



# PRS for Music Cinemas tariff consultation

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# 1. Introduction

We are holding a public consultation on a revised licensing tariff specifically for cinemas, including arts centres, drive-ins, temporary 'pop-up' cinemas, and any other premises that show cinematic presentations of live music events. It has been 18 years since we last reviewed our cinema tariff and much has changed in that time not least of which, for example, on average 22% more music is being used in feature length films than in 2005.

Your feedback and opinions are important to us. This public consultation provides an opportunity for customers, members, and other stakeholders to give their views on the proposed tariff.

This consultation also includes the use of Mechanical Copyright Protection Society (MCPS) controlled non-commercial music sound recordings (often known as library or production music).

Information about the consultation is on our [website](#).

Once the responses have been reviewed, we will publish a summary of these responses along with any further proposals. This consultation does not affect any licence required for the use of commercial sound recordings licensed by Phonographic Performance Limited (PPL).

The consultation is being run in accordance with our [Code of Conduct](#). This outlines our commitment to issue fair, reasonable and proportionate consultations when proposing to introduce a new tariff or to make significant changes to an existing tariff. Our aim is to set reasonable terms and to apply and administer all licensing tariffs fairly and consistently. The Copyright Tribunal has jurisdiction over all existing and proposed licensing schemes and tariffs operated by us.

The consultation will run for 8 weeks from 26th July 2023 until 20th September 2023.

## 2. PRS and MCPS

PRS for Music is one of the world's leading music collective management organisations representing the rights of more than 165,000 talented songwriters, composers, and music publishers around the globe. Headquartered in the UK, it works diligently on behalf of its members to grow and protect the value of their rights. With a focus on innovation and integrity, PRS for Music is redefining the global standard for music royalties to ensure creators are paid whenever their musical compositions and songs are streamed, downloaded, broadcast, performed and played in public.

We specifically license the performing right in a musical work and to communicate it to the public. The Mechanical Copyright Protection Society (MCPS) collects and distributes mechanical royalties to songwriters, composers, and music publishers when their works have been copied or reproduced. We operate as an agent for MCPS under a service agreement to provide licence and tariff development alongside licensing and distribution services. Alongside MCPS' mandate to license musical works whenever reproduced or exploited in the UK, it also represents sound recording rights associated with Production or Library music e.g, background music synchronised to scenes within feature films or film trailers. MCPS representation of such rights extends to the communication to the public.

For businesses and organisations, we play a valuable role. Members have entrusted us to make their copyright music and songs available to be used in exchange for fair remuneration and we provide the required licences for this in a simple and cost-effective way. This gives businesses and individuals the right to use millions of copyright songs from around the world, without the need to negotiate individual licensing terms for these works with the songwriters or publishers. We survey thousands of businesses to find out what music they are playing. Similar music use information is also supplied by TV and Radio broadcasters, as well as concert venues. Based on this information, we distribute royalties to the composers and publishers of the music that has been played.

### 3. The current approach

We apply our cinemas tariff (Tariff C) to license the public performance of members repertoire during, or in connection with, the showing of films at cinemas or other similar types of premises. We have licensed cinemas for several decades; however, the current Tariff C was published in 2005 following agreement with the Cinema Exhibitors Association (now UK Cinema Association).

**Figure (1) (Cinemas tariff “Tariff C” 2023) Applied to cinemas and similar premises showing feature films for greater than three days weekly and four months annually.**

<b>Tariff C breakdown</b>	<b>Royalties and discounts (2023)</b>
<b>Net box office receipts</b>	1% of net box office receipts
<b>Pence per admission (PPA)</b>	7.10p
<b>Cinematic presentations of live music events</b>	3% of net box office receipts
<b>Minimum annual royalty</b>	£75 per site
<b>Discounts</b>	
<b>Prompt payment discount (PPD)</b>	4%
<b>Low admissions discount</b> Where the number of admissions to a cinema site of the customer in any accounting period in respect of films falls within the following bands the customer shall be entitled to the following discounts on their annual licence royalty	25% @ less than 60,000 admissions  20% @ 60,000 - 69,999 admissions  15% @ 70,000 - 79,999 admissions  10% @ 80,000 - 89,999 admissions  5% @ 90,000 - 99,999 admissions

#### **Tariff C reporting requirements**

At the start of the licence year in January, cinemas are required to declare their total annual net box office receipts and total annual admissions on a site-by-site basis. Tariff C allows customers to choose a metric (either 1% of box office receipts or pence per admission) to calculate the annual licence royalty for each site they control.

