

Questionnaire for Collective Management Organisations

Introductory questions

1. Which sort of right holders does your organisation represent (i.e. in which sectors are they active and what is their size)?

PRS represents the rights to more than 25 million musical works. We currently have over 140,000 songwriter, composer and publisher members from around the world. PRS is the primary Collective Management Organisation (CMO) for musical works in the UK, Malta, Cyprus and the British Overseas Territories.

Through our subsidiary company, PRS for Music, we collect royalties for the use of works when they are exploited for the purpose of public performance, communication and making available to the public. PRS for Music also administers mechanical rights in musical works for MCPS (Mechanical Copyright Protection Society) in the UK.

2. Are you foreseeing any technology innovation that will change what they offer or the way they offer it?

We do not foresee any fundamental changes in the type of rights assigned to us by our members or other CMOs due to technological developments.

3. Does your organisation represent right holders from different countries? If so, which countries? Do you have reciprocal representation agreements with other Collective Management Organisations?

PRS represents songwriters, composer and publisher members from many different countries across the EU and beyond. This includes the UK, France, Sweden, USA, India and our managed territories of Malta, Cyprus and the British Overseas Territories.

PRS has 150 reciprocal bilateral representation agreements with other CMOs, representing musical works, from 110 countries.

The multi-territory licensing hub (ICE), a subsidiary which is co-owned by PRS, GEMA and STIM, licenses the online rights of 290,000 rightsholders (via its CMO and publisher customers) and administers a centralised database of over 14 million musical works. ICE currently licenses the rights it represents across the EEA, as well as in the Middle East and North Africa, and many commonwealth territories.

4. Does your organisation license online rights to broadcasters/online services/etc. in several territories? If yes, do you do so directly or through a licensing hub?

PRS licenses its rights for multi-territory exploitation for broadcast and online services both directly and via the licensing hub, ICE, depending upon the nature of the service and the scope of the rights granted to us by other CMOs.

Generally, PRS for Music directly licenses broadcast and radio services inside and outside of the UK, both terrestrial and online, and video game platforms in respect of its own repertoire for exploitation outside the UK. For example, the PRS for Music TV Programme Sales licence grants online rights to audio visual distributors/production companies for reproduction and UK synchronisation rights where the first transmission is not terrestrial.

ICE licenses, on behalf of its CMO and publisher customers, multi territorial rights to online music services; such as Spotify, Apple Music and YouTube. To date, ICE has granted in excess of 50 multi-territory licences to online services operating in the EEA and beyond.

Portfolios of rights

5. Could you please briefly describe the different licensing agreements in place for the portfolio of rights your organisation represent? Are the licensing fees/revenues for online rights based on actual audience or on flat rates? What are the main differences in licensing when dealing with different types of services (e.g. broadcasters, audiovisual platforms, music streaming services, etc.)?

The scope of the licences granted by PRS for Music and ICE vary depending upon the type of usage (for example download or streaming or ringtones) required by the service, rather than by the type of works. PRS for Music, through its agreement with MCPS, will grant both performing rights and mechanical rights for the online services it licenses in the UK. Where ICE represents publishers, or where there is an agreement with third-party entities, mechanical rights will be included alongside performing rights in ICE licences.

The licensing royalty rates will again vary depending upon the characteristics of the service, most notably whether the services are subscription or ad funded services. Licensing fees will also vary depending upon the size and the commercial nature of the service. The fees for larger online services, where a bespoke licence is required, are calculated by either a percentage of defined revenue or a per stream rate or a combination thereof. Smaller and or bespoke services may obtain a fixed fee licence, calculated depending upon the number of users and territories available. We set out below examples of fixed fee licences for online uses.

PRS:

General Entertainment Online Licence ("GEOL"): UK only (unless otherwise notified in writing) licence covering download to own (DTO), On Demand Rental ("ODR").

Limited Online Music Licence ("LOML"): UK only online licence for a fixed fee, and no usage reporting. For services generating less than £12,000 per annum. LOML+ is similarly a UK only online licence for fixed fee and for services generating up to £200,000 per annum. There are currently 1,400 Licensees operating under the LOML scheme.

ICE:

ICE offers, for the repertoire of its customers, ICE Direct licences (similar to the PRS LOML scheme) for both streaming and download services in respect of UK only, UK plus ROI, UK plus Germany and UK plus EEA territories. ICE have granted 4 ICE Direct licences since its introduction.

6. Could you please describe the main policies for the geographical scope of licensing arrangements (e.g. the ratio of multi- territorial licenses vs national licenses)?

The policies on the geographical scope of licensing are determined by the rights and mandates granted to PRS and ICE by the respective rightsholder(s). PRS mandates from its members generally cover global usage and from other CMO's for UK, Malta and overseas territories.

ICE offers the online rights of its customers primarily on a international basis, but in some instances at a national basis depending upon the rights granted to it.

What is their main licensing policy regarding customisation of content (i.e. who holds the rights for the "national" versions and what is their scope)?

PRS for Music does not operate separate licensing systems for national versions, as such variances do not occur in musical works as they do in other parts of the creative sector.

Impacts of the extension of scope

In the questions below you will be invited to think about the possible impacts of extending the GB Regulation to online content services. In replying to the questions, please consider the impact of applying the GB Regulation to music online services provided that they hold the required rights in the relevant territories (as mentioned in the review clause) in comparison to the current status quo and to an extension without such a condition.

a) Impact on licensing

7. In your view, what would be the impact of extending the scope of the Geoblocking Regulation on current licensing practices and on the value (and cost) of licences? Would the value of licences decrease, would the value of the licence increase or remain the same? What would be the interplay between these effects?

