

'Flourishing' is the new 'failing': How the government's live music survey was spun

After an investigation lasting 10 months, the Market Research Society Board has finally ruled that a 1.7 million live gig claim, as made in a press release on 25 August 2004 by the Department for Culture, Media and Sport (DCMS), was misleading. The MRSB decision is the result of a formal complaint I submitted in January 2005. It has since emerged that DCMS retrospectively and covertly altered a minister's words in the original press release, the effect of which is to make it look as if no misleading statement had ever been made. How and why this happened is now the subject of a Parliamentary question. This article looks at the 1.7m estimate and the political context.

On 25 August 2004, the DCMS issued a press release entitled 'Live Music Scene - The Verdict' announcing the key findings of a MORI live music survey. The then licensing minister, Richard Caborn, was prominently quoted:

"From the Beatles to Blur we have a live music heritage to be proud of. This survey shows that heritage is alive and well with a flourishing music scene - an estimated 1.7 million gigs were staged in the past year alone in bars, clubs and restaurants whose main business isn't putting on live music."

The message seemed to be 'licensing has not harmed live music - the new laws can only make things better'. To musicians like me, however, the general tone and particularly the 1.7m gig estimate for 'bars, clubs and restaurants' didn't ring true.

I have been playing jazz drums playing professionally or semi-professionally since 1975. Most musicians of my vintage will tell you that the heyday of band gigs in bars is long gone. There has been a steady decline since the early 1980s. In common with many musicians, I believe this is largely due to the cost and red tape associated with the 'public entertainment licence' (PEL) required for bands. Most public performance is a criminal offence without this special permit (which is not to be confused with copyright licensing). PELs were first introduced in the 1750s to tackle rowdy ale houses in Westminster. Today PELs apply across England and Wales, supposedly to ensure public safety and minimise noise, as well as dealing with crime and disorder.

Musicians argue that where live music is secondary to the main business to bars and restaurants, PELs have become an unnecessary disincentive. They believe, in common with experts in licensing and safety law, that any risks in this context can be adequately addressed by existing separate legislation. Indeed, if this were not the case, how could there be an exemption for big screen sport in bars (which quite often leads to disorder, overcrowding and noise). No PEL is required for this form of entertainment, no matter how powerfully amplified.

The government has never provided a credible explanation for this unequal treatment of live music and broadcast entertainment in bars. Since 1999 I have campaigned to raise media awareness about this. For two years, 2001-3, I was employed by the UK Musicians' Union (MU) to secure music-friendly amendments in the government's new alcohol and entertainment licensing legislation, first published in November 2002 and which finally came into effect on 24 November 2005.

The government's original Licensing Bill threatened to make virtually all public performance a criminal offence unless licensed. Long-standing PEL exemptions were abolished, such as the exemption for one or two live musicians in bars (the so-called 'two in a bar rule' of which more later), and the exemption for private members clubs. Set against the exemption for big screen broadcast entertainment, not surprisingly the new legislation attracted widespread ridicule in the press and broadcast media. Over 110,000 people signed an online petition opposing the government's plans.

The government's response was dismissive. A few unremarkable amendments to the Bill were accepted, but they rejected an entertainment licensing exemption for smaller premises that had been backed by the MU, Arts Council, the music industry and a coalition of Lib Dem and Conservative Peers. Defeat was inevitable, given the government's 'lobby fodder' majority in the Commons.

The government also mounted a PR offensive, claiming that the new laws would make it 'much easier and cheaper' to host live music. The PR drive included the widely reported formation of the Live Music Forum, a body of music and leisure industry representatives, chaired by former Undertones singer Feargal Sharkey. Ostensibly the LMF brief is to monitor the impact of the new licensing laws on live music, but its formation was also an effective way of making it appear as if the government was doing something positive while at the same time making it more difficult for LMF members to criticise the legislation publicly.

In order to assess the impact of the new Act, a benchmark study was required. No study existed that had looked specifically at non-classical live music in bars and restaurants across England and Wales. MORI was subsequently commissioned by DCMS to do the work, conducting 1,577 interviews across a range of venues in the summer of 2004. One of its key objectives was to assess how licensing had influenced the decision to host live music. The survey looked at seven venue categories: pubs/inns, hotels, restaurants/cafes, student unions, small clubs, members clubs and associations, church and community halls. The total cost to DCMS was just over £127,000.

It was impossible at first to validate Caborn's 1.7m estimate because the necessary data were not included in the press release. I had to wait some days for the full MORI report. When this was finally published on the DCMS website it was immediately obvious that the 1.7m figure was an estimate for all venues surveyed, not a sub-set of 'bars, clubs and restaurants'. If you took only the data for pubs/inns, restaurants and small clubs, the live gig estimate dropped to about 850,000. Even allowing for the word 'clubs' to cover both small clubs, and members clubs and associations, the estimate was still some 25% down on the minister's original figure. Taking the survey's 'total universe' of 151,176 venues, the 1.7m estimate worked out at barely one gig a month in each. The majority of pubs, restaurants and hotels had no live music at all in the year preceding the survey. 'Flourishing' was clearly not an appropriate epithet.

