

# The AVLA licence

## Information sheet to guide hospitality operators

*This document aims to provide an overview of the AVLA licence, explain the legal framework and clarify recurrent concerns of the sector in a simple and accessible manner. The goal is to offer an additional tool to help operators make an informed decision.*

### About AVLA

AVLA is a not-for-profit collective management organisation recently established in the United Kingdom. It represents the UK's broadest community of producers and creatives (i.e. rightsholders) of audiovisual works (i.e. films, series, documentaries, cartoons and other TV programmes), comprising tens of thousands of producers, authors, directors, performers and visual artists.

AVLA is a licensing body recognised and monitored by the UK government (<https://www.gov.uk/guidance/licensing-bodies-and-collective-management-organisations#cmos-in-the-uk>).

Collective management organizations (CMOs) are not-for-profit entities set up and managed by the rightsholders themselves or their representatives, for the licensing of their protected works. AVLA is a CMO created by an alliance of associations representing the various categories of rightsholders involved in the production of audiovisual works. The founders joined forces to offer a single centralised licence, instead of each launching its own licence. In other words, AVLA equates to 5 licences in one.

CMOs have a specific legal status and are subject to strict regulations in order to ensure transparency and accountability. Almost all of the licence fees collected by AVLA are passed on to the rightsholders it represents. AVLA retains only a small portion of these revenues to cover its operating costs which are strictly controlled. The vast majority of licence fees are returned to the people responsible for creating and producing content which in turn support the production of new tv shows and films.

### The AVLA Licence

It is important to distinguish between: a) watching television at home (no need for an AVLA licence for such private use), and b) offering TV at a hotel, hostel, aparthotel or other similar business (a commercial public exploitation to provide added value to guests). There are additional licensing requirements for displaying in public copyright content in a broadcast. Perhaps a more familiar analogy applies to music: it is not the same to hear music at home, as to play music in a public venue.

The AVLA licence allows hotels, hostels, aparthotels, B&Bs, inns, and other similar establishments to lawfully offer to their guests TV channels containing copyright-protected audiovisual works (i.e. films, series, documentaries, cartoons and other TV programmes) from AVLA's extensive repertoire.

Hospitality accommodation businesses are legally required to obtain the licence in order to communicate to the public TV channels featuring audiovisual works from AVLA's repertoire. Operating without a licence constitutes a legal infringement of the rights of the rightsholders AVLA represents

The AVLA licence covers TVs in bedrooms and in communal areas of the establishments (e.g. in a hotel's restaurant, bar, lobby, fitness area, etc.). The licensed repertoire is unparalleled in size, comprising hundreds of thousands of British and international titles. Works from AVLA's repertoire are broadcast on a myriad of TV channels, including the main national free-to-air networks. To illustrate a few examples of titles represented by AVLA: *Peaky Blinders*, *Grantchester*, *Master Chef*, *Midsomer Murders*, *Hollyoaks*, *All Creatures Great and Small*, *Googlebox*, *Masked Singer*, *Cash in the Attic*, *Bridge of Lies*, *Rebus*, *Taggart*, *Bake Off*, *The Great Sewing Bee*, *Shaun the Sheep*, *Wallace and Gromit*, *Professor T*, *Hotel Portofino*, *The Couple Next Door*, *Before We Die*, etc.

There are many categories of rightsholders within an audiovisual work - producers, writers, directors, performers and visual artists - which can potentially create a complex and multi-layered rights clearance challenge. By covering the rights of multiple categories of producers and creatives and aggregating mandated rights for each category through its representative body, the AVLA licence has been designed to offer a one-stop, light-touch solution.

Furthermore, for some audiovisual works that may be covered by other licensors in relation solely to producers, the AVLA licence may also be required as regards the rights of the other categories of rightsholders that AVLA represents (e.g. authors, directors, etc.). This includes underlying rights such as, for example, those vesting in the author of a book adapted for a film or TV programme.

The AVLA licence is an umbrella authorisation to clear audiovisual rights in a simple and centralised manner (as opposed to having to take a separate licence with each of the founders of AVLA). It covers the largest repertoire of audiovisual works (films, series, documentaries, cartoons, etc.). In addition, it uniquely comprises the rights of multiple categories of rightsholders (producers, authors, performers, directors and visual artists). The AVLA licence offers a guarantee against claims from the tens of thousands of rightsholders represented by AVLA. It protects businesses against the risk of legal action for copyright infringement.