A 4% prompt payment discount from the total annual invoice is offered if declarations are submitted and the resulting invoice is paid in full by 31 January. Invoiced royalties from cinematic presentations of live music events are not entitled to either the prompt payment discount or low admissions discount.

**Inflation adjustment**

The current tariff contains a provision to inflate the pence per admission royalty each year. A fixed 3.25% is applied to the previous year pence per admission royalty rate, rounded to two decimal places. The Tariff C inflation adjustment clause differs from those in other public performance tariffs as these are based upon annual changes in government published inflation indices. For most tariffs, the standard rates are adjusted using the mean of the percentages by which the Retail Prices Index and Average Weekly Earnings index change. We refer to this as the midway formula.

The current Tariff C can be found [here](#)

Our General Purposes tariff “Tariff GP” is applied to charge for the showing of films at art centres, drive-ins and other similar premises that fall outside of the scope of Tariff C.

**Figure (2) (Tariff GP 2023.07) Applied to drive-in cinemas, arts centres and temporary ‘pop-up’ cinemas open for less than three days a week and four months annually.**

Tariff GP breakdown	Royalties (2023)
<b>(Tariff GP s. 3.1.9) Video or cinema shows in a room/area with special seating arrangements</b>	Start from £6.75 per film show for the first 100 persons capacity & £1.71 for each additional 25 capacity (or part thereof)

The current Tariff GP can be found [here](#)

## 4. Rationale for the proposal

The aim of this review is to create a revised cinema tariff that is easy to understand, simple and efficient for customers to use, whilst fairly reflecting the current value of music and any relevant changes in the sector since the introduction of the ongoing tariff in 2005.

We are consulting on our intention to introduce a new Tariff C for:

- Cinemas, art centres, and other similar types of premises where the commercial showing of films takes place on not fewer than three days weekly for a period of no less than four months during the year.
- Drive-in and temporary 'pop-up' cinemas.

We are seeking your views on the following:

1. Our royalty rates for the public performance of music during the showing of films, pre-film content and the use of background music in foyers.
2. Our royalty rates for cinematic presentations of live music events - such as concerts which are live streamed into cinemas or pre-recorded.
3. Our proposed charging metric for films, pre-film content and cinematic presentations of live music events.
4. Our approach to licensing the public performance of production music sound recordings (PMSR).
5. The option for you to declare your music usage and pay for your licence on a 6-month basis as well as annually.
6. The removal of the prompt payment discount.
7. The retention of the low admissions discount for small and/or independent venues.

### **The consumption of music in feature films**

We undertook research into the use of music within feature films to understand how cinema audiences are consuming music and whether this has changed since the current tariff was introduced in 2005. Our view has always been that music forms a fundamental component of films and variances of usage within films over time indicate that the tariff must be adjusted to reflect this.

We assessed the music duration and runtimes of the top 70 grossing films released in the UK each year from 2005 - 2022. Our research has shown that the duration of music within feature films has increased significantly over the last 18 years. Our analysis of the top 70 grossing films indicates that the proportion of music used to the overall runtime of films increased by 22% between 2005 - 2022.

We can infer from this that i) music has become more important to the composition of films, and ii) cinema audiences are consuming more music.

In summary, Tariff C has not been adjusted since 2005 to reflect the increased value of members' repertoire represented by us within films.

### **1% net box office receipts discrepancy**

The inclusion of the dual metrics in the 2005 tariff was intended to enable customers to account to us using the metric most suitable to their business. Members were expected to receive a royalty equivalent to a 1% share of annual net box office, irrespective of whether total receipts or total admissions was chosen.

Our analysis of Tariff C royalties invoiced between 2005 - 2022 indicate that given the different business models in the cinema industry, customers select the metric incurring the lowest royalty burden. This has resulted in our members routinely receiving a lesser portion of the expected 1% share of total net box office receipts. The share has averaged at 0.95% over the period and compounded into a £7m loss in distributable royalties.

### **The advent of online booking fees**

A recent development in the cinema sector has been the growth of online ticket sales. From a cinema audience's perspective, these types of ticket purchases incur an unavoidable fee which has effectively become part of the overall ticket price, although not accounted to us by those customers electing to use the % of box office receipts mechanism. Our analysis shows that 62% of UK customers and 86% of UK cinema sites charge a booking fee for online transactions.

