

# STREAMING SERVICE PLATFORMS - TERMS OF USE

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INTELLECTUAL PROPERTY  
TECHNOLOGY AND  
COMMERCIAL LAW

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# STREAMING SERVICE PLATFORMS

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- Traditionally used to complement in-person performances e.g. Coachella has live streamed its music festival on YouTube since 2011
- Increased reliance as predominant means of delivering content to audiences
- Online environment can create greater complexities in terms of protecting and licensing IP rights related to user content



Photo by Spencer Imbrock on Unsplash

# COMPARISON OF LICENCES

	FACEBOOK	TWITCH	YOUTUBE	SOUNDCLOUD	TIKTOK
<b>WHO IS THE LICENCE GRANTED TO?</b>	Facebook	Twitch	YouTube and other YouTube users	SoundCloud, other SoundCloud users and Linked Services	TikTok, other TikTok users and third parties
<b>SCOPE OF LICENCE</b>					
<b>Non-exclusive</b>	✓	✓	✓	✓	✓
<b>Transferable</b>	✓		✓		✓ (fully)
<b>Sub-licensable</b>	✓	✓	✓		
<b>Royalty-free</b>	✓	✓	✓	✓	✓
<b>Worldwide</b>	✓	✓	✓	✓	✓
<b>Unrestricted</b>		✓			
<b>Irrevocable</b>		✓			✓ (unconditional)
<b>Limited</b>				✓	
<b>DURATION OF LICENCE</b>	Ends when content is deleted from Facebook's systems	Ends when content is deleted from Twitch or account is closed	Ends after a "commercially reasonable period" of time after content is removed or deleted	Ends when content is removed from user's account	<b>Perpetual</b> - Ends if TikTok decides to terminate "at any time for any reason or no reason"

## IP ENFORCEMENT

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Each platform has mechanisms available to enforce your IP rights:

- **YouTube** –copyright takedown notice
- **Twitch** - written notification to Twitch’s Designated Copyright Agent
- **Sound Cloud** - online mechanisms to report copyright infringement
- **Facebook** – can report violations of copyright or trade mark rights
- **TikTok** – online forms to report copyright and trade mark infringement
- **Zoom** – copyright notice by email

(NB: No third party adjudication on platforms such as Facebook).

## OTHER IP CONSIDERATIONS

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**Performing a cover version of someone else’s song (or using someone's photo/IP on social media)** can sometimes create a new range of rights under copyright law, but it is important that permission has been sought from the copyright owner(s) and/or licensing arrangements verified, before performing the work or posting online, otherwise you might find yourself on the receiving end of a take-down notification.

**Use and protection of trade marks is also important - prevent non-use vulnerability**

- Use of trade mark on YouTube videos/subscription services.
- Maintaining use of trade mark on website and other social media platforms.
- Display active measures to maintain trade mark use or projected use.

## KEY TAKEAWAYS

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When creating, collaborating and sharing your content online via streaming services, it is important to consider:

- The **terms of use** of the relevant platform/s when you create an account to understand your obligations when uploading content, who will own your content and how you allow others to use your content;
- The **tools and recourse available** on these platforms to **report any potentially infringing conduct**; and
- The importance of **IP rights** (your rights, and the rights of others) and in particular copyright and trade marks in protecting art.