

<p><b>Title: Impact Assessment for the proposal to exempt regulated entertainment from the provisions of the Licensing Act 2003</b></p> <p><b>Lead department or agency: Department for Culture, Media and Sport</b></p> <p><b>Other departments or agencies:</b></p>	<h2 style="margin: 0;">Impact Assessment (IA)</h2>
	<p><b>IA No:</b> DCMS033</p>
	<p><b>Date:</b> 22/06/2011</p>
	<p><b>Stage:</b> Consultation</p>
	<p><b>Source of intervention:</b> Domestic</p>
	<p><b>Type of measure:</b> Primary legislation</p>
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## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

The regulatory burdens imposed by the Licensing Act 2003 (the 2003 Act) were intended to prevent potential adverse impacts on the four licensing objectives: preventing crime and disorder; public safety; preventing public nuisance; and protecting children from harm. However, the Government agrees with a number of stakeholders who believe the requirements of the 2003 Act are unduly restrictive and burdensome for many forms of regulated entertainment and there is some evidence of negative impact in deterring the staging of entertainment events.

### What are the policy objectives and the intended effects?

We want to remove unnecessary regulatory burdens and reduce the costs that deter venues from staging certain forms of entertainment. We also want to stimulate activity by community groups and other parts of the Big Society by removing barriers which dissuade them from laying on local entertainment.

We want to ensure that performers, participants and the audiences that wish to attend entertainment events, including theatre, live music and indoor sport do not have their opportunities unnecessarily limited.

We want to simplify the existing complex and highly inconsistent treatment of different kinds of entertainment, where some are regulated and other, similar events, are not.

### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1. Do nothing
2. Remove all regulated entertainment, as defined in Schedule 1 of the 2003 Act.
3. (Preferred Option) Retain regulated entertainment in Schedule 1 of the 2003 Act where audiences are 5,000 or greater and for a small number of higher-risk forms of entertainment. Those activities are set out in paragraph 23 onwards.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 01/2014

**What is the basis for this review?** PIR. **If applicable, set sunset clause date:** N/A

**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Yes

**Sign-off** For final proposal stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.***

Signed by the responsible



Date: 30 June 2011

# Summary: Analysis and Evidence

# Policy Option 3

Description: Exempt regulated entertainment to audiences of fewer than 5,000 (with exceptions)

Price Base Year 2009	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £32.8m	High: £43.2m	Best Estimate: £38m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	£417k	£3.59m
High	0	£787k	£6.77m
Best Estimate	0	£600k	£5.17m

### Description and scale of key monetised costs by 'main affected groups'

Some local authorities have suggested that the proposals to remove most forms of regulated entertainment from licensing requirements could potentially lead to an increase in noise related complaints made to local authorities. For indicative purposes, using figures from the Chartered Institute of Environmental Health and DEFRA, we have estimated the potential burden on Environmental Health Officers. An increase in noise complaints could also lead to an increase in alcohol licence reviews, the cost of these to licensing authorities has also been estimated.

### Other key non-monetised costs by 'main affected groups'

It is likely that the majority of any additional noise related complaints will be dealt with informally by the licensing authorities, and the threat of either a licence review or revocation will act as a sufficient deterrent to a majority of licence holders. These informal instances have not been costed.

There is also a potential cost to the general public through wellbeing lost due to noise nuisance, although we expect the number of incidents to be small.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	£4.23m	£36.39m
High	0	£5.81m	£50.00m
Best Estimate	0	£5.02m	£43.20m

### Description and scale of key monetised benefits by 'main affected groups'

The proposal will deliver direct benefits to pubs and entertainment venues by removing fees and the administrative burden of applying for licences or variations to stage entertainment. In addition schools, the third sector, and other secondary venues that currently have to apply for Temporary Event Notices (TENs) to stage entertainment will find it significantly simpler, easier, cheaper and less off-putting to organise and arrange events. There are likely to be further benefits to local authorities, such as the removal of burdens for events held in public buildings / spaces, where the local authority is both applicant to the process and the relevant licensing body, as well as the cost of processing applications for venues which do not attract a fee.

### Other key non-monetised benefits by 'main affected groups'

Businesses and venues that are currently dissuaded from staging entertainment by the existing licensing regime will benefit from diversifying their business and attracting new audiences. Entertainers and athletes, whether professional, amateur or merely aspiring, will benefit from more opportunities to practice and hone their live performance skills, and should create extra opportunities for them to get noticed too. The remaining controls and regulations will be more consistent and intuitively understandable by those they affect, and by the general public too, which will make the significantly more legitimate than at present. Third sector and "Big Society" organisations in local communities should be energised and encouraged to do more by this tangible evidence of Government action to help their work. The general public will benefit from an increase in entertainment consumption, particularly at a local level. small venues. Any additional activity by community groups and other parts of the Big Society as a result of deregulation will also have positive benefits for local people and community wellbeing.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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Given the lack of licensing data that relates solely to licences granted to regulated entertainment, we have made a number of assumptions to derive the savings to businesses. Given the safeguards already in place, we have also assumed a comparatively small increase in noise related incidents, although this may not lead to any noticeable additional costs. We have, for illustrative purposes, estimated that incidents to be investigated will increase by 5%-10%. We also expect further savings will be realised by businesses that no longer have to apply for TENS, however, we have excluded TENS from the OIOO, as explained in para. 57. Further detail pertaining to these assumptions and calculations is set out in the evidence base.

<b>Direct impact on business (Equivalent Annual) £m):</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
<b>Costs:</b> £0m	<b>Benefits:</b> £3.06m	<b>Net:</b> £3.06m	Yes	OUT

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales		
From what date will the policy be implemented?			April 2012		
Which organisation(s) will enforce the policy?			Licensing Authorities		
What is the annual change in enforcement cost (£m)?			£0.6m		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	
Does the proposal have an impact on competition?			Yes		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			<b>Costs:</b> N/A	<b>Benefits:</b> N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	<b>Micro</b> N/A	<b>&lt; 20</b> N/A	<b>Small</b> N/A	<b>Medium</b> N/A	<b>Large</b> N/A
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties</b> <sup>1</sup> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	Yes	26
Small firms <a href="#">Small Firms Impact Test guidance</a>	Yes	26
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	
<b>Social impacts</b>		

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	Yes	27
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	
Justice system <a href="#">Justice Impact Test guidance</a>	Yes	27
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	Yes	27
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	

## Evidence Base (for summary sheets) – Notes

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Licensing Act 2003 <a href="http://www.legislation.gov.uk/ukpga/2003/17/contents">http://www.legislation.gov.uk/ukpga/2003/17/contents</a>
2	Report of the Culture, Media and Sport Select Committee – The Licensing Act 2003 <a href="http://www.publications.parliament.uk/pa/cm200809/cmselect/cmcmds/492/49202.htm">http://www.publications.parliament.uk/pa/cm200809/cmselect/cmcmds/492/49202.htm</a>
3	Impact Assessment for the proposal to exempt live music from the provisions of the Licensing Act 2003, RPC opinion 17/06/11, reference RPC11-DCMS-790(2)
4	Impact Assessment of a proposal to exempt small live music events (<100) from the Licensing Act <a href="http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/IA_exemptsmall_livemusicevents.pdf">http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/IA_exemptsmall_livemusicevents.pdf</a>
5	Consultation on a proposal to exempt small live music events (<100) from the Licensing Act <a href="http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/condoc_exemptsmall_livemusicevents.pdf">http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/condoc_exemptsmall_livemusicevents.pdf</a>
6	Consultation on a proposal to introduce a simplified process for minor variations to premises licences and club premises certificates <a href="http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/LicensingconsultationJuly2008minorvar.pdf">http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/LicensingconsultationJuly2008minorvar.pdf</a>

+ Add another row

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	0	0	0	0	0	0	0	0	0	0
<b>Annual recurring cost</b>	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6
<b>Total annual costs</b>	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6
<b>Transition benefits</b>	0	0	0	0	0	0	0	0	0	0
<b>Annual recurring benefits</b>	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02
<b>Total annual benefits</b>	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02	5.02

\* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office  
Excel Worksheet

# Evidence Base (for summary sheets)

## Background

### *Existing Legislation*

1. The Licensing Act 2003 (the 2003 Act) came into force in November 2005 in England and Wales. It replaced eight separate licensing regimes in order to streamline the process to regulate the sale and supply of alcohol, the sale of late night refreshments, and the provision of **regulated entertainment**.
2. The Licensing Act 2003 devolves responsibility for the administration of the 2003 Act to local licensing authorities, which are mainly local authorities. They must carry out their functions with a view to promoting the following licensing objectives:
  - the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm
3. Subject to some exemptions (such as incidental music), the provision of the following constitutes regulated entertainment if it is put on for the public or for profit:
  - a performance of a play;
  - an exhibition of a film;
  - an indoor sporting event;
  - a boxing or wrestling entertainment;
  - a performance of live music (or of facilities for making music or dancing);
  - any playing of recorded music; and
  - a performance of dance

### *Detail of Existing Legislation*

4. Section 2 of the 2003 Act requires anyone who wishes to carry on a licensable activity to obtain an appropriate authorisation in the form of one licence covering all permissions i.e. a premises licence, a club premises certificate, or a temporary event notice (TEN). Venues are limited to 12 TENs per year (of which a maximum of five can be granted to an individual applicant). Any changes to a licence or club premises certificate, such as the addition of regulated entertainment, must be authorised through the full or minor variation process.
5. Regulations made under section 17(5) of the 2003 Act stipulate that an application for a premises licence or a full variation must be advertised in a local newspaper and outside the premises for a certain period to give local residents and responsible authorities (the police, environmental health, etc.) the opportunity to make representations against, or in favour of, the application to the licensing authority.
6. The Minor Variations Impact Assessment<sup>1</sup> estimated that the administrative cost of making new applications, full and minor variation as between £385 and £950 plus a fee payable to the licensing authority which can vary typically from between £100 - £635 depending on the rateable value of the premises. If representations are made, section 18 of the 2003 Act requires the licensing authority to hold a hearing to consider the evidence and, if necessary, impose conditions on the licence to remove or mitigate any risks to the licensing objectives,

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<sup>1</sup> Consultation on proposals to introduce a new minor variations process, and remove certain requirements at community premises, February 2008  
<http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/LicensingconsultationJuly2008minorvar.pdf>

refuse authorisation for a specific licensable activity or, in extreme cases, reject the application outright.

7. In many cases, licence conditions typically include; sound proofing measures when music is being performed, restrictions on capacities, opening hours and restriction on performance times, as well as health and safety measures. The licence holder may incur a cost in meeting some of these conditions; for example, at the top end, a noise limiter can cost around £3000. The minor variation process is intended only for changes that will not impact adversely on the licensing objectives, such as the addition of low risk entertainment provision. The process is quicker and cheaper than the full variation process, but there is still an estimated administrative cost to applicants of £35 and a flat rate fee of £89. People who wish to hold regulated entertainment on an occasional basis can do so by sending a Temporary Event Notice to the licensing authority at a flat rate fee of £21 and an admin burden estimated at £16 to the applicant.
8. There is no annual fee or premises licence fee payable for an application or variation for regulated entertainment in educational institutions where the entertainment is for and on behalf of the educational institute, or to authorise regulated entertainment in church halls, village halls, parish halls, community halls or similar buildings. Administrative burdens still apply in these cases.

#### *Alcohol and Entertainment Licence Statutory Fees*

<b>Rateable value band</b>	<b>Band</b>	<b>Application fee</b>	<b>Full Variation fee</b>	<b>Annual fee</b>
None to £4,300	A	£100	£100	£70
£4,301- £33,000	B	£190	£190	£180
£33,001 - £87,000	C	£315	£315	£295
£87,001 - £125,000	D	£450	£450	£320
Premises primarily used for alcohol	D	£900	£900	£640
£125,001 +	E	£635	£635	£350
Premises primarily used for alcohol	E	£1905	£1905	£1050

#### *Other Fees*

<b>Description</b>	<b>Fee</b>
Temporary Event Notice	£21
Minor Variation	£89
Personal Licence	£37
Transfer of premises licence	£23
Copy of notice / licence / certificate of summary	£10.50
Notification of change of details	£10.50
Application for Provisional Statement	£315
Interim Authority Notice	£23
Notification of interest in a premises	£23

#### **Problem under consideration**

9. The burdens imposed by the 2003 Act were justified by the need to prevent potential adverse impacts on the four licensing objectives: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. However, stakeholders in particular from the music industry, but also from wider arts and sports bodies as well as

various charitable / third sector organisations, believe the requirements of the 2003 Act are unduly restrictive and burdensome in respect of performance of live music and there is some evidence of negative impact in deterring the staging of entertainment.

10. The Government considers that deregulating entertainment regulated under the 2003 Act would increase opportunities for such entertainment to take place, and is unlikely to have an adverse impact on the promotion of the licensing objectives, as there are already other robust laws in place to safeguard the public and to provide remedy in the event of disturbance. The new arrangements would retain the key protections of the 2003 Act in relation to alcohol licenced premises (such as the retention of licence reviews, which allow local residents and businesses a say in local licensing matters) and would dovetail neatly with other protections, rather than “double-regulation” of these low risk events that are at the heart of many local communities.

### **Rationale for intervention**

11. The Licensing Act 2003 aimed to simplify processes and reduce red tape and bureaucracy. But the regime has led to a variety of entertainment events facing disproportionate and unnecessary regulation, even though they are unlikely to be detrimental to the licensing objectives.

12. Live music has often been the standout example of how the 2003 Act has inadvertently led to red tape for entertainment organisers, in particular in small venues which wish to put on occasional live music. However, we know from stakeholders that there are many other instances where other forms of entertainment defined in Schedule 1 of the 2003 Act have been adversely affected. Some of these include:

- Private events where a charge is made to raise money for charity
- School plays and productions
- Punch and Judy performances
- Travelling circuses
- Children's film shown to toddler groups
- A school disco where children are charged a ticket price to support the PTA
- An exhibition of dancing by pupils at a school fete
- A costumed storyteller

13. There are also numerous areas of inconsistency when consideration is given to the types of events which can take place without a licence. For example:

- Stock car racing does not need a licence, but indoor athletics does;
- An evangelist can speak in a large arena without a licence, a licence would be required for a play in the same venue.
- A performance of Morris Dance with live or recorded music accompanying it is exempt from licensing requirements, but not the performance of mime.
- Other such activities which do not require a licence include country fairs and outdoor sport to crowds of fewer than 10,000 (5,000 for football)

14. We consider, using the football example as a bench mark, if events where 5,000 people or fewer are present are removed from the requirements of the Licensing Act, the necessary protection to address noise, crime, disorder, and public safety will continue because there is a range of robust legislation already in place, including Health and Safety at Work, Fire Order, Noise Nuisance, and Environmental Protection. Additionally, a licence will still be required for events at which alcohol is sold, where the risks to the public are higher, ensuring that controls still remain.

15. The relaxation of the licensing requirements for entertainment regulated under Schedule 1 of the 2003 Act is consistent with the aims of Lord Young's health and safety review, as well as Lord



Hodgson's review into red tape affecting the third sector. In addition it will complement the Big Society proposals as it will lift burdens on community and small charitable events, with a particularly helpful effect on fundraising events in community and village halls (in so far as these activities fall within the definitions of the exemptions).

## **Policy objective**

16. The objective is to remove unnecessary regulation and reduce the requirements and costs that deter venues, and users of Temporary Event Notices from staging entertainment. Ultimately the aim is to ensure that performers (including sportsmen and women) and the audiences that wish to attend events do not have their opportunities limited unnecessarily by licensing restrictions.

## **Options considered**

### Option 1: Do nothing i.e. keep existing licensing restrictions in place

17. The first option would leave the existing arrangements in place. The intention behind the Licensing Act 2003 was to encourage a wider range of live music in pubs, bars and other venues by simplifying entertainment licensing requirements.
18. However, there is some evidence that there has been a decrease in the performance of regulated entertainment. For example, a survey for DCMS in 2007<sup>2</sup> found a 5% decrease in the provision of live music in secondary venues due, in large part, to a decrease in provision in church halls and community centres. The existing burden of disproportionate and unnecessary red tape on entertainment venues can do nothing to improve the situation across all forms of entertainment.
19. As explained in the background, there are a number of inconsistencies which have emerged as a result of the 2003 Act. These inconsistencies can lead to confusion on the part of premises owners, event organisers and licencing authorities, for example it is still unclear whether circus performances are covered by the regulated entertainment in the 2003 Act, with some licensing authorities requiring a licence for circuses, and some not. This lack of clarity can also extend to other types of performance, such as street performance and carol singing.
20. The "do nothing" option would not remedy these unintended consequences of the 2003 Act, and there would continue to be unnecessary red tape for organisers wishing to put on low risk events, confusion and inconsistency, as well as inequality regarding the types of events which do or do not require a licence. A disincentive for venues to try out entertainment provision or to put on events at late notice would also remain.