We consider booking fees to be part of the value paid by cinema audiences to view films. To be consistent with our popular live music tariff (Tariff LP), which was endorsed by the Copyright Tribunal in 2018, we propose to account for booking fees within Tariff C. We have created a new royalty rate for admissions where a booking fee has been paid by a cinema audience member.

### **Cinematic presentations of live music events**

The current Tariff C applies a royalty rate of 3% of net box office receipts to charge for cinematic presentations of live music (CPLM). This includes live music events such as concerts that are shown live (i.e., simulcasts) and live music events that are recorded and shown at other times (unless they have been extensively edited with other content).

The 3% of box office royalty rate was aligned to the royalty rate within the version of our Popular Music Concerts tariff "Tariff LP" that was in effect when the current Tariff C was introduced in 2005. At that time, Tariff LP royalties were calculated based on 3% of box office receipts.



In 2018, we published a revised Tariff LP following consultation with the live music sector which introduced an updated royalty rate based on 4% of gross receipts. We agree with the approach taken in 2005 to valuing the royalty rate for CPLMs and consider that it is appropriate to keep the rate aligned with the rate in Tariff LP.

### **Prompt payment discount**

The 4% prompt payment discount is an applied benefit to customers in the form of a discount against estimated royalties for the year ahead, provided the customer declares and pays in full by the end of January under the terms of Tariff C. We have found that uptake of this discount has not been universal, and customers have used this discount less in recent years, potentially placing cashflow pressure on customers.

This arrangement remains an outlier within our public performance tariffs as no other tariff contains this discount, and it reduces the royalties available for distribution to members.

### **MCPS Production Music Sound Recordings (PMSR)**

Production music (also known as stock music or library music) is recorded music that is generally not made available for retail sale as opposed to commercial music and is often produced and owned by production music libraries. Production music is frequently used as theme and/or background music in films, film trailers, idents, and commercial adverts.

MCPS controls the performing right in the production music sound recordings in its repertoire, but these rights have not been licensed to date. MCPS has now commissioned us to license this right on its behalf along with the performing right in the musical work as we have always done. As the MCPS PMSR right is engaged in the use of music in cinemas, we are proposing to incorporate a dedicated royalty for it into the new Tariff C.

We control the performing right in the musical works (both production and commercial) in members' repertoire, and have historically licensed these rights under our public performance tariffs, including Tariff C.

## 5. Tariff C proposal

We believe that a simpler Tariff C will be more desirable for the cinema sector by making the licensing process more straightforward for customers through removing the complexity of the dual metrics. In addition, removing the metric disparity will ensure our members receive the intended royalty for the use of their works. We intend for the new tariff to fully reflect the current value of music used in the overall cinema experience.

### Proposed royalty rates for films, pre-film content and the foyer

We are proposing to apply an uplifted rate per admission (on the 2023 Tariff PPA rate) to calculate an annual licence royalty for the showing of films, pre-film content and the use of background music in the foyer areas.

The tariff will contain two separate PPA rates (Figure 3) to account for admissions incurring booking fees (typically online ticket purchases) and those without (typically in-venue ticket purchases).

The application of this single metric means that customers will no longer be required to declare total annual net box office receipts as part of the Tariff C annual review.

### Figure (3) Proposed Tariff C royalty rates for films, pre-film content and the foyer.

Rate per actual admission (with booking fee)	10.18p per person admitted
Rate per actual admission (w/o booking fee)	9.30p per person admitted

### The proposed pence per admission royalty rates for films, pre-film content and the foyer has been calculated as follows:

*The incremental increases below have been added to the Tariff C 2023 pence per admission rate (7.10p)*

- **Increased proportion of music in films** – added **1.33p**. This value represents the 22% increase in the proportion of music in the top 70 films each year between 2005 – 2022. The pence per admission rate reflects the value of the use of members’ repertoire across various contexts, including the use of music in: (i) films; (ii) trailers and commercial adverts; and (iii) the foyer. We have calculated the value of the 22% uplift against 85% of the pence per admission rate as this relates to the portion of distributable royalties paid out to members for music in films in accordance with our published cinema royalty distribution policy.

