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A Report on PRS for Music

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1. Introduction

In the United Kingdom (UK) creative inventions of the mind, also called intellectual property, are protected by law. Examples of intellectual property are literary works, choreographic works, computer software as well as music and lyrics. (UpCounsel, 2019) This copyright law, which can be found in the Copyright Act 1988, forbids others from using the work without the author's permission and grants the author the right to persecute anyone who infringes their right. (legislation.gov.uk, 2019)

Since it is extremely difficult for creators to find out who is using their work and for which purposes, there are certain institutions that help authors track down music users and enforce the author's rights. The institution that acts on behalf of songwriters and music publishers is the Performing Rights Society (PRS) for Music.

PRS for Music is a non-profit institution (CEMF, 2019) that acts as the middleman between songwriters, performers, music publishers and music users. It issues licenses and collects fees from public places that broadcast music (e.g. restaurants, tv channels, shops) and pays out royalties to the artist accordingly. PRS is responsible for the right of the literary work. This means that it does not deal with the recorded versions of songs but the songs themselves, the musical work.

As PRS only deals with certain rights of the author, there are two further copyright collection societies in the UK. To fully enforce copyright, each asset of music needs to be considered, not just the literary work. This is where the Phonographic Performance Limited (PPL) and the Mechanical-Copyright Protection Society (MCPS) come into play. PPL deals with live performance royalties as well as Jukebox recordings, recordings for tv or radio broadcast and similar. MCPS is responsible for 'physical' copies of music. All recorded and produced versions of a song are understood as such. This applies to actual physical copies such as CDs and Vinyl, but it also applies to mp3 and streaming.

2. History of PRS for Music

To understand when and why PRS for music was created, this paper will briefly explore the copyright situation in the UK during the centuries before its creation.

Initially copyright existed only at the level of common law and it did not have any expiration date. The first official Copyright Act was introduced in 1709 but it only contained published works. Unpublished works still only obliged to common law. Over the course of two centuries the need for a more precise copyright arose which led to the law advancing bit by bit. In 1911 a new Copyright Act was put into place which attempted to unify all the divulging branches of the existing Acts into one coherent system. With this decision the existence of common law Copyright ceased to exist. (Lawdit Solicitors, 2003)

In 1910, the UK's very first copyright license company Mecolico was founded in anticipation of the 1911 Copyright Act. Mecolico however only licensed the mechanical rights of musical works.

Three years later, in 1914, PRS got formed to protect the literary content of music across the UK, Ireland and the British Empire. It welcomed its first official member the same year - operatic composer and soprano Liza Lehmann. From the moment of its establishment, PRS began to grow in its number

of members and the amount of services it provided. It also started collaborating with other UK companies. In 1923 for example, PRS issued its first licence to the BBC. (PRS, 2019)

Alongside PRS, the other two major collection societies began to develop starting in 1934 with the merch of Mecolico and the Copyright Protection Society (CPS) into one company – MCPS.

This was also the year that PPL was created. (PPL, 2019) 20 years after PRS' creation all three major collection societies that have persisted until now were operating successfully in the UK.

1934 also saw a big development in PRS' history with the founding of the PRS Member's fund which still exists today. Throughout the next few decades PRS kept growing and its next major event occurred in 1998. After co-existing for 64 years, PRS and MCPS agree on a joint alliance -The MCPS-PRS Alliance which later on rebranded under the name PRS for music in 2009. Within this alliance, the two companies strive to create fair deals for both the literary work as well the mechanical works.

In 2010, following extensive development based on an initiative by PRS and the Swedish royalty collection society STIM, a joint Copyright database launched under the name International Copyright Enterprise (ICE). Its purpose is to create a more transparent and accessible database across multiple territories. In 2012 the German society GEMA joined the venture to help develop ICE's vision. Finally, in 2015, the integrated processing hub, including online licensing, launched. (PRS, 2019)

In 2014 PRS, one of the oldest collection society in the world, celebrated a milestone with its centennial. Throughout 2014 PRS put on events and exhibitions to showcase artists that shaped PRS' history.

