

IN THE COPYRIGHT TRIBUNAL

CT 122/13

IN THE MATTER OF A REFERENCE BY PERFORMING RIGHTS SOCIETY LIMITED (APPICANT) TO THE COPYRIGHT TRIBUNAL UNDER SECTION 120 OF THE COPYRIGHT DESIGNS AND PATENTS ACT 1988 TO VARY PRS TARRIFF JMC MEMBERS' CLUBS

Before: Jeffrey Manton, Alan Baines, Colleen Keck

7 October 2013

ORDER

UPON the Applicant having commenced this reference in relation to Tariff JMC Members' Clubs under s120 of the Copyright Designs and Patents Act 1988 seeking an order that the licensing scheme comprised in Tariff JMC shall be varied in relation to not-for-profit amateur sports clubs

AND UPON reading the Statement of Grounds submitted by the Applicant and the responses of the Applicant to questions posed by the Tribunal as set out in letters (sent by email) from the Applicant and received by the Tribunal on 28th August 2013 and 18th September 2013

AND UPON no other person having applied to intervene in this reference

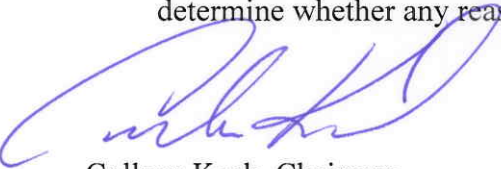
IT IS ORDERED THAT

- (1) The licensing scheme comprised in Tariff JMC shall be varied so that (i) its current terms shall cease to apply to premises operated by not-for-profit-amateur sports clubs and (ii) the terms of Tariff AMS as attached to this Order shall apply to premises operated by not-for-profit amateur sports clubs.
- (2) The variation to Tariff JMC referred to in paragraph one of this Order shall take effect on a date to be published by the Applicant on its website. The Applicant will ensure the date on which the variation takes effect is no later than six months from the date of this Order.

- (3) The Applicant shall create an email inbox (or other suitable system) designed to obtain regular feedback on Tariff AMS from not-for-profit amateur sports clubs and shall regularly monitor that feedback. The Applicant shall provide not-for-profit amateur sports clubs with reasonable notice of this feedback system and shall operate the feedback system in a reasonable manner that encourages and facilitates not-for-profit amateur sports clubs providing feedback to the Applicant on Tariff AMS.
- (4) Without prejudice to any rights to vary, or of any person to apply to vary, Tariff AMS in accordance with the Rules of the Copyright Tribunal, the Tribunal will give particular consideration to whether or not Tariff AMS should be varied after the third anniversary of its introduction. To facilitate this the Applicant shall provide the Tribunal with copies of the feedback received by the Applicant on Tariff AMS (or if such feedback is voluminous, a representative sample of that feedback), and of the results of any consultation it may have had with the Sport and Recreation Alliance or any other affected persons on Tariff AMS, within 3 months of the third anniversary date of the introduction of Tariff AMS. In addition the Applicant shall respond to any queries the Tribunal may raise in relation to Tariff AMS or its effect on not-for-profit sports clubs from time to time.
- (5) Following its introduction in accordance with this Order Tariff AMS shall apply, and Tariff JMC as varied shall apply, until varied by a further order of the Tribunal.

Reasons

1. The Applicant submitted the following evidence to the Tribunal, which the Tribunal found persuasive in favour of approving the requested variation of Tariff JMC and the introduction of Tariff AMS:
 - The Applicant conducted a reasonably comprehensive consultation on Tariff AMS (sending the Consultation to 5080 separate organisations and receiving 497 separate responses) and devised Tariff AMS in conjunction with the Sport and Recreation Alliance (SRA);
 - 42% of the respondents supported the proposal, 52% of respondents were neutral or did not comment specifically on the proposal and 6% of respondents objected to the proposal;
 - According to data provided by SRA all small clubs and clubs with no social area (which together represent 66% of the SRA's membership) will benefit from a lower fee in respect of background music. The remaining medium size and larger clubs may benefit from a lower fee, but they may pay an increase depending on the circumstances. However the increase is in most cases not significant and will be phased in over a period of time.
2. As no person intervened to oppose the introduction of Tariff AMS the Tribunal inferred that there does not appear to be strong opposition to the introduction of Tariff AMS.
3. However, as Tariff AMS may not benefit a significant minority of not-for-profit sports clubs, the Tribunal considers that it would be appropriate to review Tariff AMS and its effect on such clubs after a reasonable period of time. The Tribunal has therefore also included in this Order a requirement that the Applicant obtain feedback on Tariff AMS during the three year period following implementation of Tariff AMS and to provide that feedback and other relevant information to the Tribunal after that three year period so that the Tribunal may determine whether any reasonable adjustment should be made to Tariff AMS.



Colleen Keck, Chairman
For and on behalf of the Tribunal
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