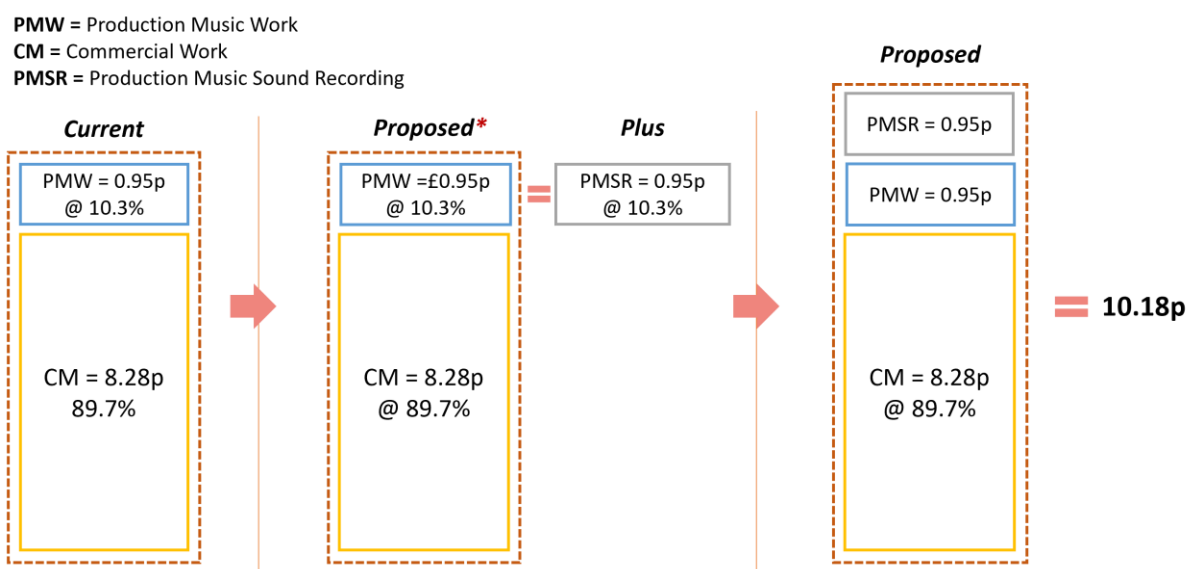
- **Booking fees** - added **0.8p**. This uplift was calculated from the weighted average booking fee per ticket, relative to overall 2022 admissions across all cinemas, multiplied by 1%.
- **Production Music Sound Recordings (PMSR)** – added **0.95p** (inc. Booking fee) or **0.87p** (excluding Booking Fee).

In the absence of an existing valuation model for the public performance of PMSRs, we have developed a new licensing framework on a per sector activity basis using the principle of a production music work and PMSR holding equal value.

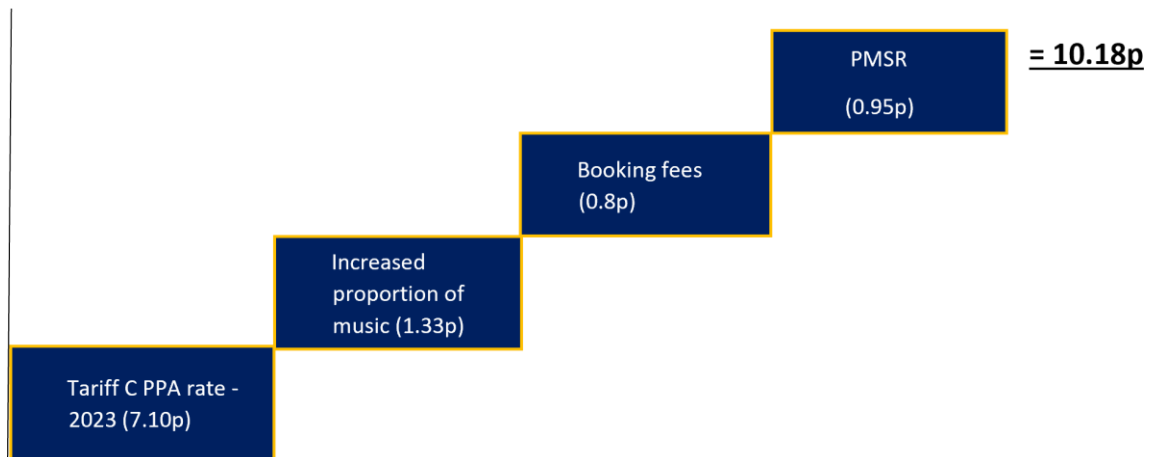
The added values represent a 10.3% uplift, which is equal to the average number of production works vs the average number of commercial works distributed to members from our cinema royalties collected for 2020, 2021 and 2022.