Licensing

It is our view that an extension of the Geoblocking Regulation is likely to have a significantly negative impact on small businesses and start ups in the online content market.

Currently many start ups will launch in a single territory, or at least very limited number of territories, in order to minimise their costs and focus their promotion; expanding into new territories as their user base grows. This was the model by which Deezer and Spotify, the two main European music providers, and many others grew into international businesses.

A major advantage for new start ups of a nationalised model is the ability to obtain rights for the global repertoire from the relevant national rightsholders,

in some cases via a fixed priced licence. This is possible because the relevant rightsholders can be assured that the restricted acts, the usage, will be limited to the territory for which they alone have the right to licence. In a situation where the rightsholders and the services are unable to limit the location of users, which would be the case if the Geoblocking Regulation were to be extended, these national licences would need to be replaced by multi-territory licences in order to mitigate the risk of unlicensed usage. Obtaining the rights on a multi-territory basis in the EEA requires licences from all the major licensing hubs and publishers, as well as a number of national CMOs; for the musical works alone this would require around 14 different licences. While the major services have the capacity to negotiate such deals in multiple territories and languages, it would represent a significant and perhaps insurmountable burden to start ups.

As an example, PRS for Music current licenses under its LOML (Limited Online Music Licence) scheme a UK based rock choir karaoke service. For a low fixed rate fee it is able to operate its online service for its users in the UK. While the services is of minimal interest to consumers outside of the UK (because non UK consumers are unlikely to be members of the choir) in the event of a prohibition of Geoblocking, they would be required to obtain a licence in every EEA member states or risk infringing copyright and the possibility of damages and /or injunctions.

In summary, all small and start-up online music services would be subject to a de facto mandatory requirement to obtain multi territory licensing across all EEA member states.

Rights Revenue

Whether rightsholders are licensing on the basis of a percentage of revenue or a per stream rate, a decline or increase in the number of subscribers or users of these services will impact the value of works.

Territorial variations in subscription costs are common in Europe often reflecting the take-up rates, lower rates are often applied in territories where take-up is lower such as Italy, Spain, Greece. The ability for services to differentiate price to reflect specific markets is key to their long-term growth and to the future value of the music industry; subscription services represent in excess of 50% of the royalties collected by ICE.

PRS shares the concerns of the other rightsholders that changes to the Geoblocking Regulation will undermine the ability of subscription services to offer prices variations in the EEA and will result in a standardisation of pricing. In both instances, this is expected to have a negative impact on rights, either in a standardisation to a lower rate by reducing the value of our share of income or to a higher rate by decreasing the number of subscribers and incentivising access to music via infringing sites.

In addition, we predict a negative impact on the revenues of ad-funded services, as they will be unable able to route consumers to a specific version of the website and the corresponding nationally targeted and priced advertising. This may result in ad-funded services generating less value from the ad sales.

8. If you grant multi-territorial licenses what impact would you expect? Would you change your licensing policy? In which sense?

As noted above, changes to the Geoblocking Regulation are unlikely to impact the polices or mandates under which musical works are licensed on a multi-territory basis. The changes, however will significantly impact on the ability of online services to obtain licences for a single, or limited amount, of territories.

9. Would the extension of the Geoblocking Regulation be different as regards the value of content licensed and distributed only for specific languages/national interfaces?

No. Musical works are licensed on the basis of the territory of exploitation rather than the language or interface of the service.

Concluding questions

10. In conclusion, please briefly summarise your organisation's views on the current Geoblocking Regulation and what an extension of scope would mean. Please provide any data supporting your views.

In summary, extending the scope of the Geoblocking Regulation is likely to negatively impact both the value of rights and innovation in the online market.

The changes would potentially result in a situation where subscription online music services apply parity in consumer pricing, most likely upwards rather than downwards because of the already tight economic margins which mean that it would not be economically viable for online music services to uniformly reduce consumer prices to that of the EEA country with the lowest monthly fee. Any such spike in pricing increase may increase the value of royalties in the short term but in so far as this leads to either an immediate decrease in the number of subscribers or the future take up rate this is likely to become a longer-term decrease in value. This would alongside increased barriers to online ad-funded services ability to provide targeted advertising, lowering the overall value of advertising income to the sector.

As noted above, limitations on geo-blocking will profoundly impact on small start-up services ability to operate, adding significant financial and administrative burdens.

Finally, there is a further concern that new online music services would invest less in the procurement of local repertoire, resulting in a homogenisation of music and increasing lack of cultural diversity. This is because the priority for online music services launching multi-territorial services is to ensure the repertoire that the majority of consumers search for (ie the 'big hits') is available with local repertoire, which generally is of diminishing interest to consumers outside of the local market being a lower priority.

11. In your view, which measures would have to be introduced alongside the possible extension of the scope of the Geoblocking regulation in order to mitigate the possible negative aspects?

Any changes would need to protect the ability of rightsholders to licence for individual territories and for SMEs and start-ups to acquire licences on this basis.

12. Is there anything, within the scope of this study, that needs to be considered which we have not discussed yet?

We believe the study should quantify the extent to which music services, both subscription and ad-funded, that provide access to tens of millions of works are already widely available across the EEA.

13. Are there any relevant documents and/or data you are willing to share with us? If so, please provide such documents and indicate whether they contain any confidential information.