One of the biggest developments of the past five years since the 100-year celebration is the juncture of PRS and PPL to establish PPL PRS Ltd. on 26th February 2018. This new, combined company offers one single license instead of two separate licenses that includes PPL's live performance rights and PRS's literary rights – "TheMusicLicence". (PPL PRS, 2019) Any members that were registered with PRS prior to this cooperation automatically joined PPL PRS Ltd. and any new members no longer have to pay two separate joining fees. The initial fee of £100 for songwriters and £400 for publishers combines both services. Despite the PRS-MCPS Alliance, attaining a PRS and PPL membership does not automatically include a MCPS membership though which costs an additional £100 and £400 respectively.

According to PRS, this one-off administration fee is necessary to cover set-up costs and is only due at the initial sign up. No further fees will be charged for each music release. However, PRS takes some percentages of every earned royalty. The exact numbers vary from case to case with their basic rate being 10% of the revenue. This covers the "regular costs of maintaining databases, administering your royalties, improving technology, negotiating better terms, managing all types of licence and protecting the value of music". (PRS, 2019) As a non-profit organization PRS is required to use any income for its mission, including taking care of the company and employees, so it can work towards its set out goal. (1on1 Ionos, 2019) Any extra profit must be paid towards the artists and must not be kept by the company.

3. Economics

PRS plays a big role within the entertainment, food service and retail industry. In 2018 £153.1m of the revenue came in from songs being played in places such as shops, restaurants, pubs, hotels, etc. Without an institution to chase up public places and enforce licenses that allow them to play music, a large amount of music would probably be broadcast illegally. This is not just due to bad will but also because there would not be a direct contact for public institutions to contact the artists. PRS therefore provides a service for songwriters as well as for music users. The latter are by law required to obtain licences, PRS is simply enforcing the law and providing a source. The amount PRS for Music charges institutions varies and depends on the tariff each place falls into. PRS has different tariffs set up for different needs. Sometimes PRS also charges higher fees for institutions that did not apply for a license compared to places that did apply for a license. For example, in 2019 the standard charge for background music while boarding and disembarking an airplane is 0.590 Pence per passenger. The higher rate for airlines that had been broadcasting music without a license is 0.885 Pence per passenger for the first year. (PPL PRS, 2019)

PRS has over 140,000 members, over 25.7m registered works and over 700 employees. (PRS, 2019) Since this is a large number of musical works, PRS cannot guaranty 100% accuracy in its royalty collection process. The most efficient way to collect the right data is by receiving registration forms from music users that state the exact music they are broadcasting. Since this is not always the case, PRS collects sample playlists from several venues across the UK and uses the results to charge venues that provide similar services and that are of similar size. This process is not always favourable for smaller artists as their visibility is not as high as the visibility of an artist with a large audience. This sampling method might therefore lead to smaller artists and songwriters getting overlooked and underpaid.

One of PRS' attempts to improve visibility and create more detailed metadata is the collaboration with GEMA and STIM in the joint venture ICE. ICE's efforts have helped to create a more accurate and international database that makes it easier to determine who the royalties belong to. Besides providing a higher traceability, having a combined service also simplifies several processes included in copyright collection. For example, music users that operate in several countries will only receive one invoice from ICE instead of three individual invoices from PRS, GEMA and STIM. (PRS, 2019)

Within the UK, PRS for Music in alliance with MCPS and PPL currently have the monopoly as the only royalty collection society in the UK. As there is no direct competitor and no determinable supply curve, the collection society can decide on its pricing and its spending. (Begg, 2008, p. 159-160) There is a high demand on the artist's side for a music rights institution which puts PRS in a powerful position. (Varian, 2003, p. 95-96) As a non-profit organisation PRS' guidelines are however quite strict and can only be bent within a small range. To determine whether PRS takes advantage of its monopoly position or provides a fair service to its customers, it needs to be compared to other royalty collection societies both in monopoly positions and in a competitive market.