**Figure (4)** outlines how the PMSR royalty uplift has been calculated to form the proposed PPA rate. For space, only the PPA rate including booking uplift has been displayed. The PMSR calculation methodology is the same for PPA rate excluding a booking fee.

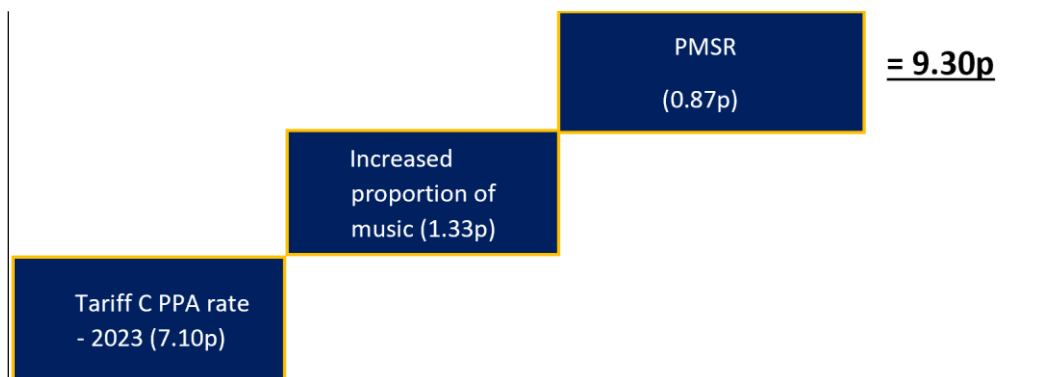
**Figure (4) Proposed Tariff C PMSR uplift calculation example for PPA rate including booking fee. PMSR uplift calculation for PPA rate excluding booking fee uses same methodology.**



**Figure (5) Calculation of the proposed pence per admission rate including booking fee uplift:**



**Figure (6) Calculation of the proposed pence per admission rate excluding booking fee uplift:**



### **Proposed royalty rates for cinematic presentations of live music events**

We propose to charge the cinematic presentation of live music events (CPLM) using a bespoke rate per admission. This is intended to align with our proposed metric for charging for the use of music during the showing of films and pre-film content. CPLM events will continue to be charged on a per event basis.

The proposed CPLM per admission rates are weighted 4 times higher than their equivalent film per admission rate (with or without booking fee). This is to preserve the existing value difference between the two headline rates from the current Tariff C (1% of net box office receipts) and the current Tariff LP (4% of gross receipts). Neither of the royalty rates below include the PMSR uplifts due to the unlikelihood of any production music being performed during live music events.

**Figure (7) Proposed royalty rates for cinematic presentations of live music events.**

<b>Royalty</b>	<b>Per event royalty</b>
Rate per actual admission (with booking fee)	36.92p per person admitted
Rate per actual admission (w/o booking fee)	33.72p per person admitted

### **Music usage reporting frequency and invoice payment options**

We are proposing to provide customers with a choice of two options to report their admissions to PPL PRS.

- Annual declaration – A single estimate of annual admissions per site covering the period between 1 January to 31<sup>st</sup> December, to be provided by 31<sup>st</sup> January.
- Biannual declarations – Two admission estimates declared per year. The first covering the period between 1 January to 30<sup>th</sup> June, to be provided by 31<sup>st</sup> January; and a second declaration covering the period between 1<sup>st</sup> July to 31<sup>st</sup> December, to be provided by 30<sup>th</sup> June.

### **Drive-ins and temporary pop-up cinemas**

We are proposing to apply the pence per admission royalty rates in figure 3 and/or figure 7 to calculate royalties for film, pre-film, and cinematic presentations of live music.

### **UKCA Carers card scheme**

The UKCA Carers card enables a disabled cinema guest to receive a complimentary ticket for someone to go with them when they visit a participating cinema. We will no longer charge a royalty for admissions from the UKCA carers card scheme where the carer(s) accompanying a paying adult or child receives complementary entry.

### **Inflation adjustment**

We are proposing to inflate the new pence per admission royalty rates annually using variances in government inflation indices. This approach aligns with most of our public performance tariffs and will replace the 3.25% fixed annual increase within the current Tariff C. The CPI replaced RPI as the UK’s official inflation measure upon release in 1996 so we propose applying the mean of the percentages by which the CPI and AWE index change in the year from the previous August.

