

# HIGHLIGHTS FROM THE PCAM HELPDESK

## Volume Two

The Q&As below, consisting of conversations between PCAM members and the PCAM Helpdesk from the past year or so, have been grouped under topic headings (**shown in red**).

Due to the privileged information contained in these conversations and industry NDAs (Non-Disclosure Agreements) the identity of the questioners (**shown in black**) and any specific jobs referred to have been altered.

The Helpdesk answers **are in blue**.

Enjoy!

**The PCAM Committee**

### TOPICS COVERED

- **Contracts**
- **In Perpetuity**
- **Lyric Copyright**
- **Overseas Territories**
- **Overseas Royalties**
- **Rate Card**
- **Cue Sheets**
- **Internet Usage**
- **Ringtones**
- **TV Idents**

### CONTRACTS

**Helpdesk:** We get a lot of questions about Contracts, but unfortunately, as we are not lawyers, we cannot give legal advice. We can offer our personal opinion but if in doubt you should always contact a lawyer.

We recommend two music lawyers (without prejudice) in whom we trust: Julian Turton ([Julian.Turton@swanturton.com](mailto:Julian.Turton@swanturton.com)) and Ed Weidman ([Ed.Weidman@simkins.com](mailto:Ed.Weidman@simkins.com)). Also, you can contact the Musicians Union, The Law Association or <https://www.gov.uk/find-a-legal-adviser>, all of whom should be able to point you in the right direction.

Our main recommendation is to ALWAYS use the PCAM Contract (available to download from the PCAM website) which was drawn up with and approved by the main advertising business organisation, the IPA (The Institute of Practitioners in Advertising).

Any changes that you may agree to make in the Contract should be entered into the "Special Stipulations" box on Page 2 and initialed by both parties.

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**MT:** I'm writing as I would like to ask if by any chance you have some document template for transfer of rights for musicians performing/recording on scores for Netflix? I need to have the musicians who recorded on the Netflix score I did last year sign that they transfer all performing rights to me and then me onto Netflix (hope I'm making sense). Any guidance/help will be greatly appreciated. Many thanks in advance.

**Helpdesk:** We have an Artist Release Form available on the PCAM website which you could alter to suit your purpose: <https://www.pcam.co.uk/agreements-2/>. But it would probably be better to use a Musicians Union contract template to suit you: <https://musiciansunion.org.uk/legal-money/job-contracts-and-business-agreements/standard-contracts>.

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**MH:** I've just finished up an internet ad and I've invoiced the company. I've also used one of the sample contracts you have which has an 'expiry date' for the license I'm giving to them. In this case, it's a worldwide Internet ad with a 1-year term. The company says that they don't know when they will use it / put the ad out there. So they don't know what date to put in expiry section. When it comes to payment, they've asked whether they only pay me when they use the license? This doesn't seem right to me. I would appreciate your guidance/advice and how do you suggest I deal with this in the future? Do you agree with the Client before the project starts when the piece of music will be used so that you can fill it in on the contract?

**Helpdesk:** It doesn't seem right to me either, unless this was previously agreed.

Obviously, if they don't broadcast it they could argue that they don't owe you the License Fee, but if it was commissioned as a master, then upon delivery they definitely owe you the Production and Composition Fees.

As a compromise, as this hadn't been agreed prior to commission, I would suggest that they pay the Production and Composition Fees now and you give them a six-month window in which to take up the Licence Fee, otherwise their rights to licence the track will be revoked. Also, before quoting costs or agreeing to do a job it is extremely important to discuss in detail exactly what your Client is asking for and what you are agreeing to provide. Make sure that this is down in print so that there can be no subsequent disagreements about the T&Cs (terms and conditions).

## IN PERPETUITY

**TF:** I was wondering if you could share some advice regarding usage for a 2"-3" mnemonic. We've been speaking to an ad agency who has asked us to develop a mnemonic for one of their clients. It's a pitch -- ourselves and one other music company.

So far, we've quoted £75,000 for the Licence Fee (covering UK, 5 Years, All Media, Unlimited Scripts) which the Agency and their Client have been comfortable with; however, we've been told that the other music company has also submitted a cost for in-perpetuity usage and this is something their Client is very keen on.