Parliamentary questions were subsequently raised, but carefully worded answers from DCMS ministers ensured that they did not claim for a second time that the original estimate had been just for 'bars, clubs and restaurants'. However, no qualification, correction or apology for the original press statement was made.

On 10 January this year I submitted a formal complaint to the Market Research Society, focussing on the 1.7m claim made by Caborn, although I also threw in the dodgy definition of live music (deliberately worded to include recorded/live music hybrids, such as 'creative DJs', and the fact that DCMS itself conceded they couldn't exclude the possibility that specialist venues had been inadvertently included).

On 31 October, the Market Research Standards Board finally issued their decision. They agreed that the 1.7m claim as made by Caborn was misleading, although did not rule on other aspects of my complaint. They revised the 1.7m estimate down by 25% to 1.3m (allowing 'clubs' to cover two distinct and very different venue

categories as I have already mentioned) and issued a disciplinary action against the MORI member responsible, ordering that:

"... a footnote should have been added to the press release along the lines that more than a third of the live staged events were not in the categories displayed on the press release. The footnote should have spelt out the entire list of categories [SIC] if they were not mentioned in the body of the text. This has been done in part and the member has undertaken to correct the press release in full as soon as practicable. The press release in its current form can be found at www.culture.gov.uk/global/press_notices/archive_2004/dcms110_04.h"

It was this link that led to my discovery that the original press release, and the minister's original words, had been changed (the phrase 'and other venues' was inserted into Caborn's quote, and a bullet point added which lists the venue categories). There was no indication that amendments had been made. The document was still dated 25 August 2004. The MRSB has since confirmed that altering the minister's words were not part of its disciplinary action.

I have also established, through email correspondence with DCMS, that the survey cannot answer the question: what proportion of gigs, in each venue category, are 'two in a bar' or bands? In this important respect the survey has failed in one of its key objectives. We cannot know, using the MORI survey, whether the new licensing regime improves, worsens, or leaves unchanged the situation for bands in bars.

In George Orwell's '1984', Winston Smith, the central character, is employed at the 'Ministry of Truth' secretly to alter press reports so that Big Brother is never seen to be wrong. Is there a real Winston Smith working within the DCMS? We may get closer to an answer when the government responds to this question put down in the House of Lords on 15 November 2005 (an amendment will ensure that it is clear the press release date was 25 August 2004):

The Lord Redesdale—To ask Her Majesty's Government what consultations they held with (a) Market and Opinion Research International, and (b) the Live Music Forum prior to the addition of an extra point under "Notes to Editors" and the change to the quotation by the Minister of State for the Department for Culture, Media and Sport contained in the press release issued by the Department on 25th August, entitled Live Music Scene —The Verdict; who sanctioned those changes; and when they were made. (HL2339)

Hamish Birchall,

9 Crest View, 47 Dartmouth Park Hill, London NW5 1JB

Tel: 020 7267 7700 or 07973 519245, drum.pro@virgin.net

Editor's note.

1. In response to the parliamentary question, **Lord Davies of Oldham** has acknowledged that the DCMS press release has been amended to correct 'a misleading statement'; he describes this as a 'minor change' not requiring consultation (or further publicity, apparently).

2. The full MORI live music survey is available from this DCMS webpage:

http://www.culture.gov.uk/global/research/research_by_dcms/live_music_exec_summary.htm]

**The Private Finance Initiative:
A Policy Built on Sand
A report for Unison by Prof Allyson Pollock,
David Price and Stewart Player**

Review by Amanda Root

We all know that politicians like facts, it seems increasingly so. If they can make a claim by citing facts or statistics it gives their words credibility and bolsters their authority (Straw, 2005, 256). 'Evidence-based policy' is a catch phrase that has been toted around for some time as the ideology-free imprimatur of New Labour. Prime Minister Blair is on record as asserting, as a fact, that the Private Finance Initiative (PFI) hospitals save money (Blair, 2002. 16). Blair and his ministers have repeatedly claimed that the public sector, when it builds facilities and/or provides services, such as schools, roads and prisons, suffers from higher prices and delays than the private sector. Ministers claim that the private sector delivers more often on time and to cost (quotes are given in Pollock et al's Report, Appendix 1). This Unison Report challenges these claims, by examining, in detail, the evidence. It asks, 'does the evidence back the claims?'

Pollock et al analyse with forensic precision and clarity the evidence base that the Treasury uses to claim that the PFI is cheaper than the public sector equivalent. In fact, there are only five research reports the Treasury uses to bolster its claims and those of Government Ministers. Of these reports, only one has primary data on cost and