An example of another collection society that acts as a monopoly is GEMA, the only German music rights institution. The initial joining fee for new members is 90€ which is slightly cheaper than PRS but not immensely. However, it also charges an annual 50€ as well as taking a percentage from each royalty. (GEMA, 2019) As it is more expensive to be a member it is a lot harder for new artists, that have not yet established a big fanbase, to earn money from royalties compared to PRS.

Just like PRS, GEMA has a monopoly as the only collection society and can therefore decide on its prices. Artists that want to enforce their copyright have no choice but to join the only collection society. As non-profit organisations GEMA's as well as PRS's pricing strategy must be justifiable, and their spending must be in favour of their cause – helping musicians collect the money due from their music being used in public.

Opposed to the UK and Germany, the USA has multiple collection societies with the three biggest companies being the American Society of Composers, Authors, and Publishers (Ascap), Broadcast Music, Inc. (BMI) and the Society of European Stage Authors and Composers (Sesac). Songwriters can choose which institution they want to join. Ascap and BMI are both not-for-profit organisations and open to everyone while Sesac is a for profit organisation which only allows new members to join upon invitation. The main service they provide is almost identical – providing music licences and collecting royalties on behalf of their members for which they take around 11-13% and which they distribute quarterly. Their joining fees slightly vary from free to \$150; however, their big differences lie in the benefits they provide which mostly include a wide range of discounts from music services and music programs to different kinds of health insurances. (Royalty Exchange, 2017)

Looking at this comparison of three different countries and their royalty collection societies shows that whether a country has one or several royalty collection societies does not make much difference in the services they provide and the fees they charge. Therefore, it must be assumed that PRS's fees are fair and serve the purpose they set out to fulfil.

Like the American royalty collection societies, PRS provides lots of benefits for their members. For example, in November 2019 PRS introduced a new, more detailed analysis for music creators to see where their music is being used and where the royalties come from. One of the biggest benefits that come with being a part of the collection society is the PRS member's fund. Its purpose is to "provide support and advice to PRS members and their families, who may be struggling financially, physically or emotionally and are in need of help." (PRS Members Fund, 2019) It offers help such as short-term loans, sheltered accommodation, free specialist health assessments and referrals to mental health support. Another charitable organisation within the PRS community is the PRS Foundation which sponsors musicians that are in need of financial help to advance in their career like e.g. recording an album or shooting a music video. (PRS, 2019)

4. Finances

4.1. Revenue

To see how PRS is performing financially, most of their cost analysis are calculated in constant currencies which are exchange rates used to eliminate the effect of fluctuations. With this system PRS can understand how the company has done in the past year regardless of international exchange rate changes. (Liberto, 2019)

PRS's overall revenue in 2018 was £746.0 million. (see Appendix 1) This marks a 4.4% increase to the previous year on a constant currency basis and a big increase to the previous years with 2014 only bringing in £513.5 million. Being a non-profit organisation, PRS states that it pays out all its earning to songwriters and publishers after deducting a maintaining cost.

After costs and other income, £648.4 million of the £746.0m remained as net distributable revenue to members. This marks a 3.3% increase to 2017.

However, of the £648.4 m distributable, only £603.6m were actually paid out as royalties to songwriters, composers and music publishers. This marks a 0.2 % decrease from 2017 despite the 4.4% increase in revenue. PRS explains this slight reduction as a processing delay issue at joint venture partners. This number still marks the second largest distribution in PRS for music history. (PRS, 2018)

Since PRS' main source of income is the music sales of their members, an analysis of PRS' numbers is simultaneously an analysis of UK artists, the UK music industry and its listeners.

38%, and therefore the largest sum, of the revenue of £746.0m, has come in from success of UK artists abroad. (see Appendix 2) International royalty income brought in £280.6m which is a 9.1% increase from the previous year. International royalties come from radio and tv plays abroad, downloads, streams and international shows and tours.

