

Do you need a PRS Music Licence?

'Public librarians are asking for a definitive answer to whether or not a PRS licence is necessary. This is not a straightforward issue. ...it would seem sensible for public libraries to work together.'

Anyone who uses music in public requires the permission of every writer or composer of the music that they intend to play (unless it is PRS-exempt). It is important to bear in mind that copyright is a bundle of rights and that a recording will contain a number of copyrights – the music and lyrics will be protected by separate rights, the record producer will own rights in the sound recording and the musicians and singers will have rights in their performances. In the UK, Phonographic Performance Limited (PPL) enforces performance rights in sound recordings and performances and the Performing Right Society (PRS) manages performance rights in music and lyrics. So anyone who wants to play recorded music in public needs to obtain permission through a licence from both of these organisations, unless the use is exempted.

The cost of a PRS Music Licence can depend on various factors including:

- the type of premises
- the size of premises
- the nature and extent to which music is used.

The PRS pays the money collected to its writer, composer and music publisher members, after deducting an administration or commission fee to cover its operating costs.

People's Network

In recent months there has been some correspondence on discussion lists about this subject. Public libraries had been told by the Performing Right Society that they needed a PRS licence to cover the playing of music on the People's Network.

A number of public librarians were asking for a definitive answer to whether or not a PRS licence was indeed necessary. This is not, by any means, a straightforward issue. Given that the implications of this affect libraries throughout the country it would seem sensible for public libraries to work together and, if this ultimately involves obtaining a legal opinion, to do that for the whole of the public library sector rather than each authority acting individually.

What is a public place?

Last summer, the IPO issued a 'Consultation on changes to exemptions from public performance rights in sound recordings and performers' rights'. The consultation says that 'public performance and public playing covers almost all playing of recordings outside a home setting'. There is undoubtedly confusion about what is meant by a 'public place', because the legislation doesn't define the phrase 'in public'. According to a discussion thread on LIS-PUBLIBS (17 September 2008), the Performing Right Society has said that 'case law supports that the number of people in an audience is irrelevant to whether the act can be defined as a "public performance"'. Indeed, the point it makes is that there could be a public performance even if the audience only consisted of one person. It would be helpful, though, if we could be told by the PRS what case law it is referring to, rather than merely referring to 'case law'.

There was an interesting debate about the Performing Right Society in Parliament

recently (*Hansard* 12 November 2008, column 917). It is clear from the debate that the collection process employed by the PRS has led a number of people, especially from small businesses and voluntary organisations, to complain to the UK IPO, the Department for Innovation, Universities and Skills and also their Members of Parliament.

People were concerned about a number of things:

- the methods used to target small business owners who may not even require a licence
- the implications of the cost of the licence for small businesses
- the lack of clarity in the process
- the lack of information about alternative sources of music.

Bullying tactics

One sports club treasurer wrote to his MP because he could not understand why he had received numerous very aggressive phone calls and a letter from PRS threatening enforcement within 14 days. The club chose to remove all the offending equipment rather than pay for a licence. Some people said that they had been frightened into paying for a licence by what they felt were bullying tactics, because they were told that if they didn't have a licence they could face legal action for

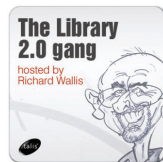
Continuing our series of exclusive articles from Facet Publishing's Keeping Within the Law online intelligence service, **Paul Pedley** discusses a topical licensing issue.

copyright infringement and possibly become liable for damages and costs. In the parliamentary debate, Ian Cawsey suggested that the PRS and PPL should be amalgamated in order to provide more clarity about what people were licensed for and where the money was going. David Lammy, the minister with responsibility for intellectual property, said: 'I have met representatives of the PRS, and agreed with them that there will be a code of practice to deal with complaints from individual users. The PRS will consult publicly on the code by the end of the year.'

For instant access to KWtL's continually growing database, packed with useful resources on all aspects of copyright and information law, you need to become a subscriber. Call 020 7255 0590 or visit www.kwtl.co.uk

TALKING TECHNOLOGY

Sharing the language of openness and co-operation



Richard Wallis continues his series of regular bulletins keeping *Gazette* readers updated about the Library 2.0 Gang discussions – the entertaining podcasts from the LIS world which he hosts.

The festive holiday season is a good time to look back at the year almost ended and then to predict the shape of next year. It's no different for the Library 2.0 Gang.

In this month's show, Talin Bingham, SirsiDynix CTO, Carl Grant, President of Ex Libris North America, LibLime's Open Source Evangelist Nicole Engard and John Blyberg, Head of Technology and Digital Initiatives at Darien Library, congregated around the virtual log fire and exchanged their views on the significant events for libraries, and the technologies that influence them, that occurred in 2008.

From new commercial product releases and the continuing march of Open Source, to issues of openness and licensing, it has been a significant time.

The influence of Open Source was a large and obvious theme from their shared highlights of 2008. John had released his Social Opac – Sopac – as Open Source, and Nicole reflected on the ever-increasing adoption of Open Source library systems.

Both Talin and Carl looked at how much the Open Source approach has influenced the way

their respective companies deliver solutions and deal with their customers. Talin said that the demand for APIs, additions and modifications was helping them focus on the technology for providing APIs. Carl acknowledged that the Open Platform strategy has required a shift in the way some Ex Libris staff think and interact with their customers. As for predicting 2009, everyone seemed to be sharing the same language of openness, co-operation, and working together, citing initiatives such as the Digital Library Federation's integrated library systems API as an indication of the way libraries, vendors and the Open Source community can come together for mutual benefit.

The 'elephant in the room' is obviously the wider economic climate, which will affect libraries with a need to be more efficient while stimulating a greater demand on their services. An ideal time for greater innovation.

You can listen to the December show along with previous months' Library 2.0 Gang shows at <http://librarygang.talis.com>