For the avoidance of doubt, the AVLA licence comprises a catalogue of works and rights not covered by other licensors. Its licence does not supersede the licences of other entities and vice-versa; rather, they may be complementary. In other words, it is likely that businesses are also required to obtain licences from other bodies representing other rightsholders.

## **Legal framework**

Hotels, hostels, aparthotels, B&Bs, inns, and other similar businesses obtain value and benefit from offering TV channels to their guests and get a more satisfactory experience from their stay. In recognition of this value, UK and international law provides that the creators of copyright-protected works should receive a fair remuneration for the use of their works.

Thanks to copyright protection, creatives are able to benefit from the exploitation of their works and can continue to develop and produce new content. In fact, copyright is the basis on which the creative industries exist and can develop further.

Historically, the Copyright Act 1956 recognized that the public showing of an audiovisual work (e.g. films, series, TV programmes, etc.) in the UK is restricted by the copyright in such work. This remains the case under the Copyright, Designs and Patents Act 1988 (“CDPA”). It is based on these Acts that collecting societies dealing with music -specifically, PPL and PRS- have been able to license the music in the broadcasts shown in public for decades.

Following an amendment to Section 72 of the CDPA in 2016, UK law recognises the rights of the producers of audiovisual works over any exhibition of their works in public. This provided the impetus for producers organisations to come together with bodies representing audiovisual creators to develop a collective approach, aggregating all the rights in a single licence.

For further information on the changes in legislation, you may consult the guidance of the Intellectual Property Office of the UK Government: [Changes to Section 72: Public showing or playing of broadcasts - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/guidance/changes-to-section-72-public-showing-or-playing-of-broadcasts)

AVLA has begun litigation activity in relation to breach of copyright in the works of the rightsholders it represents. For further information, see the question ‘*What happens if I do not get the AVLA licence and continue to provide guests access to TV channels that broadcast content from AVLA’s repertoire?*’ in the section FAQs below.

### ***Why is the AVLA licence requested for bedrooms?***

The courts have clarified that bedrooms offered by hospitality operators come under the definition of ‘public place’ for the purposes of copyright law, even if they are occupied by single individuals each time. In fact, other licensing bodies have been licensing bedrooms on that basis for many years already in the UK and abroad.

The right to communicate a work of film in public is reserved to the holder of the copyright in that film under s.16(1)(d) of the CDPA.

The courts have historically taken a broad view of the definition of ‘public’. In the English case of *Jennings v Stephens* [1936] Ch 469, it was determined that the character of the audience is key. In this case, because the performance of the work was capable of being accessed by a portion of the public, as opposed to a domestic or quasi-domestic setting, the performance was made ‘in public’. In an earlier case, *Harms (Incorporated) Limited and anr v Martans Club, Limited* [1927] 1 Ch 526, a domestic performance was described by the court as one that is ‘a matter of family and household concern only’. Given that the broadcast of AVLA works to hotel room guests via television is not a ‘matter of family and household concern only’, it cannot be ‘domestic’ or ‘quasi-domestic’ in nature and must instead be classed as a performance to the public.

The specific matter of whether communication of works in hotel bedrooms constitutes a communication to the public was established in the 2006 case of *SGAE v Rafael Hoteles* (C-306/05), before the European Court of Justice. In that case, the court held that a broadcast of works to hotel guests would be a broadcast

to the 'public'. The rationale behind this decision was that television and V.O.D broadcasts are generally licensed on the basis that they will be viewed by an audience privately in a domestic setting. Hotel guests, when viewed collectively are not the audience whom the author had in mind when licensing the broadcast. The hotel also derives economic benefit from offering those services. In the view of the Court, these factors suggested that broadcasts of the protected works to guests in hotel rooms were made 'in public'.

Following Brexit, this decision remains directly binding on the lower courts in the UK as retained law under the European Union (Withdrawal) Act 2018, in that it deals with the application of Directive 2001/29/EC. As such, the decision could only be overturned by the Court of Appeal of England and Wales or the Inner House of the Court of Session in Scotland, as per the European Union (Withdrawal) Act 2018 (Relevant Court) (Retained EU Case Law) Regulations 2020.

