

**A number of hotel operators have been contacted over recent weeks by the Motion Picture Licensing Corporation (MPLC) informing them that an additional licence is now required on top of their TV licence.**

Many hotel companies are unaware who MPLC is, what it does and whether this information is correct. If you operate a hotel and/or have been contacted by MPLC, this article summarises:

- MPLC and Filmbank – Who They Are and What They Do
- Why You May Need a Copyright Licence for Television and Film Content
- When and How Licence Fees Are Payable
- How MPLC and Filmbank Calculate Licence Fees
- Dealing With Approaches From MPLC or Filmbank



## MPLC and Filmbank – Who They Are and What They Do

MPLC is a copyright collecting society (similar to PPL and PRS for music) authorising use of copyright in "films" produced by the studios it represents. It collects and distributes licence fees to its studio members, and this centralised function means that companies/organisations that want to play films/programmes from those studios only have to deal with MPLC instead of having to deal with hundreds of studios. Filmbank is a separate collecting society, operating in a similar way to MPLC, but representing different studios. If an MPLC licence is required, a Filmbank licence may also be required (as whether works broadcast through TV stations, for example, are from one studio or another, will be outside of your control).

## Why You May Need a Copyright Licence for Television and Film Content

Copyright is a long-established legal right which protects certain types of works from unauthorised commercial exploitation. Hotel operators will, in all likelihood, be familiar with copyright licences issued by PPL and PRS for the playing of music, covering copyright in the lyrics of songs, the music, sound recordings and music played in radio or TV broadcasts.

Showing copyrighted films and TV programmes using DVD or Blu-ray players, or through downloads/streaming, has been licensable under the Copyright Designs and Patents Act 1988 (the CDPA 88) for some time. However, there has been a recent change in the law (to section 72 of the CDPA 88) largely as a result of the premier league cases against pubs. This change has brought "broadcasts" within the scope of the Act as detailed under the [Intellectual Property Office Guidance](#) (the IPO Guidance) dealing with this change (see page 7 of the IPO Guidance). Therefore, films and TV programmes that are broadcast may now come within the requirement for authorisation by the copyright owner. This includes content broadcast on television (terrestrial, Freeview or satellite) or viewed from the internet (for example, iPlayer services).

The owner of the copyright in protected works can control their commercial exploitation by either (i) stopping or (ii) charging third parties for the privilege of playing/performing/showing them in public. For the purposes of copyright licences, a protected work will be "in public" if it is played/ performed/shown other than for private and domestic purposes and can be heard/seen by at least one person, in addition to the person who caused it to be played/shown. This will include staff, as well as customers and the general public.

**This means that if you have any TVs within the "common" areas of your hotels, such as a bar, restaurant or reception area, or within staff rooms, you may require a licence to compensate the copyright owner for your commercial exploitation of their work via broadcast TV. However, bedrooms are not included in the calculation of the relevant area for these purposes. Therefore, if the only TVs within your hotel are within your guest bedrooms, you should not need to obtain any additional licence from MPLC or Filmbank for broadcast TV (although, you may already have the benefit of such licences for on-demand films in bedrooms).**

## When and How Licence Fees Are Payable

Licence fees for both [MPLC](#) and [Filmbank](#) are payable annually in advance. You can apply online or by post. If you operate more than one hotel, it is possible to obtain a "corporate licence" to cover all of them. The relevant fees for showing copyrighted content via broadcast in hotel bars or restaurants will be the fees for "background" audio-visual content, i.e. where the content is shown to create an atmosphere or ambience and is incidental, not essential, to the main purposes of the event or organisation. If you charged people to attend for a "screening", then a different tariff would apply.

## How MPLC and Filmbank Calculate Licence Fees

MPLC and Filmbank calculate the licence fees payable for background/incidental showing of films in different ways. **For MPLC, the fee payable is based on the size of the room/area where the TV is installed, not the total area of the hotel.** Areas up to 500m<sup>2</sup> attract a fee of £95 plus VAT per annum, whereas the fee for areas between 751 and 1000m<sup>2</sup> is £190 plus VAT (with fees increasing pro rata £9.50 per 50m<sup>2</sup> for bigger areas). **Filmbank calculates the relevant licences by reference to group size, i.e. the number of persons in the audience.** A group size of up to 249 persons attracts an annual licence fee of £105.83 plus VAT.

## Dealing With Approaches From MPLC or Filmbank

We are not aware of any instances to date where Filmbank has contacted hotels directly in relation to the recent changes to the CDSA 88. However, when dealing with approaches from either MPLC or Filmbank, it is important to control the flow of information. We are aware of brand owners being contacted, as well as franchisees and management companies, but it will be the company which controls whether copyrighted content is played at a hotel that should apply for the licence, if required. Any such operator should nominate a senior person to deal with requests for information and or payment from MPLC, Filmbank or their lawyers to ensure that any information they are given is correct and consistent. It is important to avoid, for example, less knowledgeable employees giving inaccurate information as to the size of the area in which the TV is situated, or the potential capacity of such area. Employees should, therefore, be instructed to refer any communications from MPLC or Filmbank to the nominated individual.

Businesses should not be panicked or pressured into giving incomplete or inaccurate information. It is difficult and time-consuming for a multisite operator to determine whether a licence is needed at each site and what the fee will be. Businesses should also be clear with MPLC and/or Filmbank that they will pay what is properly due once they have had an opportunity to collate and review all relevant information.

If you dispute that a licence is required, or the calculation/amount of the fee due, it is likely to save money in the long run if you engage specialist lawyers early on. Face-to-face meetings with MPLC and/or Filmbank can help to resolve any disputes. It is also likely to help a hotel company which does not have TVs in public areas or staff rooms as a matter of course to have a written policy on the use of TVs in the workplace, which is enforced.

## Contact



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