## Low admissions discount

The low admission discount delivers benefit to customers where the cinema's admissions are below a specified amount. The benefit is delivered in the form of a percentage discount against a set threshold of admissions. We propose to continue to offer the low admission discount as detailed in figure (8)

**Figure (8) Proposed low admission bands with corresponding discounts.**

<b>Admissions discount to be applied to film and pre-film annual royalty only</b>	
<b>Admissions bands</b>	<b>Discounts</b>
Less than 60,000	25%
60,000 – 69,999	20%
70,000 – 79,999	15%
80,000 – 89,999	10%
90,000 – 99,999	5%

## Removal of prompt payment discount

We intend to remove the 4% prompt payment discount to align with our other public performance tariffs where no such discount is applied and phase in the removal over two years following the introduction of the new tariff.

## 6. Scope and royalty

This section describes the main changes being proposed.

### Scope and rights granted:

The tariff is intended to cover the public performance of PRS repertoire and MCPS production music sound recordings at the following venues:

- cinemas, art centres or other fixed premises at which the commercial showing of films regularly takes place on not fewer than three days weekly for a period of not less than four months during the year.
- drive-ins, and temporary 'pop up' cinemas.

and in the following categories:

- as an accompaniment to the exhibition of films including commercial adverts, film trailers and idents.
- performances for intermission, play in, and play out purposes.
- background music in foyer areas under the control of the customer
- cinematic presentations of live music events

**Figure (9) Proposed Tariff C royalty rates.**

Royalty rates
Pence per actual admission* (PPA) @ 10.18p (with booking fees) or @ 9.30p (without booking fees) (Figure 3)
Cinematic presentations of live music events @ 36.92p (with booking fee) or 33.72p (w/o booking fee) (Figure 7)
Minimum royalty @ £75 per site (to be adjusted annually by inflation)
Annual inflation mechanism: mean of the % increases of Consumer Price Index (CPI) and Average Weekly Earnings (AWE)
Low admissions discount (Figure 8)

\* Actual admissions mean all admissions to the cinema screen(s) of the customer during the licence year. This also includes admissions via complimentary tickets, employee passes and subscription cards or similar.

Admissions from the UKCA Carers card scheme are excluded from actual admissions.

## 7. The impact of the proposals

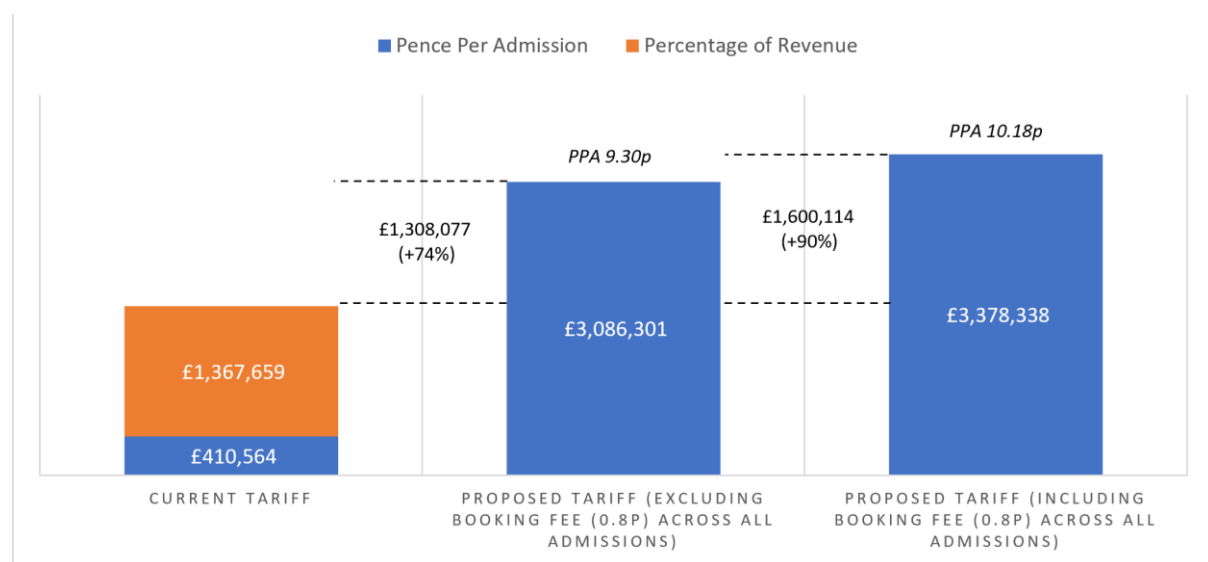
We have compared charges of the current and proposed Tariff C to illustrate the impact.