Since Brexit, the courts across the UK have applied the approach to defining the 'public' set out in the *Rafaele* case for the purposes of s.16 of the 1988 Act (see the Court of Appeal case *Warner Music UK Ltd and another v TuneIn Inc (2021) Bus LR 1119 at para 70* and the Court of Session, Outer House, case of *Sky Ltd v Airlie (2024) SLT 279* at paras 48-52 in this regard).

For these reasons, the broadcast of works belonging to an AVLA rightsholder to guests via television in their hotel room constitutes a communication of the works in 'public' in terms of s.16(1)(d) of the CDPA. To do so without AVLA's consent is infringement of the copyright in those works under s.20 CDPA.

## FAQs

***Do I need to take the AVLA licence if I already pay for other licences?*** Most probably yes, if you offer your guests access to TV channels at the bedrooms or communal areas of your establishments.

***Does the AVLA licence replace other licences?*** No, it may be complementary to other licences.

***Does the AVLA licence overlap with other licences?*** No, it does not. AVLA licences a different catalogue of works and rights. There may be works covered by other licensors as regards certain categories of rightsholders (e.g. music or producers), for which the AVLA licence is required as regards other categories of rightsholders (e.g. authors, directors, etc.).

***Why is a new licence required?*** Because, the AVLA licence covers a repertoire of works and rights not covered by other licensors.

***I already pay the TV Licence. Is this not enough?*** No, the TV Licence covers the use and installation of TV receiving equipment. It does not cover the right to show in public the repertoire of AVLA contained in television channels. As explained at the website of the Intellectual Property Office of the UK Government: the TV licence “...allows you to use any television receiving equipment to watch or record television programmes, for example, a TV set, digital box, PC, laptop or mobile phone. This is purely for the use of the TV receiving equipment. When showing in public, it does not cover the use of copyright content in a broadcast which has separate licensing requirements.” (<https://www.gov.uk/government/publications/changes-to-section-72-public-showing-or-playing-of-broadcasts/changes-to-section-72-public-showing-or-playing-of-broadcasts> )

The fees collected via the TV Licence are used for the funding of the UK public broadcasters (e.g. BBC, ITV). Differently, the licence fees collected via the AVLA licence are distributed almost entirely to the rightsholders represented by AVLA. For example, the revenues of AVLA will go directly to the production company that financed the film, the screenwriters and actors who played in it, its director, and the artists who designed its logo, posters, etc.

***I already have a licence from MPLC as well as for PPL/PRS. Is that not enough?*** No, their licences are different. MPLC is a private company totally independent from AVLA that licenses a different portfolio, on behalf of a different set of producers. PPL and PRS license music, including the music embedded in TV broadcasts.

***I subscribe to pay TV, so why do I need to take the AVLA licence?*** Your subscription to pay TV services may give you access to a number of TV channels and services. However, it does not cover the right to communicate in public the myriad of films, series, documentaries, cartoons and other programmes covered by AVLA’s repertoire that are shown on TV channels.

***What is the basis for AVLA’s tariffs?*** AVLA strives to offer fair and reasonable tariffs, considering the extent of its repertoire of works and rights. Its aim is to guarantee a correct remuneration for rightsholders without unduly burdening hospitality operators.

The AVLA tariffs have been defined after an extensive analysis, taking into consideration numerous benchmarks (including those of all other licensing bodies, among other UK and international indicators), as well as the views of external experts to ensure they are fair, reasonable and non-discriminatory.

It is important to consider that the AVLA repertoire is extensive, and that the AVLA licence covers the rights of five categories of audiovisual rightsholders (producers, authors, performers, directors and visual artists), not just one. Furthermore, there are discounts and concessions.

When you look at the final cost of the AVLA licence and what it encompasses, you will likely find that it ends up being more cost-effective than you thought. The standard tariff per bedroom (without considering discounts) is equivalent to approximately £1 per month or 3 pence per day.

AVLA is aware that operators may have to pay for other licences as well. We strive to apply fair tariffs and we offer various discounts, especially aimed at small businesses or properties operating a few months per year only.