### Option 2: Remove all regulated entertainment, as defined in Schedule 1 of the Licensing Act 2003, from the 2003 Act.

21. In 2009/10 there were 124,400 applications made to local authorities for temporary event notices (TENs). We have assessed a sample of these and estimate that approximately 74% (92,000) TENS include entertainment in some form and would therefore benefit from the deregulation either by becoming entirely exempt from licensing (about 16,000 of the total) or, where the event also required an alcohol licence (about 76,000 of the total), the process would be simpler. We also estimate 1,613 applications are made to local authorities annually

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<sup>2</sup> [http://webarc.hive.nationalarchives.gov.uk/%2B/http://www.culture.gov.uk/reference\\_library/research\\_and\\_statistics/4854.aspx](http://webarc.hive.nationalarchives.gov.uk/%2B/http://www.culture.gov.uk/reference_library/research_and_statistics/4854.aspx)

for new applications and variations of existing licences in relation to regulated entertainment and a further 21,075 licences for regulated entertainment which are reviewed annually. The burden and cost of applying for, and processing these applications would be lifted.

22. We believe that most of the entertainment is of low risk to the key objectives of the Licensing Act 2003, much of disorder and public nuisance is caused as a result of alcohol, the sale and supply of which will still be regulated and subject to review. However, we appreciate there are risks that a blanket exemption could produce potential unintended consequences and would favour an option with greater consideration of risks.

Option 3: Retain regulated entertainment as defined in Schedule 1 of the Licensing Act 2003 where audiences are 5,000 or greater, and for a small number of higher-risk forms of entertainment of any size. (Preferred Option)

23. We have had a number of representations from licensing and enforcement authorities, as well as resident associations, with regard to a number of issues concerning a blanket exemption of regulated entertainment. One issue concerns regulating the size of an audience. We will ask specific questions in the consultation regarding audience size.
24. Further discussions with stakeholders identified certain forms of entertainment which are considered to be of high-risk to the objectives of the 2003 Act. In these instances, the burden of enforcement imposed by a full deregulation may outweigh the benefit of deregulation itself, we will explore these in paragraphs 29-35.
25. At present, outdoor sports with audiences under 10,000 do not require safety certificates, the only exception to this is football, where there have been historical instances of public disorder, and as such requires a safety certificate if the capacity is 5,000 or greater. In addition, the existing fees regime under the 2003 Act, which has been approved by Parliament, recognises that large events require additional work for local authorities to assess, manage and enforce risks related to this size of event therefore an additional fee applies for large events of 5,000 people and over.

*Indoor Venues*

26. In terms of regulated entertainment in indoor venues, we estimate close to 100% of venues that could potentially stage regulated entertainment would have capacities of fewer than 5,000 people, and therefore fall into the scope of the deregulation. However, the vast majority of these venues (particularly indoors) would still sell alcohol alongside any entertainment and as such, require alcohol licences, which will ensure premises and events are meeting the objectives of the 2003 Act. We believe that the larger the venue, the greater the likelihood that they are purpose built facilities for entertainment and therefore have an alcohol licence. They would also still be subject to the protection afforded by fire regulations, health and safety etc.

*Outdoor venues*

27. Outdoor events offer their own particular set of problems, especially in terms of limit the crowd size. We believe that most events of the type we intend are unlikely to reach close to 5,000 audience size, however, where these do (in particular sporting events and live music) they would usually supply alcohol.
28. There are also large scale events which are not regulated by schedule 1 of the Act which attract significant crowds, which safely take place with only alcohol licences, or no licence at all (for instance funfairs, stock car racing and rugby or cricket matches) this not only highlights unjustifiable inconsistencies in the current legislation, but also that entertainment licences are not necessarily the driving force behind good practice in ensuring health and safety. We will test our proposal further in the consultation; however, we currently consider limiting the exemption of

the proposed regulated entertainment to audiences of less than 5,000 would maximise the benefits to business without serious compromise of the licencing objectives.

#### *Limits on Boxing and Wrestling*

29. Following pre-consultation discussions with the police and licencing authorities, we are not intending to deregulate boxing and wrestling, which are considered to be a higher risk than other sports, and as such are listed separately from indoor sports in the schedule 1 of the Licensing Act 2003. The two main risks we have considered are:
- (a) There are significant health and safety risks attributed to competing in these events, and there is a concern that deregulating these forms of entertainment could lead to an increase in events happening under unsuitable conditions.
  - (b) Further, the Police have raised concerns about the risk of public disorder at such events.
30. Nonetheless we wish to explore options in our consultation, including whether a distinction should be made between largely commercial events and those which are governed by a recognised sports' governing body. For the purposes of this impact assessment, we will make two assumptions:
- There will be no adverse impact on enforcement, as we do not intend to deregulate boxing and wrestling in such a way where this will be an issue.
  - We believe the overall cost and benefit to business of licencing boxing and wrestling alone is relatively small and therefore we have not costed out the impact of deregulating or continuing to regulate such events as such figure are likely to be lost in the rounding - we know from Licensing Data that there are approximately 5,100 (2.3%) of premises licences and club certificates which contain allowances to put on boxing and wrestling events, if we apply the assumed 10.4% proportion of Licences which are for regulated entertainment only (the calculation behind this is explained in detail in paragraph 49) then we can assume that 530 (0.25%) of premises would be estimated to have a licence for boxing and wrestling, without alcohol.
31. In both instances, we would require further information from the Police with regard to the estimate cost of enforcing an exemption of these events. It is certainly difficult to estimate an increase in new events taking place or for there to be an increase in disorder as a result of more events taking place. We will continue to seek further evidence on the potential cost throughout the consultation process.

#### *Exhibition of film*

32. Our overall aim is to remove the "exhibition of film" from the requirements of the Licensing Act Act 2003. However, **we would only do this** once we have made changes, using other primary legislation, to mirror the existing age classification protections for children that are set out in the Licensing Act 2003 and the Video Recordings Act 1984.
33. Removing "exhibition of film" from Schedule One in this way, whilst maintaining protections, will end the current inconsistencies and confusion around showing recordings in schools and video in art installations, and will also benefit small, community film clubs too. So our proposal is to remove the current licensing requirement for film, but recreate a classification and enforcement mechanism elsewhere to ensure appropriate levels of protection without the need for a specific licence to exhibit film to the public.
34. Again, it is difficult to estimate the number of licenses purely relating to film. We know, according to figures provided by the Cinema Exhibitors' Association there are 763 cinema sites across the

UK, consisting of 3,741 screens<sup>3</sup>, of these, many will include alcohol licences. Beyond this, we know that there are approximately 40,200 licenses which include film, of which an estimated 4,180 (10.4% - see paragraph 49) would not include alcohol in their licence, which represents just 2% of the 202,000 total licenced premises. However, for the purpose of this impact assessment we have continued to include the savings to business of removing the licensing requirement of exhibiting film and, as we intend to keep statutory powers restricting entry to children, we have not assumed a burden of enforcement as a result of an increase in children watching inappropriate material as this should not be a consequence. However, we hope to use the consultation to inform our eventual policy decision, and should further costing be required as a result of this, which would arise from leaving exhibition of film as a licensable activity in the 2003 Act, we will do so in subsequent impact assessments on this matter.

#### *Other Limits on the Proposal*

35. Finally, most forms of entertainment such as striptease and pole dancing are covered by separate legislation governing sex entertainment. However, premises which only hold such events less than 12 times a year are exempt from that legislation and the activity is instead regarded as performance of dance under the 2003 Act. We do not propose to remove any licensing requirements from this type of activity and will ensure an appropriate definition remains in schedule 1 of the 2003 Act. We have no data on how frequently these events are held, but believe that they are in nearly all cases likely to be at venues requiring a permission to sell alcohol. We therefore do not believe that there will be any impact on the benefits to business of retaining licensing requirements in relation to this activity and, as such, no figures on the benefit or costs are included in the impact assessment.

#### **Costs and Benefits**

36. Costs and benefits will occur in each of options 2 and 3, however, these will be scalable depending on the type of activities that remain regulated in each scenario.