### **Example 1.**

A cinema chain with 100 UK sites and 33,207,848 admissions in 2023.

- Current Tariff - total is inclusive of existing prompt payment and low admissions discounts where applicable.
- Proposed Tariff - totals are inclusive of proposed low admissions discount.

**Figure (10) Proposed tariff impact on customer 1.**



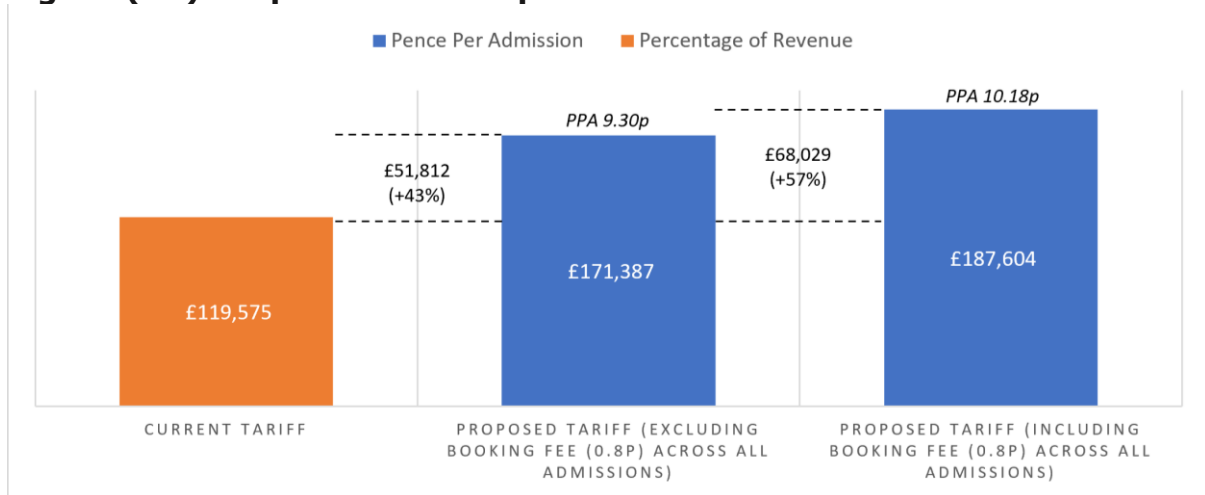


### Example 2.

A cinema chain with 11 UK sites and 1,864,112 admissions in 2023.

- Current Tariff - total is inclusive of existing prompt payment and low admissions discounts where applicable.
- Proposed Tariff - totals are inclusive of proposed low admissions discount.

