

Fact Sheet Pilot Creative Commons Netherlands and Buma/Stemra

The reason for this pilot

The principal reason for this pilot is to offer musicians more flexibility in distributing their works. The pilot is meant as a test to see whether it is useful in practice to combine the systems of Buma/Stemra and Creative Commons.

Buma/Stemra ensures that wherever works of musicians are used, the ancillary copyright royalties are collected and paid to musicians. Thus as a musician you need not check for yourself where your works are being used.

Suppose you make your own music and you would like to distribute it for free, just so that as many people as possible get know your repertoire? In such a case, Creative Commons offers, since a few years ago, a licensing system that enables musicians to indicate that third parties do not require prior permission for the use of his/her works. This means that it is easy for musicians to share their works and distribute them through the internet without asking for copyright royalties.

Until recently musicians were not allowed to use these systems at the same time. The pilot gives musicians the opportunity to use the Creative Commons Licenses for the free distribution of his/her works for promotional purposes through the internet *and* combine this with the benefits of a membership with Buma/Stemra, which collects and pays the regular royalties for the commercial use of such works.

This means that a Dutch musicians are now able to combine the benefits of the collective rights management of Buma/Stemra with the benefits of individual management through the Creative Commons licenses.

How does it work?

It takes five steps to offer a work under a Creative Commons license:

1. First of all, it is important to ensure that the permission of all rights holders has been obtained. The fact is that, aside from the composer and/or the lyricist, there may be all kinds of rights holders, such as co-authors, an arranger or publishers. A work may only be distributed under a CC license subject to the permission of all rights holders.
2. In order to take part in the pilot, the musician has to be a member of Buma/Stemra. As a member you transfer the exploitation of your copyrights on your works to Buma/Stemra, thereby enabling Buma/Stemra to collect the copyright royalties whenever third parties record or use your works. Musicians who are not yet a member of Buma/Stemra may take out a membership and then proceed to follow the same procedure in order to release parts of their repertoire under a Creative Commons License.
3. The musician in question then indicates to Buma/Stemra which works he/she would like to distribute under a Creative Commons License. You do so (per work) through the Buma/Stemra website on which detailed instructions and special conditions can be found. Buma/Stemra then knows for which works they need not send an invoice within the scope of the pilot.

4. Next, the musician selects one of the three available licenses for non-commercial use on the Creative Commons website:
 - use of the works while attributing the work to you;
 - use of the works while attributing the work to you, but without any adaptations, such as remixes, being allowed;
 - use of the work while attributing the work to you, whereby the work may be adapted by third parties, subject to the condition that the remix is also made available under the same condition.

5. Finally, the work may be published online (or offline) for distribution and reproduction.

What does commercial use mean?

Within the scope of the pilot between Creative Commons Netherlands and Buma/Stemra, 'commercial use' should be taken to mean the following:

Every use of the Work by for-profit institutions is qualified as 'commercial use'.

In addition, within the scope of the pilot, distributing or publicly performing or making available online the Work against payment or other financial compensation (including the use of the work in combination with ads, publicity actions or other similar activities intended to generate income for the user or a third party) is qualified as 'commercial use'.

Within the scope of the pilot, 'commercial use' also includes the distribution or public performance or having broadcasting organisations make the Work available online, as well as using the Work in hotel and catering establishments, work, sales and retail spaces. This also applies to organisations that use music in or in addition to the performance of their duties, such as, for example, churches, schools (including dancing schools), institutions for welfare work, etc. Separate licenses are available from Buma/Stemra for such kinds of use.