37. Due to its deregulatory nature, our proposal does not directly impose any costs. However, should it lead to an increase in noise related complaints and disputes, or public disorder, there may be potential for some additional costs for:

- Licensing authorities dealing with additional reviews of alcohol licences;
- Local authorities or police dealing with incidents; and/or
- The general public in terms of wellbeing lost (although we estimate this will be significantly offset by wellbeing gains from increased opportunities to spectate and perform at entertainment events)

38. However, it should be noted that the continued use of the Licence Review procedure under the Licensing Act 2003 for premises with an alcohol licence would continue to act as a powerful disincentive for premises to fail to comply with good practice, as conditions may be placed on their licence which could limit activities or result in the removal of the licence. Also, any additional costs will depend on factors such as the success of preventative action (such as best practice guidelines for premises and threat of action under noise legislation) and the extent to which there are already out of hours services for dealing with incidents.

39. The proposal delivers direct benefits by removing the administrative burden of applying for a entertainment licence for a significant number of venues. In particular it will benefit:

- Venues applying for Temporary Event Notices to stage entertainment;
- Venues applying for variations to their premise licence or club certificate to add; and permission for entertainment or increase the provision where it is already permitted

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<sup>3</sup> <http://www.cinemauk.org.uk/ukcinemasector/ukcinema-sitesandscreens/ukcinemasitescreensandseats2000-2007/>

- Potential venues that have no alcohol licence but wish to provide entertainment.

40. In addition there will be further benefits to other groups:

- Significant cost savings for charitable and other third sector volunteer groups wishing to host events;
- Wellbeing gains for the general public should the exemption lead to an increase in the availability of entertainment;
- Venues, such as pubs, clubs, restaurants and hotels may also be encouraged to provide new and varying forms of entertainment to attract new customers and to diversify their business;
- Cost savings for licensing authorities that will have to process fewer licence applications and assess fewer activities on applications for multiple activities; and
- Increased opportunities for performers and sportsmen and women to perform.

### Costs and Benefits to Businesses

41. The administrative burden lifted will be that currently borne by those applying to put on regulated entertainment which will become exempt. The following cost burdens at these venues will be affected:

- (a) **Temporary Event Notices (TENs)** made purely for regulated entertainment.
- (b) **Variations to premises licences and club certificates**, either to add permission for regulated entertainment or increase the provision where it is already permitted. Some of these are likely to be minor variations, particularly for increasing the provision of regulated entertainment where it is already permitted.
- (c) The **savings related to the costs of additional conditions** that can be imposed following representations received during a variation application, or volunteered alongside a minor variation. We will not attempt to quantify this cost, as there are too many unknown variables. For example, in a small number of cases, conditions have been imposed that limit the number of performances. This will be a substantial cost in some circumstances but in other cases will have no impact at all (because there is no intention to have more than this many events in any case).
- (d) A more innocent seeming condition is that of having to close doors and windows. This will usually have very little cost. However, in a rare case it may effectively require a venue to fit air conditioning. This cost is also different from the total cost of conditions relating to live music which already apply to venues licenced for live music. For similar reasons, these too are difficult to estimate because the conditions and their costs will be specific to each venue and many venues, particularly those with alcohol licences, will continue to make every practicable effort to apply these conditions, as good practice.

### Voluntary Sector and Schools

42. In their 2009 inquiry into the Licensing Act 2003, the Culture, Media and Sport Select Committee were particularly concerned about the impact of the Licensing Act on the voluntary sector<sup>4</sup>. The process of applying for regulated entertainment licences is burdensome to many third sector organisations that are staffed by volunteers – besides the upfront £21 cost of the TEN, and related administrative time cost, the process is generally off-putting with the result that many events across the country have not taken place.

<sup>4</sup> Para 56 of the 2009 report on the Licensing Act 2003 <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmcmums/cmcmums.htm>

43. Although there is no licence fee charged, there will be an administrative saving for community buildings and schools that no longer have to go through the process of making new applications, variations, or TENs in respect of regulated entertainment. Where this saving is made against time spent by public servants such as teachers, there is an extra cost saving element.
44. Furthermore, there are 27,340 schools and colleges in England and Wales. A very small number of schools have a premises licence, but the majority use TENs to hold events involving regulated entertainment. Based on figures provided by educational organisations, it has been estimated in a previous IA that schools use around 35,000-50,000 TENs per year for this purpose. We assume that some schools do not use any TENs because, for example, they take events offsite, use an associated premises, or because they do not hold events. Schools are seen as a relatively low risk to disorder and public nuisance and freeing them from the burdens of the licensing regime on regulated entertainment would give schools greater freedom to explore the arts and put on public performances for the benefit of the school, the parent teacher associations and pupils.

## Number of TENs

45. According to the most recent Statistical Bulletin, there were 124,400 TENs in 2009-10<sup>5</sup>. TENs may authorise the full range of licensable activities, including regulated entertainment and the provision of alcohol. While local authorities keep historical records of all TENs issued, the statistics on the reasons for individual TEN applications are not routinely kept by Local Authorities, for example, we cannot extract accurate data which ascertains the number of applications made purely for live entertainment, or indeed specifically by the type of entertainment.
46. In the Department's recent impact assessment which looked at an exemption of small live music venues from the 2003 Act (referred in this document as the "live music impact assessment")<sup>6</sup>, we estimated a figure of 25,600-34,100 TEN applications were made purely for staging live music in venues – this was based on responses to the 2007 live music survey and such data is not available for the regulated entertainment.
47. To calculate the number of venues using TENs to stage regulated entertainment, we have assessed a sample of 4,132 publically available TEN applications made to Local Authorities. Of these applications 634 (12.8%) were listed as being made for regulated entertainment only. However, if this figure is applied to the 124,400 total TENs in 2009-10 this estimates a lower limit of TENs granted for regulated entertainment alone as 16,000 (see table 1, rounded to nearest 100). This figure is significantly lower than the lower bound estimate for live music. One possible reason why we believe that this is the case is that the live music impact assessment calculated the number of TENs based on the number of *potential* secondary venues which could host live music events, whereas the data from local authorities represents historical figures of actual events that have occurred. It is likely that the upper-bound figure is more indicative of the number of venues that could potentially benefit from deregulation, thus staging more events, while the lower bound estimate is more indicative of the savings applied to the numbers staging events under the current licencing regime. This may in itself simply be in part an indication of the extent to which licensing requirements put off venues from providing entertainment. There are also a number of further reasons why the two figures are different:
- **Methodology:** Different methodologies were used in each impact assessment, from different data sources. In each case these were considered to be the most reliable forms

<sup>5</sup> [http://www.culture.gov.uk/images/research/Licensing\\_Statistics\\_Bulletin2010.pdf](http://www.culture.gov.uk/images/research/Licensing_Statistics_Bulletin2010.pdf)

<sup>6</sup> RPC reference: RPC11-DCMS-790(2)

of data, given the lack of information breaking down licences by type The number of TENs is a relatively small sample size and represents only 3.32% of total TEN applications. We hope that we will be able to obtain more data throughout the consultation process.

- **Inconsistencies in the application process:** a considerable proportion of TEN applications are for licenced premises which request permission for both regulated entertainment and the sale or supply of alcohol. In many cases there will be a legitimate reason for this (unlicensed areas of the premises, or an extension of hours), however, we believe that there is evidence to suggest that the phrasing of the question on the TEN form<sup>7</sup> could lead to licenced premises erroneously applying for the sale or supply of alcohol, to ensure their event is correctly licenced.
- **Addition of alcohol:** There are a significant number of unlicensed premises (such as schools and churches) applying for TENs for low risk regulated entertainment events and including alcohol in their application, even when there is no intent to supply alcohol in the first instance In doing so, there would be no extra cost to the applicant, but a saving in cost and administrative burdens should they wish to add alcohol at a later date. Should the process be simplified and entertainment is deregulated, we should see decrease in the number of TENs made by schools, church halls and community centres which include both supply of alcohol and regulated entertainment.
- **Minor Variations:** Since the live music survey was conducted in 2007, the minor variations process was introduced, and allowed variations to be made to existing licenses for reasons including putting on of entertainment, while we estimate the number of variations to be small (247 –see table 3) these could each represent 6-8 TENs each (the assumption used for annual TENs per venue in the live music impact assessment) – approximately accounting for 1,500-2,000 TENs.

*Table 1. Calculating the potential number of TENs purely for regulated entertainment*

Total number of TENs	124,400
Estimated proportion of these that are purely for Regulated Entertainment	12.8%
Estimated number of these that are purely for Regulated Entertainment	15,956

48. While we have no strong evidence to disprove the range estimated in the live music impact assessment, given the further evidence from the analysis of local authority data we will assume a broader range from that given in the live music impact assessment of 16,000-34,100.