**Figure (11) Proposed tariff impact on customer 2.**

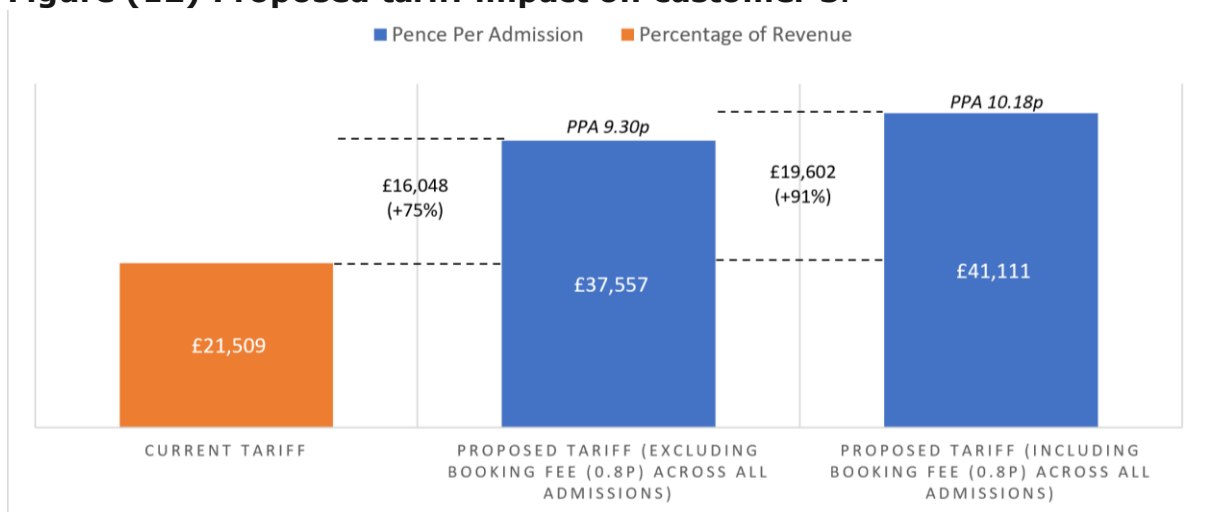


### Example 3.

A cinema chain with 6 UK sites and 461,540 admissions in 2023.

- Current Tariff - total is inclusive of existing prompt payment and low admissions discounts where applicable.
- Proposed Tariff - totals are inclusive of proposed low admissions discount.

**Figure (12) Proposed tariff impact on customer 3.**

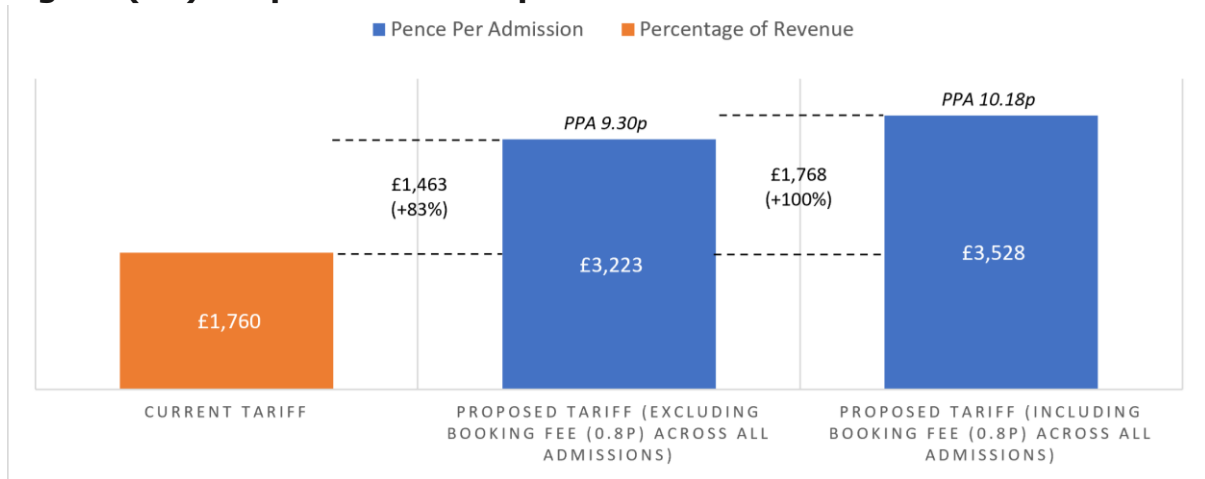


**Example 4.**

A cinema chain with 1 UK site and 46,213 admissions in 2023.

- Current Tariff - total is inclusive of existing prompt payment and low admissions discounts where applicable.
- Proposed Tariff - totals are inclusive of proposed low admissions discount.

**Figure (13) Proposed tariff impact on customer 4.**



## 8. How to respond to the consultation

All the details of this review, and any updates, are available on our [website](#).

Online responses are preferred, and respondents should complete the response form on the website above.

Written responses can be posted to:

### **Tariff C Consultation Responses**

*PRS for Music*

1st Floor

Goldings House

2 Hays Lane

London

SE1 2HB

Or by email to: [cinema.consultation@prsformusic.com](mailto:cinema.consultation@prsformusic.com)

Please title your response 'Cinema Consultation'

Or visit: [www.prsformusic.com/cinema](http://www.prsformusic.com/cinema)

### **All responses should be received by 20<sup>th</sup> September 2023**

We will consider all comments received and we have also provided some questions for you to consider when formulating your response which can be found on our website. We may publish comments in our formal response. If you would like us to keep any part of your comment confidential, please let us know by stating this on the response form.

This consultation does not obligate us to implement any of the changes proposed. We may propose an alternative tariff in the light of responses to this consultation.

### **Next Steps**

Following the deadline for submission, we will carry out a review of all the responses received and publish a summary of these on our [website](#). We will seek to hold discussions with customers and representative bodies, as required, and will announce the tariff based on this.



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