

PERFORMING RIGHT TRIBUNAL

SHORT PARTICULARS OF DECISION

*Application of the British Broadcasting Corporation
In relation to its requirement of Licences to
Transmit Copyright Music in the Repertoire of the
Performing Right Society*

The Performing Right Tribunal publish the following short particulars of the decision in a dispute arising out of the requirement by the British Broadcasting Corporation ("the B.B.C.", for short) of licences to transmit respectively in its Sound, Home and External broadcasting services and in its television Home broadcasting services all or any of the musical works for the time being in the repertoire of the Performing Right Society ("the P.R.S.", for short). The application was originated by the B.B.C.

The case not being covered by an existent licence scheme, the P.R.S. has proposed charges, terms and conditions subject to which licences should be granted, which the B.B.C. contends are unreasonable.

A succession of arrangements under which such musical works (referred to as "P.R.S. music") have hitherto been transmitted or broadcast culminated in two agreements, negotiated between the parties and each dated the 6th July, 1964. The effect of these agreements (which differed from one another only in that one applied to sound broadcasting while the other applied to television) was that a sum (or royalty) payable by the B.B.C. to the P.R.S. for the right to transmit P.R.S. music was fixed at the equivalent of 1s. 6½d. per annum for each paid sound licence and for each paid television licence respectively. In the event which happened, both agreements came to an end on the 31st March, 1966. Since that date, and pending this decision of the Tribunal, the broadcasting of P.R.S. music has continued under an informal understanding on the terms of those agreements.

Although both parties have expressed dissatisfaction with the terms that were agreed in 1964, the Tribunal have concluded that that fact alone does not destroy the character of the agreements then made as a compromise, arrived at in the conditions then prevailing, between freely negotiating parties. Subject, therefore, to adjustment in respect of all other factors affecting current and prospective value, the Tribunal have adopted the royalty of 1s. 6½d. per annum for each paid licence, whether for sound or for television, as the foundation on which the present computation should be based.

Having considered in detail the various elements which do or may affect the value of P.R.S. music as between the parties, the Tribunal have concluded that it is both impracticable and unrealistic to attempt an independent evaluation other than in broad terms.

The P.R.S., on the one hand, taking the royalty as agreed in 1964, have propounded a formula which results in a proposed future royalty of 2s. 1d. per receiving licence. This is arrived at by treating the 1964 figure of 1s. 6½d. as though it were directly related to the actual number of "P.R.S. music hours" of broadcasting and television combined in 1962 (in which year the running of the 1964 agreements was expressed to begin) and scaling it up according to the actual increase in such hours in 1966 (during which year those agreements came to an end). Assuming then that every potential listener over five years of age in the entire population enjoys the full benefit of every "P.R.S. music hour" broadcast or televised, the total of 2s. 1d. per receiving licence is claimed as the proper charge now to be made by way of royalty.

The B.B.C., on the other hand, by taking the situation in 1946 (when television first became significant) as its starting-point, and actual, as opposed to potential, audience as a factor, propounds a formula which results in a proposed royalty of no more than 9½d. per receiving licence.

For reasons which the Tribunal have set out at length in their Decision, both of these formulae

have been rejected. From this it follows as a first conclusion that the charges, terms and conditions subject to which the P.R.S. proposed that licences should be granted could not be upheld as being reasonable.

On the positive side, taking one factor with another, and starting from the premise that 1s. 6½d. per receiving licence (taken simply as an agreed figure and not because of any relation to the size of audience) was reasonable in the circumstances of 1964, the Tribunal have decided that the reasonable royalty during the currency of a licence to remain in force up to the 31st March, 1971, will be the equivalent of 1s. 9½d. per receiving licence. In addition, they have taken note of a cost-of-living formula for occasionally varying the amount of this royalty, which was agreed between the parties at the hearing. They do not, however, regard it as appropriate to apply this formula so as to take effect before the 1st April, 1969.

For reasons likewise set out in their Decision, the Tribunal have considered it unnecessary to provide for more than one comprehensive licence to apply at a flat rate to all broadcasting and television services alike.

Since the Tribunal have no power to make an Order with retroactive effect, the new rate has been ordered to come into force, as at the date of the Decision, on the 19th December, 1967.

MINISTRY OF COMMERCE

The Ministry of Commerce for Northern Ireland has appointed the following persons to act as Public Valuers for Northern Ireland and to certify annuity tables, under the provision of the Friendly Societies Acts (Northern Ireland) 1896 to 1958, viz:

J. P. Holbrook, Esq., "Ringley", Reigate Road, Reigate, Surrey.

A. R. H. Collins, Esq., 156 St. Vincent Street, Glasgow C.2.

W. H. Clough, Esq., Empire House, St. Martins-le-Grand, London, E.C.1.

W. L. Robinson, Assistant Secretary.

1st January, 1968.

BUILDING SOCIETIES (SPECIAL ADVANCES) ORDER (NORTHERN IRELAND) 1967

Notice is hereby given that the Registrar of Building Societies, with the consent of the Ministry of Commerce, has made the above mentioned Order under section 1(4) of the Building Societies Act (Northern Ireland) 1964. The Order increases from £7,000 to £10,000 the amount which a building society can advance to an individual without the advance being treated as a special advance.

Copies of the Order (S.R. & O. (N.I.) 1967, No. 345) will be available shortly on sale from Her Majesty's Stationery Office, Linenhall Street, Belfast.

BELFAST CORPORATION GAS UNDERTAKING (CHARGES) (AMENDMENT) ORDER, 1967

Notice is hereby given that the Ministry of Commerce, in exercise of the powers conferred on it by Section 1 of the Gas Regulation Act, 1920, and of every other power enabling it in that behalf, has made the above-named Order (S.R. & O. (N.I.) 1967, No. 340).

The Order increases by one penny per therm the maximum prices in respect of gas supplied by the Corporation, and its purpose is to enable the Corporation to recover from consumers the cost of the oil surcharge of 2d. per gallon. Since the oil surcharge has operated from 1st July, 1967, the Order has been made effective from 1st October, 1967, and quarterly accounts based on meter readings in