view what specific issues should be considered when licensing an online live concert?

Note: the issues listed below are ones you may consider and raise, depending on your situation; they would equally apply if you had answered the short or long version of the questionnaire. You may also think of others!

We have been told by PRS specifically that they are looking for potential solutions, not just problems, so here we are making some suggestions, which you may or may not agree with, that we believe would be practical and appropriate for Making Music members.

ISSUES & SOLUTIONS

1. **Simplicity.** For Making Music members, run by volunteers and unlikely, even if they do organise Online Live Concerts, to generate much income from them, a single LOML (Limited Online Music Licence) is much simpler to understand, budget for and obtain.
2. **Professional vs. leisure-time.** Is it possible to differentiate between promoters creating Online Live Concerts for commercial gain and those that are leisure-time music performers/promoters.
3. **Charity/not-for-profit/income.** If PRS determines that leisure-time music groups should be using the OLC, then perhaps concerts with an income of £100 or below should be free/covered by a LOML; as additional safeguard, PRS could limit this to not-for-profits with a turnover of below £50k, e.g..

4. **Third party platforms.** Youtube, Facebook and Instagram have been popular because they have blanket licenses with PRS, so groups don't have to worry. Downside is that you cannot have paid-for ticket events on those platforms, but you can ask for donations. Perhaps PRS could negotiate further blanket licenses with other third party platforms, such as Zoom and Teams which Making Music members have experimented with already quite successfully as platforms for live events, as they lend themselves to making an event interactive, e.g. in interval breakout rooms, meeting the artists etc.
5. **Live or pre-recorded premiere?** What counts as 'live'? If your event is actually a pre-recording which you are simply putting out and inviting others to watch at a certain time, is that live? PRS are interested in timed events with a discernible income attached to them, so if you were doing this on your own website or a platform other than Youtube/Facebook and charging for tickets, we think it would come under this OLC license, rather than a LOML, but should the ask from PRS be that this is not considered live?
6. **Hybrid events?** These are going to be upon us much faster than PRS can think and we believe they need to consider these as soon as possible/in the current consultation; if you think that might be something you will consider in future, it might be worth referencing here.
7. **What are groups already paying?** It is worth stating here what costs involved in an Online Live Concert would already be going to rightsholders, e.g. for music hire or purchase, commission money, other rights directly licensed by music publishers, e.g. synchronisation rights, broadcast rights
8. **What is the situation for leisure-time music groups?** It is absolutely fair enough that where there is a large income pie, PRS should be seeking to get a slice of that for music creators and rightsholders (e.g. the Dua Lipa online concert last November allegedly made around £3m). What they are perhaps not considering right now is that, certainly for the leisure-time music sector, currently THERE IS NO PIE or a very tiny one. So they would be asking for a slice of something that doesn't exist, or would otherwise go directly to an artist, or would otherwise support the actual continued existence of the music group and their financial breakeven. Leisure-time music groups have been strongly impacted by Covid-19 – do tell them what this means for your group, if you have been affected.

Making Music will be making a submission to this call for views raising these issues.

If you make a submission, please do send us a copy, so that we have better information and can perhaps incorporate additional points into our submission.

Email a copy to barbara@makingmusic.org.uk

Barbara Eifler
18 February 2021