The online royalty income achieved the largest revenue increase of 2018 with bringing in 17% more than 2017 - £145.7m. (see Appendix 3) There are some big changes to see in the breakdown of the online royalty numbers. While direct download went down 46.3% from £5.4m in 2017 to £2.9m in 2018, streaming went up 22.4%. to a total revenue of £126.9m. The revenue of streaming is almost 44 times higher than the income from downloads. This shows the continued shift away from physical downloads and a continued growth of streaming services.

Public performance, which achieved an income of £192.0m, went down 3.1%. PRS blames the decrease in revenue on "a challenging situation on the UK high street" as well as delays with the establishment of PPL PRS Ltd. in February 2018. (PRS, 2018)

PRS saw another decrease in revenue from broadcast. The incoming amount of £127.7m is 5.1% lower than the previous year's amount. This is mostly due to a decline in linear TV viewing. Another factor that led to a decrease was that the 2017 figure was distorted due to a large one-off payment from ITV.

4.2. Costs

The operating costs of PRS for Music, which are made up of costs for people (salary, bonuses, etc.), outsourced services, professional and legal costs, property, publicity and marketing, technology, tax and other, are £94.5m for 2018. (see Appendix 4) Additional costs of £15.2m were in line for depreciation, disposals, impairments, governance, charitable donations (donations to the PRS Foundation), pensions and defined benefit. This brings the total number to £109.7m. The net PRS costs were 8.5 % higher in 2018 than the costs in 2017 mainly due to planned strategic spends on restructuring the organisation and an additional commission linked to the uplift in Online revenue. (PRS, 2018)

The service fee from MCPS, that gets paid to PRS annually, brought in £12.7m which brings the total net costs of PRS for music in 2018 to £97.0m.

The most noticeable numbers on the cost sheet are a 12.8% decrease from £43.9m to £38.4m in costs for people and a 46.6% decrease from £26.8m to £14.3m in costs for outsourced services. These numbers look alarming at first but can easily be explained by considering the launch of the new venture PPL PRS Ltd. Service charge costs from the joint venture are now being incurred by PRS as Outsourced

Services which lead to a reduction in other cost categories that were previously incurred by PRS directly.

£3.0m were donated to the PRS foundation in support of new artists.

5. Threats to PRS

PRS provides many well-functioning services which songwriters and publishers can benefit greatly from. However, while the main concept of PRS has mainly remained the same since its creation, the needs of songwriters have changed. The main source of income is no longer Vinyl, CDs or digital download. Most revenue comes from streaming, live, synch and brand partnership. Digital royalty collection has therefore become one of the most important assets of PRS' services. The company has to adapt to their members' needs and the constant change in technology to provide the best possible service and achieve the highest revenue. This can be accomplished by applying a lean business model that analyses data frequently and makes changes accordingly. (Levit, 2018) This paper will analyse some of PRS' main flaws that need to be tackled in order for the company to keep functioning well.

One of the main issues with PRS's service is the time it takes for royalties to get paid out to the songwriter. The distribution process can take from a few months to several years. The first problem that causes such as delay is that very often PRS does not get notified right away when a song gets used publicly but several months later. E.g. if a song gets played on radio in February, PRS might not find out about it until April. The second issue is that even after having been notified, it takes a few months to process a royalty. The actual pay-out to writers only happens 4 times a year - in April, July, October and December. (PRS, 2019) This means that if a song is being performed live in e.g. September it will most likely not be paid out to the songwriter until April the following year. Alongside the UK, PRS also manages some specific territories outside the UK including the Bahamas and Bermuda. Distribution to songwriters in managed territories only happens on two dates, in July and December.