***Why do AVLA and MPLC do not offer a unique licence instead of licensing separately?*** AVLA and MPLC are completely different entities (AVLA is a not-for-profit collective management organisation while MPLC is a commercial entity). Both represent audiovisual producers, although AVLA also represents other categories of creators of audiovisual works. Offering a single licence is not as simple as it sounds and involves considerations around issues relating to competition law.

***Why do AVLA and MPLC do not follow the same integration of PPL and PRS?*** PPL and PRS have established a centralised operation for administering licences, however, it should be noted that PPL and PRS remain independent of each other and operate their own licences and tariffs. AVLA is exploring opportunities for further integration where feasible.

***Why is AVLA only contacting me now?*** Following a change in the UK copyright legislation in June 2016 (Section 72 of the Copyright, Designs and Patents Act 1988) the law now recognizes the rights of the producers of audiovisual works over any exhibition of their works in public. This provided the impetus for producer's organisations to come together with bodies representing audiovisual creators to develop a collective approach, aggregating all the rights in a single licence. AVLA was incorporated in 2022 and started licensing only in Jan. 2024.

***Does the AVLA licence cover all films, series and other shows?*** No, the AVLA licence does not cover all programmes shown on every TV channel. AVLA's extensive repertoire contains a vast number of films, series and other TV shows. But it does not encompass all works or all types of content. For instance, the AVLA licence does not cover: news, current affairs programmes, sports, weather forecasts and the broadcaster's own productions. Operators are invited to assess the potential need for licences of other entities, not just AVLA.

***Do I need to take the AVLA licence if I only show sports and news TV channels at communal areas?*** No, in such case you do not need to take the AVLA licence as those contents do not fall within the repertoire of AVLA. However, you would be required to take the AVLA licence if at the bedrooms your guests could access other TV networks featuring the repertoire of AVLA.

***Does AVLA cover the rights for the use of Netflix, streaming platforms like YouTube or VOD?*** No, the AVLA licence does not cover on demand consumption accessible through subscription VOD, pay-per-view or streaming platforms. Nor does it cover the use of DVDs, blue rays or similar carriers. For the sake of

clarity, the content of AVLA's repertoire accessed via the live retransmission of TV channels (e.g. on BBC iPlayer or ITVX you make available to your guests) is covered by the AVLA licence.

***What happens if I do not get the AVLA licence and continue to provide guests access to TV channels that broadcast content from AVLA's repertoire?***

Offering your guests access to TV channels that broadcast content of AVLA's repertoire without an AVLA licence is an infringement of copyright in the works of rightsholders represented by AVLA. This is the case at guest bedrooms and/or at communal areas of the hotel or other temporary accommodation premises (e.g. at a hotel's bar, restaurant, reception, lounges, gym, etc.).

AVLA takes its licensing responsibilities very seriously. You may be aware that AVLA has commenced litigation to bring an end to such unlawful communication to the public of AVLA's repertoire works. AVLA and Britannia Hotels recently confirmed they had reached an extrajudicial settlement of copyright infringement proceedings raised by AVLA in the Court of Session, Edinburgh under s.20 of the Copyright Designs and Patents Act 1988. The terms of settlement include the agreement by Britannia Hotels to enter the AVLA Licence for all of the hotels they operate in the UK. A copy of the statement is available on the News section of the AVLA website.

If an establishment continues to offer access to TV channels that broadcast AVLA's rightsholder's works without the AVLA Licence, AVLA may consider it has no alternative other than to raise a court action to bring an end to this ongoing infringement. If that is necessary, AVLA can seek the following court orders:

- an injunction/interdict order to stop this conduct;
- damages suffered or the whole profits made from the copyright infringement;
- additional damages if the copyright infringement is flagrant;
- a notice for publication of any judgement against you in the press; and
- if applicable, court costs (even if you do not defend the action).

***How do I get the AVLA licence?*** You can get the AVLA licence online in real time at website [www.avla.uk](http://www.avla.uk) at the section *Get your licence*. It takes less than five minutes and just three simple steps. For further information, you may contact [customer.care@avla.uk](mailto:customer.care@avla.uk)