## **Burden of Applying for TENs**

49. The fee for a TEN is £21. The administrative cost of applying for a TEN has been estimated previously as £16<sup>8</sup>. Table 2 below shows how these figures derive an **estimate of burden lifted of £927k for venues.**

<sup>7</sup> The TEN form asks event organisers to “Please state the licensable activities that you intend to carry on at the premises” with a check box system for regulated entertainment, sale of alcohol, supply of alcohol on behalf of a club and the provision of late night entertainment.

<sup>8</sup> This is the calculated monetised value compiled using the Better Regulation Executive Admin Burdens Calculator <https://www.abccalculator.bis.gov.uk/>

Table 2. Calculating the burden lifted on TENs purely for regulated entertainment

Fee burden per application	£21
Total lower bound fee burden	£336,000
Total upper bound fee burden	£716,100
Admin burden	£16
Total lower bound admin burden	£256,000
Total upper bound admin burden	£545,000
<b>Total lower bound fee and admin burden</b>	<b>£592,000</b>
<b>Total upper bound fee and admin burden</b>	<b>£1,261,100</b>
<b>Total fee and admin burden (average)</b>	<b>£926,550</b>

### Number of New Licences, Variations, Minor Variations and Annual Licence Fees

50. According to Licensing Statistical Bulletins there are approximately 202,000 premises licences in force currently in force, of which 36,000 do not include alcohol. As many of these could be for premises which serve late night refreshment (e.g. takeaways) we do not know for certain how many of these are for regulated entertainment.

51. Of the 202,000 premises licences, we know that there are 117,000 which include regulated entertainment and 81,500 that include late night refreshment. For the purpose of estimating the number of premises licences for regulated entertainment which do not include provision for alcohol, we have taken the estimated proportion of premises licences that include regulated entertainment (58%) and applied this proportion to the 36,000 premises we know do not include alcohol in their licence, we therefore estimate that 21,075 of licences relate to regulated entertainment only (10.4% of all licences). This is an oversimplified figure, which does not take into account premises which include both regulated entertainment and late night refreshment. Given that this type of license is only likely to represent a limited number of takeaways and restaurants which stage regulated entertainment that is not incidental and after 11pm, and the fact there are no better statistics available, we will also assume that a proportion of 10.4% to be approximately true in respect of premises licences and variations purely for regulated entertainment. This proportion has not been applied to TENs as we believe a greater proportion of TENs are used for venues, such as schools, village halls and public spaces that only wish to put on regulated entertainment.

52. Of these 21,075 we have estimated that there are a further **8,096** licence holders that are **subject to annual licence fees**. This figure is derived from information in the 2009/10 licensing statistics which show 12,979 licences held by public institutions, such as schools and hospitals, which are exempt from paying an annual fee. Such licences can only be exempt from licence fees if they are for regulated entertainment only. We have, for simplicity, deducted these 12,979 licences from the 21,075 total licences we have estimated are for regulated entertainment only, as they do not impose a fee burden on business, showing 8,096 licences which are for regulated entertainment only and do attract a licence fee.

53. Licensing Statistical Bulletins tell us that there are around **9,105 new applications** for premises licences, **6,400 variations** and **2,377 minor variations** per year. Using our assumption that a proportion of 10.4% are purely for regulated entertainment, we estimate that **947 new applications, 666 variations and 247 minor variations per year**, are for regulated entertainment only.



Table 3. Calculating the potential number of applications for new licences, variations and minor variations for regulated entertainment

Estimated number of new licences per year	9,105
Estimated proportion of new licences that are <u>just</u> for regulated entertainment	10.4%
Estimated number of new licences that are <u>just</u> for regulated entertainment	947
Estimated number of full variations per year	6,400
Estimated proportion of full variations that are <u>just</u> for regulated entertainment	10.4%
Estimated number of full variations that are <u>just</u> for regulated entertainment	666
Estimated number of minor variations per year	2377
Estimated proportion of minor variations that are just for regulated entertainment	10.4%
Estimated number of minor variations that are just for regulated entertainment	247
Estimated number of existing licences that are just for regulated entertainment	21,075
Estimated number of existing licences for regulated entertainment where an exemption from annual fees applies.	12,979
Estimated number of existing licences for regulated entertainment, where an annual fee cost applies	8,096

### **Burden of Applying for New Licences, Variations and Annual Licence Fees**

54. In 2009/10 figures show that there were 16,273 new, and variations to, premises licences and club premises certificates across bands A to E, at a cost of between £100 and £1905. The average cost of applying for these licences has been calculated as £238. The cost of minor variations is £89 per application.

55. We have also calculated the estimated burden of venues applying for new licences and variations. We have estimated the average cost of fees at £238; this is based on statistics of the number of venues across each licensing band and the cost of a licence. In doing so, we have assumed that the same proportion of venues in each band will benefit from savings. The Minor Variations Impact Assessment<sup>9</sup> contained estimates that the administrative cost of a full variation is £385-£950. Some of the current applications made for the purpose of authorising regulated entertainment will be minor variations applications, the fee for this is £89, and the estimated administrative cost is £35.

56. We also have figures of the number of annual licence fees in each band in 2009/10, assuming an equal proportion of venues across each band that benefit. We have estimated an annual fee burden of £194 per licence.

57. Table 4, below, shows a total burden lifted for applying for both new licences and variations produces an **estimated burden lifted of £2.6 million- £3.5million for venues.**

<sup>9</sup> Consultation on proposals to introduce a new minor variations process, and remove certain requirements at community premises, February 2008 <http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/LicensingconsultationJuly2008minorvar.pdf>

Table 4. Calculating the potential number cost and burden of applications for variations for regulated entertainment

Estimated number of new licences that are <u>just</u> for regulated entertainment	947
Fee Burden for new Licences (at £238)	£225,386
Lower bound admin burden for new licences(at £385 each)	£364,595
Upper bound admin burden for new licences (at £950 each)	£899,650
Estimated number of full variations that are <u>just</u> for regulated entertainment	666
Fee burden for full variations (at £238 each)	£158,508
Lower bound admin burden for full variations (at £385 each)	£256,410
Upper bound admin burden for full variations (at £950 each)	£632,700
Estimated number of variations that are just for regulated entertainment	247
Fee burden for minor variations (at £89 each)	£21,983
Admin burden for minor variations (at £35 each)	£8,645
Estimated number of licences for regulated entertainment where annual fee applies	8,096
Fee burden for annual licence fees (at £194) each	£1,570,624
<b>Lower bound total fee and admin burden</b>	<b>£2,606,151</b>
<b>Upper bound total fee and admin burden</b>	<b>£3,517,496</b>

58. Adding together the burden lifted for both TENs and variations produces an estimated total **burden lifted of £3.2million - £4.8million for venues.**

59. For the purposes of OIOO we have estimated the average saving to business and civil society as **£3.06million**. This is just the saving from removing the burden to apply for new licences as well as full and minor variations. We have not included the savings from applying for TENs as a significant number of these will be for schools and therefore out of scope. While we understand that many applications for TENS will be made by businesses and voluntary organisations, and indeed many of the instances of schools using TENS may be through voluntary organisations (such as Parent Teacher Associations), we cannot determine how much of the TENS savings would fall to each group and have therefore left all the savings out of scope. As such, the OUT claimed is a very conservative estimate. We hope that further evidence from the consultation will help us to establish a better figure.

60. Beneficiaries will also include those who do not currently provide regulated entertainment and are therefore not subject to a formal “administrative burden” but are nevertheless restricted by current licensing requirements. We have no means of accurately estimating how many beneficiaries may take advantage of the proposed exemptions, but this is a key group that the change in the legislation is designed to assist, and will include:

- (a) Premises licenced for alcohol or late night refreshment such as pubs, bars and restaurants that wish to provide regulated entertainment but do not because of regulated entertainment licensing requirements.

- (b) Venues (or, rather, potential venues) that have no licence but wish to provide live music. This could include, for example, scout huts, cafes, restaurants and record shops.