Based on the guidance on the PCAM website we've always tried to avoid giving in-perpetuity rights to our work; however, if this proves to be a sticking point we wouldn't want to lose out on the job altogether. Is there any guidance you can share as to what might be a reasonable and sensible in-perpetuity buyout cost, assuming UK, All Media, Unlimited Scripts?

**Helpdesk:** I'm afraid I'm not the person to ask as I would never countenance an in-perpetuity usage! I'm always happy to licence for a number of years on a pro rata basis with some years thrown in for free. For example, charging 3 years for 5, or 6 years for 10 or whatever and making sure the licence is strictly tied to the original product for the original purpose only. If they have a loose in-perpetuity licence they could sub-licence, use for other projects, sell on etc. Clients love the idea but in commercial reality tracks and products have a shelf-life so the client doesn't need in-perpetuity – it's worth pointing that out to them.

I really understand the problem and it's deeply depressing, but I would prefer to lose a job than grant an in-perpetuity licence -- unless of course they were offering a couple of million quid! I would have faith in my work and call their bluff. Obviously, you must do what you see fit. I'm sorry to be so unhelpful but I do feel strongly (as you can no doubt tell!) about preserving a professional working environment for future generations.

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**KS:** I've been making music and doing sound design for a few years now, but somehow seem to have skirted around the normal channels of writing production music for TV. My background is in branding and animation and I got into this world through doing sound design for apps and hardware products like headphones and sound logos for big tech brands who just want a completely buyout.

I've been meaning to get some advice and help for a while, as I created a sound logo/jingle for a national electrical retailer and even though it's only a couple of seconds long, someone told me that I could be picking up royalties for it every time it's used on TV. I'm currently registered with PRS and MCPS (I've released a handful of bits of music over the years, a couple were post-production music jobs or TV title sequence music where the production companies dealt with the publishing). All in all, it would be great to get on top of this stuff.

**Helpdesk:** There isn't a lot you can do about your historical works as you seem to have either already assigned rights and licences to clients by contracts or implication. You've probably lost considerable amounts of money working in this way!

For a start, one should never sell works "In Perpetuity" (they are your birthright) and if you want to make a living out of your expertise and talent as opposed to being a charity you need charge proper fees for Productions and Licences.

Whether a track is one second or five minutes long, if it is being used commercially in any way or in any medium it should be paid for and licenced for a Term (one month, 10 years, whatever) to reflect and reward your creativity.

I would suggest you join PCAM (initial fee is £75 for six months) and read all the info on their website about producing commercial music and how to structure budgets and suggested licencing fees. I think you will find it extremely worthwhile -- but then I would say that, wouldn't I?

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**SP:** I've been asked to compose original music for a two-minute corporate film (big pharma company) to play at internal events and limited use on a TV/film subscription service and Social Media only. I've been asked what the fee would be to buy out the music.

**Helpdesk:** I have never done a "buyout"; all my works are licenced for a defined Term (number of months/years etc) and PCAM disapproves of "in perpetuity" licences as your copyrights are your birthright.

First and most importantly, you should never ever agree to your music being bought out. As the composer and owner of the moral rights in a track, you should ONLY licence your tracks for a specified term (number of months or years etc), specified Media (TV, Radio, Cinema, Internet, Social Media, In-House etc) and specified Territory (UK, Europe, USA etc). Each and every job should be budgeted/quoted in three parts:

- **Production** – The costs of producing and recording the track including your time (at some sort of day rate), musicians' and singers' fees (even if they are all you!) and studio costs (even if it's your bedroom). We charge a basic Production day rate of £1,800 + time, plus studio and musos costs.
- **Composition Fee** – The current industry standard is between £1,500 and £5,000 depending on who you are, your experience and belief in yourself etc. Ours is £4,000.
- **Licence Fee** – Always based on the Term, Media and Territory. The PCAM website (if you are a member) gives guidelines based as a percentage of your Composition Fee,

as well as having downloadable contracts and advice etc. We would charge 100% of our Composition Fee for a One Year, UK-only licence.

If you want to make a living from composing or producing music you should never undersell your work and realise that you have a talent that has to be paid for.

### **LYRIC COPYRIGHT**

**FT:** I was hoping PCAM can help with an enquiry from a creative partner of ours who is an animation company, and their client is a healthcare brand who is interested in using the phrase "a spoonful of sugar" in a voiceover.