This system, which is already quite slow, is only valid for UK and managed territory earned royalties. If a UK artist earns royalties abroad, the process can take a great deal longer. The respective royalty collection society of the other country collects the royalties on their own terms which might vary to PRS' terms. This can take several months as some countries only distribute royalties once or twice a year. Most collection societies will then forward the royalties to PRS which then distributes the remaining amount, after taking their percentages, to the songwriter. (PRS, 2019)

For some small countries, e.g. Iceland, this process can take even longer as they do not have direct deals with PRS. Iceland's collection society STEF is under contract with the Nordisk Copyright Bureau (NCB) which will receive the data collected by STEF, process the royalties in their office before then passing it onto PRS. (STEF, 2019) Having several collection societies involved in the process can prolong the distribution immensely and charge the songwriter more percentages than expected.

This delay in payment can cause immense cash flow problems for songwriters and artists. Not receiving any money for months after a release and not knowing when they are going to get paid can delay artists' future projects such as recording and releasing new music or planning tours in advance.

With the fast development of technology there are certain possibilities that could tackle this problem in the future. One example is Blockchain, an online technology that stores data in a way that provides complete transparency to every member and does not charge for its use. (Fortney, 2019) Currently, PRS acts as the middleman between songwriters and music users. Not only does it charge for its services, but it also does not provide immediate payment. As seen in Appendix 1, the main reason why distribution was lower in 2018 than 2017 by £29.0m is processing delays in other countries.

Blockchain would take away the third party which means music owners and music users could communicate directly, and payment could therefore be received instantly for each single royalty instead of several months later.

Since the middleman falls away, there are no charges involved either. PRS currently charges at least 10% of the income. This is quite a large sum that could be paid directly to the songwriter via blockchain technology.

While blockchain certainly causes some threat to the existence of collection societies, it can also be seen as an opportunity for them. The technology could be utilized as a tool to improve traceability and accountability from source and tie metadata to recordings. Having a more transparent technology does not eliminate the actual tracing down of music users and acquiring licences but can instead help in the process of distributing money and licenses faster and more correctly. To develop a working system using blockchain, mass industry collaboration will be required. (PRS, 2017) As a first big step, PRS has started a joint blockchain project alongside the American collection society ASCAP and the French collection society SACEM. PRS state on their website: "The goal of the project is to prototype how the music industry could create and adopt a shared, decentralized database of musical work metadata with real-time update and tracking capabilities." (PRS, 2017)

Another problem with institutions that require collaboration of multiple countries is the threat of big political developments. One political movement that has been occurring since 2016 is the threat of the UK leaving the European Union (EU) – a project called Brexit. No longer being a part of the EU would mean that the UK is no longer part of a single market. Exact consequences cannot be determined yet as no terms have been agreed on until now. The biggest risk is the case of a "No Deal Brexit". It is the term for the UK leaving the EU without any agreed upon terms or trade deals and could lead into chaos for UK based companies as well as UK providers.

After the general elections on 12th December 2019, which landed a landslide majority for the conservative party under Boris Johnson, this possibility has become even more prominent. The party's view on Brexit is to leave the EU as soon as possible even if there is a high risk of it being a "No-Deal-Brexit". (BBC, 2019)

The UK music market is highly reliant on international relations. 38% of PRS' member's revenue in 2018 came from international royalty and 60% of the international revenue came from European countries. This makes a total of £175.3m. (PRS, 2018)

In terms of royalty collection and distribution, PRS does not expect many changes in case of a successful Brexit as regulations are country bound and not EU bound.

However, a big issue may arise from new added costs and difficulties to travel abroad which could lead to less revenue from international royalties.

While a large number of international revenues comes from streaming and downloads, abroad live shows and tours play an equally big role. Currently there is no visa required to visit other countries within the European Union. This could and will most likely change in case of a successful Brexit. Free movement and free movement of goods will cease to exist, and each European country can set up individual fees and visas required. Until now, touring within the EU has been very convenient and cheap for artists. After Brexit touring could get a lot more difficult and expensive. Inconveniences, besides tickets and accommodation for each individual person, include fees for visas for each separate country, fees for touring equipment for each flight to a separate country, fees to acquire an international passport for each individual person and precise planning far in advance to understand each countries individual regulations and requirements.