## **Estimated Burden of proposed exemption on Local Authorities and Licensing Authorities**

61. By increasing the number of potential entertainment venues and, arguably, removing a tool for preventative action via a licence the proposal may increase the prevalence of noise complaints which local authorities will have to deal with. Local authorities are obligated to deal with disturbance under other legislation i.e. under the Noise Act 1996 local authorities must take reasonable steps to investigate complaints of noise between 11pm and 7am at licenced premises, and the Anti-Social Behaviour Act 2003 requires local authorities to deal with noise complaints at licenced premises at any time of day. In addition, under Section 80 of the Environmental Protection Act 1990 (EPA), local authorities must take "all reasonable steps" to investigate and prevent public nuisance, including noise complaints, and the EPA applies to both licenced and unlicenced premises. Many local authorities have out of hours noise nuisance teams to deal with complaints, while others rely on the police.
62. It should be noted that noise problems from venues are fairly infrequent. According to the National Noise Survey 2008<sup>10</sup> only 3% of those interviewed specifically identified pubs, clubs - or other entertainment venues - as a source of noise that was bothering them. Despite the size of the events we are proposing to deregulate, we believe that it is unlikely that deregulation will give rise to greatly increased complaints or disturbance. We expect a majority of events (in particular those involving live music) will still be of a small scale attracting audiences of no more than 100-200 people, with larger events of up to 5,000 people taking place less frequently in specialised venues. There may as audience size increases, be incidental noise when the audience enters or leaves the venue. We also expect there to be a low risk of noise direct from wider regulated entertainment beyond live music such as plays and indoor sport, where much of the benefit will be seen at schools, village halls and community and leisure centres. Where there are noise related complaints about a venue they will either be dealt with by investigation by environmental health officers or, where there is an associated alcohol licence, by investigation by licensing authorities.
63. The Chartered Institute of Environmental Health (CIEH) provide figures on noise complaints from "Commercial / Leisure" sources for 2008-09. These breakdown the number of incidents that are complained of, the number of those that are then confirmed as statutory nuisances<sup>11</sup>, the number that lead to abatement notices and the number that eventually lead to prosecutions. The raw figures they collect reflect around half of local authorities so these have been grossed up to reflect the total population<sup>12</sup>. The figures are not disaggregated beyond "Commercial / Leisure" which will include shops, restaurants, supermarkets, etc. that are not relevant to this calculation. Based on the National Noise Survey 2008 (3% specifically identified pubs, clubs or other entertainment venues as a source of noise that was bothering them, compared to a further 3% of those interviewed who are bothered by noise from commercial premises), we have, for the purposes of this impact assessment, assumed that 50% of the incidents reported by CIEH under the heading "Commercial / Leisure" can be attributed to pubs / clubs / entertainment venues.
64. Finally, to establish the number of these complaints that might be attributable to regulated entertainment we have used the proportion of all premises licences and club premises certificates that include regulated entertainment (61%). The table below shows how this produces estimates for the number of noise incidents complained about, statutory

<sup>10</sup> [http://www.environmental-protection.org.uk/assets/library/documents/National\\_Noise\\_Survey\\_2008.pdf](http://www.environmental-protection.org.uk/assets/library/documents/National_Noise_Survey_2008.pdf)

<sup>11</sup> A statutory nuisance means that the noise is causing an unreasonable interference with someone's use of their land or material discomfort to the population at large.

<sup>12</sup> The figures have been grossed up without weighting for the size of authorities included / excluded

nuisances, abatement notices and prosecutions attributable to live music at pubs / clubs / entertainment venues in 2008-09. That is not to suggest that every noise complaint at a pub/club/entertainment venue which puts on entertainment is due to that event. However, in order to assess the possible impacts of the proposed exemptions, and in the absence of any specific data, this is a reasonable proxy for a starting baseline.

Table 5. Estimating the number of noise incidents complained about, statutory nuisances, abatement notices and prosecutions attributable to entertainment at pubs / clubs / entertainment venues in 2008-09.

	Raw figures based on 46.3% of local authorities	Figures grossed up to population	Attributable to pubs / clubs / entertainment venues	Attributable to entertainment at pubs / clubs / entertainment venues
Incidents	17,763	38,391	19,196	11,693
Statutory Nuisances	3,904	8,438	4,219	2,570
Abatement Notice	670	1,448	724	441
Prosecutions	51	110	55	34

65. It is very difficult to estimate how the number of noise incidents suggested above might be affected by the proposed exemption. We estimate that it will only be a small increase, if any, because:

- Most venues affected will also have an alcohol licence so may already be subject to general conditions relating to noise disturbance;
- Some venues affected will have experience of putting on entertainment under the current licensing regime and will already have in place suitable controls for nuisance noise which they will wish to retain;
- TENs are currently not subject to scrutiny in advance because of noise nuisance (they can only be dealt with retrospectively) so this exemption will not change how they are enforced.

66. Of any increase in nuisance noise incidents we would expect that many would be related to venues with an alcohol licence. In which case it is likely that licensing authorities would deal with the complaint through informal procedures and, if necessary, the addition of conditions relating to noise on the alcohol licence through review. As such, we expect relatively few additional cases of noise nuisance relating to regulated entertainment to be processed by environmental health officers. For the purposes of this impact assessment we will estimate that there will be an increase of between 5% and 10%. This figure is the same increase as estimated in the live music impact assessment but applied to a greater number of venues where entertainment can take place, giving us an increased total burden.

67. The Department for Environment and Rural Affairs (DEFRA) have provided us with estimates of the costs of dealing with noise incidents as agreed with LG Regulation/ LACORS. They estimate that investigation of a complaint would take 10 man hours at a total cost of £506.30, serving an abatement notice takes 20 man hours at a total cost of £1012.60, and that processing a prosecution would cost £10,000. In terms of dealing with the majority of live music related noise incidents we believe that 10 man hours is likely to be an overestimate as they can often be resolved informally and more quickly. However, for the purposes of this IA and in the absence of alternative information we have used that estimate. Using the indicative estimates of a 5% to 10% increase in noise complaints dealt with by

environmental health officers we estimate this would produce a **burden of £338k to £667k** per year, as outlined in Table 6 below.

Table 6. Estimating the burden on environmental health officers of increases in noise complaints

	Increase of 5%	Cost of Increase of 5%	Increase of 10%	Cost of Increase of 10%
Incidents	585	£296,000	1169	£592,000
Statutory Nuisances	128		257	
Abatement Notice	22	£22,000	44	£45,000
Prosecutions	2	£20,000	3	£30,000
<b>Total</b>		<b>£338,000</b>		<b>£667,000</b>

68. As mentioned above, of any increase in nuisance noise incidents we would expect that many would be related to venues with an alcohol licence and would therefore be dealt with by licensing authorities. It is likely that this would be done through informal procedures and, if necessary, the addition of conditions relating to noise on the alcohol licence through review. It is likely that the threat of review will minimise the number of times that this is necessary and we would expect such a burden to be marginal. There were 2121 reviews of licences in 2009/10, split into four categories as shown in Table 7 below.

Table 7. Review of Licence by Reason, 2009/10<sup>13</sup>

Reason for review	Number of reviews
Crime and Disorder	970
Protection of Children	485
Public Nuisance	444
Public Safety	222

69. Of these reasons for review it is likely that there will be no impact on protection of children or crime and disorder as a result of the proposed exemption (the implications for crime and disorder are discussed in more detail below under the estimated burden on the police).

70. However, there may be some impact on public nuisance or public safety due to noise or crowd issues. Again, we expect any impact to be small and most additional complaints to be dealt with informally. For the purposes of the live music impact assessment we estimated an increase in reviews of between 5% and 10%. However, given that we are estimating a greater number of complaints (approx. 42%) due to size of venues and deregulating wider entertainment, we believe that the increase in the number of complaints may filter down to an increase of 10-15% for regulated entertainment with audiences of fewer than 5,000 people. Often reviews are conducted for more than one reason so there will be some overlap between categories. However, it is not possible to separate them in the statistics so we have added together the categories of public nuisance and public safety for the purposes of this calculation. This means the figures quoted are an overestimate of the cost of a 10% to 15% increase, meaning the burden is more likely to lie towards the lower end of this range. The cost to a licensing authority of carrying out a review has been estimated for

<sup>13</sup> Scaled up from those reported in the 2010 Licensing Statistics Bulletin based on 99% response rate ([http://www.culture.gov.uk/images/research/Licensing\\_Statistics\\_Bulletin2010.pdf](http://www.culture.gov.uk/images/research/Licensing_Statistics_Bulletin2010.pdf)). Note that reviews can be for more than one reason so there is some overlap between the categories listed in the table.

previous impact assessments as £1,200<sup>14</sup>. Using the indicative estimates of a 10% to 15% increase in reviews we estimate this would produce a **burden of £79k to £120k** per year, as outlined in Table 8 below.