This would sit over the ending of a musical composition we would create to accompany an animated advert. I understand this phrase will be familiar to many from the Disney film *Mary Poppins*, so wanted to understand any relevant restrictions as soon as possible and disassociate ourselves from anything that might infringe on anyone's intellectual property. The client thinks this will fall within the parody exception to copyright law.

In the first instance, I wondered whether PCAM can advise on the process around checking copyrights on lyrics, or if this sits outside of PCAM's scope?

**Helpdesk:** First, I must point out that I'm not a lawyer and this is only my professional opinion. The words themselves are not copyright so obviously a voice-over can use them. BUT if they are spoken over a musical composition that in any way reminds a judge of the copyright song from *Mary Poppins*, then you could be seen to be infringing the Disney copyright and they are very litigious!

There is an exception to copyright that permits someone to use limited amounts of copyright material without the owner's permission for the purpose of parody, caricature or pastiche but this certainly would not cover advertising or commercial purposes.

If in any doubt once recorded, it would be worth passing it by a musicologist (I would suggest either Peter Oxendale or Guy Prothero).

### **OVERSEAS TERRITORIES**

**JC:** I've just joined you, and it already feels like a good decision -- lots of really helpful advice. Thanks for your hard work!

I am a Netherlands-based composer (originally from the UK) and I'm trying to get a quote together for a client who is NL-based and whose commercials (radio and online) will likely only be aired in NL or Benelux at most. I'm trying to understand how to set the usage fees for this territory. On your overseas usage table, NL is listed as 40% of composition fee. I'm

wondering (as PCAM is UK-based), is this 40% rate a guideline for overseas fees on top of UK usage or is this simply the usage fee you would expect even if it was only going out in that one region, working with an agency based in that region?

**Helpdesk:** Thanks for your kind words!

It's the recommended usage rate for that territory only, whether or not it is the first and only territory or to be added to a list of territories. That's why we work on percentages of one's Composition Fee rather than suggesting fixed prices and also have recommendations for composite packages for various groups of territories. Obviously, that's only the Licence Fee and would be added on to your Production Fee + Composition Fee. Good luck with the job!

## **OVERSEAS ROYALTIES**

**NS:** I hope you can help or point me in the right direction. I've been approached by a French publisher to find unpaid royalties (Pan-Europe) for a commercial I did. They discovered that the titles didn't have a home and that the track aligned with one of my titles. They say they estimate in France alone that it has generated around €36K in royalties.

Have you signed a deal of this sort and/or would you recommend signing a deal of this sort? It feels a bit like a ppi company? But money I don't have is better to get than not, right?

Who should I consult on this, as the 33.3% feels a bit steep for an admin-type deal without an advance? Or is this the norm?

**Helpdesk:** Weirdly, the same thing happened to us in France 15 years ago – I agreed 25% and a three-year reversion clause -- and it made us a very substantial amount of money. So, it's certainly plausible.

I would suggest you do some due diligence on the company, negotiate the percentage downwards and insist on a reversionary clause – then you have all to gain and nothing to lose. Alternatively, you could sub-publish your catalogue with a French publishing company, so that they could then pick up all and any royalties due in that territory. Good luck!

## **RATE CARD**

**PS:** I've been asked by a branding agency what I charge for an audio mnemonic. I understand that I should try and keep my rights and licence my work for a defined term and territories. Can you suggest some guideline rates for me, considering I don't have much reputation nor showreel in the mnemonic/ident field?

Ideally, I'd like to be able to give them a rate card offering various options for different terms/territories and a buyout option.

**Helpdesk:** First and foremost, please never use the term “buyout”, unless of course you wish to compose and produce music as a hobby only!

You should charge exactly the same price for a mnemonic as you would for a 60” commercial – an effective quality 5” ident is harder to write than a 3-minute piece of music!

The idea of a rate card seems odd as they presumably know what Territory and Media they want from the outset and the only variable would be the Term (i.e., 1, 2 or 3 Years etc).

Personally – and depending on all the variables -- I would be looking for between £10,000-£25,000. It's always worth asking Clients what's in their music budget for the job as it will give you an idea of their parameters. If they haven't got a music budget, they haven't given the job any thought and are probably not very serious.

