

New Copyright Tariff from MPLC for films/TV shows broadcast on hotel and pub letting room televisions

- From the 9th December 2019, the Motion Picture Licensing Company (MPLC) will start approaching businesses regarding their new tariff for Film/TV for copyrighted content owned by their members and broadcast on hotel/pub bedroom televisions. The tariff will commence from 1st January 2020.
- This follows negotiation with BBPA and UK Hospitality regarding the tariff rates and structure as well as the legal basis for the tariff itself.
- This area is copyright law is complex and our legal advisers have thus far concluded that the legal basis does remain somewhat uncertain. MPLC are convinced, however that they have a very strong basis for the tariff introduction and hence are now pressing ahead. A more detailed advice note is available to **BBPA members here**.
- Ultimately it will be for businesses to determine whether to accept the tariff and therefore remove any subsequent risk of litigation.

The statement that has been agreed by both the BBPA and UKHospitality with MPLC is as follows: “The BBPA and UKHospitality (UKH) have been in discussions with MPLC concerning the possibility of negotiating a new standard tariff for showing free to air television programmes in guest rooms in pubs, hotel bedrooms and other accommodation providers where relevant. These discussions have arisen following changes in legislation in June 2016. MPLC base their claim on s.19 Copyright Designs and Patents Act 1988 (Performance in Public).

The law relating to copyright infringement is extremely complex and the application of s.19 cannot be said to be entirely clear. MPLC draw parallels with the practices of the Performing Rights Society and PPL, both of whom introduced tariffs for music and sound recordings on televisions playing free to air broadcasts in guest/hotel bedrooms a number of years ago. However, the BBPA and UKH have been unable to conclude that those practices provide for a conclusive basis for the claims made by MPLC.

Furthermore, the BBPA and UKH have not commissioned any extensive investigation, led by a legally qualified expert, of the particular programme rights of which MPLC claim it is entitled to license the performance. MPLC have, however, emphasised that they are convinced of that entitlement and intend to pursue a policy of making such collections. They will be contacting pubs, hotels and other accommodation providers soon and it should be noted that failure to obtain a licence may lead to litigation for the infringement of their copyright. The BBPA and UKH express no opinion as to the likely outcome of any such proceedings.

With that in mind, the BBPA and UKH have negotiated a tariff with MPLC which we reasonably believe reflects the likely value of the rights for which MPLC collect on the assumption, for this purpose only, that MPLC’s claims are fully justified.

These negotiations have resulted in some important fee reductions including:

- A reduction in both the initial level proposed and calculation of the fee.
- Seasonal concessions.
- Agreement MPLC would not seek retrospective payments.

It should be noted, MPLC have made it clear that the negotiated lower rate obtained by BBPA and UKH will only be available to those taking out a licence with MPLC for televisions in pubs and hotel bedrooms without the necessity for MPLC to detect and take action for these infringements of copyright. The scheme is made available for all those who operate pubs, hotels and other relevant accommodation providers in the UK.”