**Table 8. Estimating the burden on licensing authorities of an increase in reviews**

	Increase of 10%	Cost of Increase of 10%	Increase of 15%	Cost of Increase of 15%
Public Nuisance	44	£52,800	67	£80,400
Public Safety	22	£26,400	33	£39,600
<b>Total</b>		<b>£79,200</b>		<b>£120,000</b>

71. In total, the estimated burden on local authorities and licensing authorities, should there be a 5-10% increase in noise complaints and a 10-15% increase in reviews is **£417k to £787k**. This is the total potential change in enforcement costs. To offset this potential burden local authorities will no longer need to process applications, variations, or appeals for licences covering live music only, and will no longer have to process the live music element of an application that covers multiple activities.

### **Estimated Savings for Local Authorities**

72. We know from 2009/10 licensing statistics that there are also 12,979 licences for other public institutions, such as schools and hospitals, which do not attract an annual licence fee, but attract a burden to licensing authorities to process. Most of these institutions will be Band A premises, and therefore attract an annual fee of £70. Based on the assumption that fee reflects the burden to local authorities, we assume the average of £70 admin burden lifted per application processed, which represents a **saving to local authorities of £908,530**.

73. Using available figures obtained from approximately half of local authorities, we have identified approximately 900 public spaces which are licenced for Regulated Entertainment (up-scaled to approximately 1,800 across all LAs). Each of these would place an admin burden on local authorities who are both applying for annual licence fee and processing the annual licence fee payments. While the admin cost of the annual fee payment to businesses has not been costed as it is considered to be relatively small, the cost lifted to Local Authorities of processing these (at £70 each) represents a further saving of £126,000.

74. Therefore, we estimate the **total saving to local authorities is £1.03million**. If this is netted off against the £417k to £787k cost for processing noise related complaints, we estimate a **total net saving to local authorities of £248k to £617k**.

75. We believe here may also be further savings to local authorities which have not been costed. For example, we know from sourcing data on TENs that a significant number of TEN applications are for regulated entertainment events in public spaces (such as parks) and local authority buildings, these also place numerous burdens on Local Authorities, in particular as all TENs attract application fees. However, given the availability of data, it is difficult to estimate the number of these made purely for regulated entertainment with any degree of certainty.

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[http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/IA\\_exempts\\_small\\_livemusic\\_events.pdf](http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/IA_exempts_small_livemusic_events.pdf)

## **Estimated Burden of proposed deregulation on the Police**

76. Following discussions with the police and licensing authorities we are aware of concerns about proposals to deregulate entertainment and its effect on public safety, crime and disorder, in particular in relation to events at the upper end of the proposed audience limit. However, police representatives have previously indicated that the vast majority of live music events have no implications for policing or public safety and that problems of criminality are the exception<sup>15</sup> and they have also indicated in discussions that other forms of entertainment in the act (excluding boxing and wrestling) are even less of an issue. We will continue to discuss concerns with police and will assess the impact of deregulation throughout the consultation process.
77. We consider that concerns about crime and disorder relating to entertainment events are mostly connected to events where alcohol is present. These proposals will not impede events where alcohol is sold continuing to require a licence. So that in most cases, the licensing regime for alcohol will provide sufficient incentive for event organisers to apply best practice and to work with the police to mitigate potential problems. In the event of disturbance the premises licence or club premises certificate can be reviewed and a condition altered or added to the effect that section 177 does not apply to it so that any condition relating to the provision of music entertainment will have effect.
78. Premises which do not sell alcohol, such as community halls, schools, hospitals, cafes, and some restaurants do not represent a significant risk, and in any case will still be covered by noise nuisance legislation, fire regulations, and Health and Safety at Work legislation (which includes a duty to take reasonable steps to protect the public from risks to their health and safety). The combined legislation will ensure public protection and prevent potential problems through the risk assessments and duties imposed, rather than the layer of bureaucracy imposed by licensing. We will continue to seek evidence and to test how existing legislation, beyond the Licensing Act 2003, will continue to offer adequate assurances to the police and licensing authorities throughout the consultation process.
79. It is also worth noting that there are already many types of entertainment activity where large numbers of people gather in one place without an entertainment licence, including fun fairs, country shows, religious events, stock car racing, outdoor sport, and political rallies.
80. As we have previously explained in paragraphs 28-30, we are further considering the position on Boxing and Wrestling in the consultation. Discussions with licensing authorities and representations with the police in relation to these events indicate a negative impact on the licencing objectives, in deregulating such events, particularly in regard to crime and disorder and the safety of competitors and spectators. We have not been able to ascertain the potential burden in enforcing an increased number of unlicensed boxing and wrestling events, as such, for the purpose of this IA, we are proposing that we do not deregulate boxing and wrestling, and as such, no further costs to the police will be imposed for these events as a result a change of policy.

## **Costs and Benefits to the Public**

81. By removing the deterrent licensing requirements and costs, it will be easier for venues to put on events. Unlike live music there isn't any evidence to predict the change in attendance

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<sup>15</sup> In correspondence to Phil Little of the Live Music Forum Commander Paul Minton, Chief of Staff, Association of Chief Police Officers stated "The vast majority of live music events serve to provide considerable pleasure and social benefit without implication for policing or public safety. In a very small number of cases there is clear evidence of association of criminality with events or acts and that obviously needs to be dealt with as the intelligence and circumstances indicate, however, this is clearly the exception and not the norm".

from changes on licensing. The Live Music Survey 2007<sup>16</sup> found that 3% of venues that had not put on live music in the last 12 months stated that a change in licensing arrangements would encourage them to put on live music while 4% of venues that had put on live music in the last 12 months stated that a change in licensing arrangements would encourage them to put on more live music. Without better evidence we shall use these ranges (3% as the upper range) to predict the change in the following regulated events, unfortunately we are unable to predict the change in all event types.

82. Using the CASE model of engagement<sup>17</sup> we can estimate how many additional people would attend an event as a result of the exemption. The most relevant variable in the model is the percentage of people for whom supply issues are not a problem, which is based on Taking Part Survey data. Based on the evidence above from the Live Music Survey around the amount of additional events that might be staged we have modelled a 1 percentage point to 3 percentage point increase in this variable. The change in attendance can be found below. It must be noted that these are only approximations due to difference in the definition of events and variables in the CASE model, therefore these scenarios should be seen as illustrative. Furthermore we can only predict the change in participation in 2 events due coverage. Plays have been increased by 1% and 3% (not modelled).
83. The change results in an increase in people attending live music at least once a year of 122,000 to 354,000, performance of dance 109,399 to 328,199, plays 89,530 and 268,590. This does not take into account the number of people who already do attend once a year but will attend more frequently.
84. This increase in attendance will provide significant enjoyment and social benefit for the general population. Evidence from the DCMS Culture and Sport Evidence (CASE)<sup>18</sup> programme has shown that attending a concert provides a positive boost to subjective wellbeing (i.e. an individual's perception of their own wellbeing) and that this generally increases the more often an individual engages. As an indicative figure, using data from the British Household Panel Survey it is estimated that the gain in subjective wellbeing from attending a concert at least once a week is about a third of that associated with being employed (compared to being unemployed). Even attending a concert just once a year can lead to an increase in subjective wellbeing equivalent to around a sixth of that associated with being employed. If we assume that same level of wellbeing can be attained through other activities similar to concerts then we should expect a wellbeing gain from increased attendance in other events. Furthermore any activities that increase sports participation are also likely to achieve a wellbeing increase and improvements in health.
85. There is also a potential cost to the general population if the proposal leads to an increase in noise nuisance from extra events. However, even if it is small there is the potential for impacts through adverse health effects, loss of productivity and annoyance to the public.
86. Paragraphs 60 and 61 establish that these events are not a significant source of noise problems. Only 3% of individuals identify pubs, clubs and entertainment venues as a source of noise that bothers them. Table 5 establishes an estimate of noise incidents attributable to live music at pubs / clubs / entertainment venues in 2008-09 and Table 6 provides indicative estimates of any potential increase as 5% to 10%. This is a very small number of additional noise incidents and given the protections put in place such as the ability to add conditions to an alcohol licence, or for environmental health teams to issue noise abatement orders they are likely to be isolated incidents that are not repeated.

