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MUSIC RELATED OFFENCES

Sally Ramage

Introduction to Music Law

The Metropolitan Police Act 1864, section 1, enacted that any householder within the UK Metropolitan Police District, personally, or by his servant, or by any police constable, may require any street musician or street singer to depart from the neighbourhood of the house of any such householder, on account of the illness or on account of the interruption of the ordinary occupations or pursuits of any inmate of such house, or for any reasonable or sufficient cause, and that every person who shall sing in any thoroughfare or public place near any such house after being so required to depart, shall be liable to a penalty of not more than forty shillings, or, in the discretion of the magistrate before whom he shall be convicted, may be imprisoned for any time not more than three days and in default of payment for not more than one month. (See *R v Hopkins* (1893) 1QB 621).

Under the adoptive Public Health Acts Amendment Act 1890, section 51, a house or garden, whether licensed for the sale of liquor or not, may not be kept for public dancing, singing, music or other public entertainment of such kind without a licence from the justices. Later, in the UK, the Private Places of Entertainment (Licensing) Act 1967, the Theatres Act 1968, The Courts Act 1971 and the Local Government Act 1971 enabled a local authority to control private music and dancing conducted for gain.

Busking in the United Kingdom

Busking can breach standards set by Parliament and extreme buskers could be charged under the Summary Offences Act 1981, sections 3 and 4, for offensive or disorderly behaviour or using offensive language, or breach the Resource Management Act 1991 by making excessive noise. However, when busking is just annoying, it falls to local government to regulate that behaviour for the benefit of the whole community. Busking is only one of many activities regulated by local bylaws. The 2000 London Local Authorities Act, s 32, as amended by the Licensing Act 2003, Schedule 6, defines busking. It states: *'Busking means the provision of entertainment in a street but does not include the provision of entertainment of a class which from time to time is by resolution of a participating council excluded from the operation of this Part of this Act; under and in accordance with a premises licence under Part 3 of the Licensing Act 2003, or a temporary event notice having effect under Part 5 of that Act, which authorises the provision of regulated entertainment (within paragraph 2(1)(e) to (h) or 3(2) of Schedule 1 to that Act (music and dancing)); which is authorised specifically to take place in a street under any other enactment; or consisting of music performed as an incident of a religious meeting, procession or service; and "busk" and "busks" shall be construed accordingly.'*

Responsibilities of musicians and producers of music

Although it might seem unsocial to demand compliance of byelaws by buskers, these laws also have the purpose of anti-sound pollution. A case against a musician and record producer is awaited, as it is an established fact that some noises can cause hearing damage. There is evidence that exposure to live can cause hearing damage. In April 2008 the existing regulations protecting workers in the music and entertainment sectors from exposure to excessive noise will be replaced by the Control of Noise at Work Regulations 2005 (Noise Regulations). For other industry sectors, these Regulations have been in force since April 2006.

Insurance for musicians

Musicians must also be protected from injury or illness. In the case of a singer, for example, health insurance is essential for singers who earn their living from their instrument. Insurance cover for touring abroad, loss of voice, accidental injury, engagement cancellations and loss of earnings will protect the singer if they are unable to perform due to illness or other unforeseen events. Vocalists who use their own equipment, backing tracks or other accompaniment should consider insuring against damage or loss with musical equipment insurance.

Berne Convention protects music

In 1886, the Berne Convention for the Protection of Literary and Artistic Works was the first attempt at creating a set of rules with a validity extending beyond notional borders. It gives a broad definition of 'literary and artistic

works' that applies to the Berne Convention was revised in 1979 to address these key points of literary and artistic works:

* The author has the right to claim authorship of the work and to object to any distortion or mutilation which would be prejudicial to his honour or reputation (Article 6 bis)

* Different media are protected for different periods of time (Article 7).

* Authors have the exclusive right to authorising the reproduction of their works, but reproduction of such works in certain cases is permitted. (Article

*Quotations from a work made available to the public are permitted. (Article 10-1).

*Works can be used by way of illustration in publications, broadcasts or sound or visual recordings for teaching. (Article 10-2)....



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