PRS promises that “after Brexit, we will work closely with the UK government to ensure these protections are upheld and where necessary strengthened”. (PRS, 2017) Musicians themselves are also taking matters into their own hands. E.g. there are several petitions going around the internet to grant UK musicians a “musician’s passport” that allows free or cheap touring within Europe. One of these petitions on change.org reached over 35.000 signatures in one weekend. (change.org, 2019)

Another development that might arise from Brexit is the drastic change of exchange rates. Statistics already showed a big spike in the value of the pound within one day of the election. (see Appendix 5) While exchange rate levels have since returned to its previous state, development after Brexit is not yet predictable. Exchange rates play a big role in PRS’ endeavours as royalties get collected and paid out in many countries abroad. In 2018 PRS suffered a £2.2m exchange loss due to “timing differences on the invoicing and payment receipt of foreign currency invoices, and the revaluation of foreign currency debtor balances.” (PRS, 2018)

6. Conclusion

PRS for Music is an old institution that has been functioning well for 105 years. Even though it has a monopoly position in the UK, it serves songwriters and publishers well as a non-profit organisation. The yearly growing revenue confirms its success and demand. However, despite the company functioning well, there are certain threats that PRS must face. Blockchain and Brexit are just examples of an ever-changing landscape. One of PRS’ main strengths is its ability to cooperate with other institutions within the country as well as internationally. Through cooperation, the music collection society might be able to evolve alongside the fast-developing technologies and changing music consumption trends. This might help PRS remain its important position within the UK. Some ventures with which the company has already started trying to cooperate and adapt are ICE and the joint blockchain project between PRS, Ascap and SACEM. Throughout the next few years the compared analysis of data will show if PRS for Music will remain the most important music rights institution and will continue to hold up against threats.

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8. Appendices

1) Royalty revenue collected, costs and distributions to members

£ million	2018	2017	%
Revenue - royalties	746.0	717.0	4.0
Interest and other income	-0.6	-0.2	-200.0
Total revenue	745.4	716.8	4.0
Costs	93.8	86.2	8.8
Charitable donations	3.2	3.2	0.0
Net Distributable Revenue	648.4	627.4	3.3
Cost to income ratio	13.0%	12.5%	
PRS distributions	603.6	605.1	-0.2

2) Royalty revenue collected by source

£ million	2018	2017	%
International	280.6	261.4	7.3
Public Performance	192.0	198.1	-3.1
Broadcast	127.7	134.6	-5.1
Online	145.7	122.9	18.6
Total	746.0	717.0	4.0
Revenue on constant currency basis	746.0	714.4	4.4

3) Royalties from online services

£ million	2018	2017	%
Streaming	126.9	103.7	22.4
Video-On-Demand	12.0	13.8	-13.0
Downloads	2.9	5.4	-46.3
Gaming	3.9	0.0	n/a
Total	145.7	122.9	18.6
Revenue on constant currency basis	145.7	124.5	17.0

4) Costs

£ million	2018	2017	%
People	38.3	43.9	-12.8
Outsourced Services	39.3	26.8	46.6
Professional and Legal	6.9	6.5	6.2
Property	3.6	3.6	0.0
Publicity and Marketing	1.5	2.1	-28.6
Technology	2.7	2.8	-3.6
Tax	0.2	0.2	0.0
Other	2.0	2.4	-16.7
Total operating cost	94.5	88.3	7.0
Depreciation, disposals and impairments	9.7	9.9	-2.0
Governance	1.2	1.0	20.0
Charitable Donations	3.2	3.2	0.0
Pensions - defined benefit	1.1	0.9	22.2
PRS total cost	109.7	103.3	6.2
Service fee from MCPS	-12.7	-13.9	-8.6
Net PRS cost	97.0	89.4	8.5

5) Pound vs. Euro 2019