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<sup>16</sup> <http://www.culture.gov.uk/images/research/surveyoflivemusicdec2007.pdf>

<sup>17</sup> [http://www.culture.gov.uk/what\\_we\\_do/research\\_and\\_statistics/7275.aspx#drivers](http://www.culture.gov.uk/what_we_do/research_and_statistics/7275.aspx#drivers)

<sup>18</sup> "Understanding the value of engagement in culture and sport" CASE (2010) <http://www.culture.gov.uk/images/research/CASE-value-summary-report-July10.pdf>



87. There is a substantial body of research into the health costs of noise. However, this work has focused on constant background noise, in particular from transport, as this is most likely to produce impacts on health and productivity. For example, the Interdepartmental Group on Costs and Benefits Noise subject group have produced guidance for estimating the health impacts and associated costs for increases in background noise for a full range of decibel levels<sup>19</sup>. The type of noise nuisance associated with live music, which is occasional and intermittent, has not been investigated and researched in the same level of detail and it is not possible to estimate costs in the same way. To some extent this reflects the fact that this kind of noise nuisance is seen as having far less risk to health and a less annoyance value. Having discussed this issue with the relevant team in DEFRA they have confirmed that there is no suitable evidence for valuing this type of noise impact.

## Summary and preferred option

88. The preferred option is 3, to introduce a licence exemption for regulated entertainment, excluding boxing and wrestling, for audiences of fewer than 5000 persons. The proposed exemption would free numerous venues from the unintended effects of the Licensing Act 2003 and free up venues such as public houses, schools, hospitals, restaurants and cafes, from the burden of applying for Licences to put on entertainment. As discussed in the section "Options Considered" we will continue to assess the situation regarding the exhibition of a film, or preferred option is to deregulate film.
89. Our preferred option is subject to testing at consultation stage, we are aware that in some cases the data used is incomplete and we will continue to seek further, balanced assurances in the consultation. However, making best use of the data available to us, we believe our current preference is the only option which best meets the policy objectives:
- Of all the options, it achieves the largest cost saving (see below)
  - The proposal does not impose any unreasonable burden on licensing authorities
  - It achieves the greatest benefit by exempting performances for relatively small audiences and enables the majority of venues to benefit from the deregulation.
  - It balances the needs of entertainment venues and audiences with the interests of residents and licensing authorities, with assurance that deregulation does not affect the range of other safeguard legislation.
90. Our proposed option gives a net benefit (present value (PV)) estimate (as displayed in the summary sheet) of £32.8m-£43.2m. This is the net result, over a 10 year period, of costs to licencing authorities in enforcing public nuisance (£338k-667k) and conducting reviews (£79k-£120k), offset against savings to licensing authorities of not having to process licences exempt from annual fees (£1.0m) and saving to businesses and venues that no longer apply for TENs (£592k-£1.3m) and other licensing charges, such as new licences, variations and annual fees (£2.6m-£3.5m).

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<sup>19</sup> <http://www.defra.gov.uk/environment/quality/noise/igcb/publications/noisehealthreport.htm>

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review , or there could be a political commitment to review (PIR)];</p> <p>There is a political commitment to review the impact of deregulating regulated entertainment.</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The purpose of the PIR will be to assess the impact of the deregulation, particularly to assess if there has been any unexpected cost, or negative impact on the licensing objectives (public nuisance, crime and disorder, public safety, and protection of children from harm), and to assess whether it has increased the provision of regulated entertainment.</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>The review will monitor local authority data on licensing, police statistics, regulated entertainment event statistics, and consult with stakeholders in order to adequately assess the validity of concerns about costs, resources and crime and disorder.</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The baseline for licensing statistics will be the DCMS Licensing Statistical Bulletin 2009-2010. Although this is being transferred to the Home Office and it is expected to cover less entertainment related statistics in the future it will continue to provide headline data on licence numbers, number of TENs, etc. The baseline for looking at attendance at live music events will be taken from the annual DCMS Taking Part Survey.</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>The overall objective is to increase the number of regulated entertainment events, without impacting negatively on the licensing objectives.</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p> <p>The DCMS annual Taking Part Survey will be used to monitor the prevalence of attendance at live music events. Local authority date on reviews and licensing statistics collated in the future by the Home Office will be used to monitor data on licence numbers, number of TENs, etc.</p>
<p><b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here]</p>

## **Annex 2: Specific Impact Test**

### Competition

The Office of Fair Trading published revised guidelines for Departments on the consideration of competition assessments in 2007. The guidelines state that, in relation to competition assessments, the following four key questions should be considered:

- (i) Does it limit the number or range of suppliers
- (ii) Does it indirectly limit the number or range suppliers
- (iii) Does it limit the ability of suppliers to compete
- (iv) Does it reduce suppliers incentives to compete vigorously

The proposal promotes competition as it applies equally to all venues putting on regulated entertainment to audiences of few than 5,000 people. It will apply equally to every place that qualifies as a work place (including pubs, clubs, schools, hospitals, restaurants and cafes) as well as other potential venues, such as parks and other public spaces. Therefore, the proposal will not limit or indirectly limit the number or range of suppliers, nor will it limit the ability of suppliers to compete, or reduce suppliers' incentives to compete vigorously.

The current requirements are disproportionate and unnecessary for regulated entertainment events, which are, on the whole, considered low risk form to the licensing objectives. The requirements discourage the entertainment events being staged. The exemption will reduce cost and red tape and lead to more businesses diversifying their offer to include regulated entertainment, more opportunities for performers and sportsmen and women, as well as more choice for consumers who wish greater opportunities to enjoy the arts, film and indoor sport.

### Small firms

The main impact on small firms will be to reduce burden and allow greater flexibility in business operation. The stakeholder group set up to advise us on previous consultation proposals included a wide range of bodies which, to varying degrees, represent small businesses, including the Federation of Small Businesses, Association of Convenience Stores, Business in Sport and Leisure, Musicians Union and Bar Entertainment and Dance Association. None of these groups have advised us of any adverse impact of the deregulation proposals on small businesses.

The 2006 Ipsos-Mori survey results showed that 38% of venues had a capacity of <100, while 30% of venues had a capacity of 100 – 200. Therefore the <200 limit covers more than two-thirds of venues. While we intend to go beyond this with a proposal of audiences of fewer than 5,000 people, small venues will still make up the majority of the beneficiaries.

There are real savings to be made by small firms from these proposals. The estimated administrative cost (in addition to the fee) of a new application or a full variation application is £385-£950, for a minor variation the estimated administrative cost is £35 (in addition to a £89 fee), while the estimated average administrative cost of a TEN (in addition to the £21 fee) is £16. Figures from the 2010 statistical bulletin indicated that 463 businesses would benefit from an exemption from the full

variation, 180 would benefit from an exemption from a minor variation and 16,000 – 34,100 TENs would now be covered by the exemption.

### Health and well-being

The proposal should encourage entertainment for the benefit of society with no detriment to the objectives of the Licensing Act (the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm). An increase in the provision of regulated entertainment will provide significant enjoyment and social benefit for the general population. While we do not have evidence for all entertainment types, evidence from the DCMS Culture and Sport Evidence (CASE)<sup>1</sup> programme has shown that attending a live music provides a positive boost to subjective wellbeing and that this generally increases the more often an individual engages. Using income compensation figures the impact on wellbeing of attending a concert at least once a week has been estimated at £9,000 a year. We would expect this figure to be broadly the same across all entertainment types. While we cannot estimate the increase in frequency of people attending entertainment events it is clear that even a small increase would deliver significant benefits for the general population.

Locally organised events also provide a boost to the Big Society agenda, creating local focus for community engagement and the opportunity for “bridge and bond” activity.

Public health and well-being will continue to be safeguarded through the licensing of alcohol, and by applying existing legislation such as health and safety at work, noise nuisance and fire regulations. There is a potential increase in noise nuisance but we would expect this to be relatively small due to the other controls that are still in place. However, even if it is small there is the potential for impacts through adverse health effects, loss of productivity and annoyance to the public.

### Justice system

The removal of the licensing requirement will result in the licensing authorities not being given prior notification about events, and there have been concerns raised about this leading to increased disorder, crime, crowd control and disturbance. However, the police will still be aware of many events through local intelligence and as most are advertised. Moreover, the greatest risks are at premises selling alcohol and such premises will still require a licence, which can address concerns including noise and disorder and lead to the application of conditions, or the removal of the entire licence,

### Rural proofing

Village halls account for a significant proportion of premises that require an entertainment licence. The halls are often the hub of cultural life in rural communities, so that the proposal will make it easier and encourage activity in village halls for the benefit of the area. Action with Communities in Rural England (ACRE) is a member of the DCMS stakeholder group and considers that the impact of these proposals on rural communities will be beneficial.

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<sup>1</sup> “Understanding the value of engagement in culture and sport” CASE (2010)  
<http://www.culture.gov.uk/images/research/CASE-value-summary-report-July10.pdf>