All budgets/quotes should be done on the same basis: Production Fee + Composition Fee + Licence Fee.

If you want to make a living from composing or producing music you should never undersell your work and must have the self-belief to realise that you have a talent which should be paid for and not given away.

## **CUE SHEETS**

**TS:** Just a quick question – Are Agencies obliged to fill in and submit cue sheets?

**Helpdesk:** Yes, but I would not necessarily trust them! You should register all your work with PRS & MCPS (and incidentally Soundmouse) and they have sections to add any broadcast information that you know. This will give you the best chance of picking up any royalties due on play-outs and performances.

Film Companies, Agencies and Clients are legally obliged to do Cue Sheets but I would never rely on them either submitting them accurately or even at all! It never hurts if all parties register a work.

## **INTERNET USAGES**

**AS:** I have a question regarding usage fees. YouTube etc is included in Social Media. What is considered Internet, then? I quote from your Usage page:

“Internet (incl. Social Media) only: 600% **or** if combined with UK TV an extra: 350%.

Social Media (incl. YouTube etc) Only: 100%.”

**Helpdesk:** Internet covers the whole global network whatever the site, whereas Social Media only covers what are considered personal sites such as YouTube, TikTok, Instagram, WhatsApp, Facebook, Tumblr, Pinterest etc rather than commercial sites like Amazon, Ebay, shopping channels and company-owned sites etc.

I appreciate there is a somewhat nebulous crossover but it's the Client's intention that's key. It was decided that a Client running a small social media campaign shouldn't have to pay the same Licence Fee as a Client running an international campaign.

All PCAM Fees are purely industry guidelines and they are not set in stone. You should only charge fees that you feel comfortable with, bearing in mind that your talent and expertise should always be properly rewarded! I hope this helps!

## **RINGTONES**

**NC:** I've been asked to compose a ringtone for a smartwatch (for children) that is between 30 seconds and one minute long. They want this to be their signature soundtrack, and they also wish to have a complete buyout -- hence lifetime licensing and full rights.

What kind of fee should I charge for a job like that? I was thinking 1,000 euros for the tune and 1,500 euros for the buyout (recognising that I'm going extremely low here because, well, this is the Netherlands and somehow they are lagging a bit behind when it comes to fair practice here). Regardless of that, is this a reasonable offer?

**Helpdesk:** You are not going to like my advice!

In a 40-year career I've never signed an in-perpetuity licence ("complete buyout") and PCAM heartily disapproves of them! Unless you are paid an enormous fee for a job, licensing and royalties are the lifeblood of your business and the reason for being a professional composer rather than doing it as a hobby.

The current market Composition Fee is between £1,500-£5,000 and this would be on top of the Production Fee (a basic track being about £2000-£4000) and the Licencing Fee at a minimum of 200% of your Composition Fee per year to a worldwide one-year Usage @ 2,500% of your Composition Fee.

You could treat it as a sync licence (like film music) which would allow the use solely on the physical smartwatch for the life of the physical watch but then you would charge extra for any commercial advertising on a yearly basis or a number of years (3, 5 10 or whatever) on a pro-rata + basis. You could tier your Licence Fee in steps tied to various (legally verified) numbers of units sold if they are not prepared to pay decent fees up-front. Again, the Licence Fee would be on top of the Production and Composition fees.



If you sell your birthright for a pittance you are not only denying your creative talent but also you will never have a successful business. You should have an unshakeable belief in your special talent and it is your human right to monetise it and not be abused or taken advantage of by anyone. And the answer to your question is NO.

### **TV IDENT**

**MH:** I've been asked to quote for an intro and outro for a UK TV show – a 15-30 second ident each side. I've followed your budgeting guidelines as usual but I'm unsure about how much to charge for licensing. They're saying to consider it'll run for three years then also appear as a podcast. Would appreciate your advice here as it's not something I've tackled before.

**Helpdesk:** I'd aim for 200% of my Composition Fee for UKTV plus 100% for the Podcast for a one-year Licence. If they want three years and assuming the fees are paid up front I'd probably charge two years' fees for the three years' Usage.

If it is just a format for a TV show you'd normally include a sync licence for the life of the show in the UK -- but then this would be reflected in the size of the Production/Composition fees.