Music Festivals

How to keep the lights on…
… and the bass thumping…

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Clashfinder

- Music festivals as businesses
- Seasonality
- Risks to festivals
  - not just CoViD-19!
- Realisable assets
- Dependencies
  - what can derail your plans
- Licensing
- Key people - TUPE
- GDPR
- The name
- The location
- Cherry-picked contracts
- Insolvency options
  - CVA
    - R3 CoViD template?
  - Administration
    - Pre-pack?
    - Light touch?

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Music festivals as businesses

- Single-event businesses
- Project businesses
  - Curator
  - Land owner
  - Project manager
- Who owns the festival?
  - And what do they buy in?

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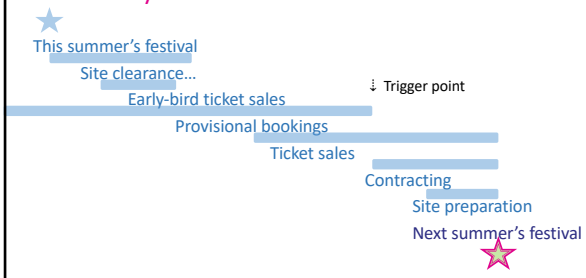
Seasonality



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Ticket sales

- Consumers' statutory protection
  - s75 Consumer Credit Act 1974
  - £100 ≤ Applies ≤ £30,000
  - Makes the card company responsible for refunds
- Ticket agencies (typical terms):
  - Money held in a trust account
  - Released on the Wednesday after the event
- Some festivals sell tickets directly

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Risks to festivals (not just CoViD-19)

- Weather
  - Summer 2012; 57 festivals cancelled
- Disorganisation
  - Watch 'FYRE – The Greatest Party That Never Happened'
- Compliance
  - Licensing
  - Licensing conditions
    - Dorset Police broke the news when Bestival 2019 was cancelled.
  - Social distancing regulations?
- Reliance on third parties
- Over-supplied market?

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2021 summer festivals

- Still on as planned: 29
- Postponed to late summer: 7
- Postponed to 2022: 5
- Other: 2
  - (Mainly from BBC website)

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2021 summer festivals

- July W1
- July W2 🎶
- July W3 🎶 🎶
- **July W4** 🎶 🎶 🎶 🎶 🎶 🎶 🎶
- July / August 🎶 🎶
- August W2 🎶
- August W3 🎶 🎶
- August W4 🎶
- **August BH** 🎶 🎶 🎶 🎶 🎶 🎶 🎶
- September W1 🎶 🎶 🎶 🎶
- September W2 🎶 🎶 🎶 🎶
- September W3 🎶

🎶 = a (re)scheduled festival.

Source: (mainly) BBC.

Festivals differ in size and audience type.

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Realisable assets

- Revenue may come from:
  - Ticket sales
  - Bars
  - Concessions
    - Food
    - Other traders
  - Parking
  - Merch
  - Sponsorships
  - Bands
  - Glampers

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Realisable assets

- The buyer is likely to want:
  - The licence (under the Licensing Act 2003)
  - The curator's iPhone
    - (Band managers' phone numbers)
  - The project manager's:
    - Spreadsheet
    - iPhone
      - (Contractors' phone numbers)
  - The land owner's licence
  - The festival name
  - Cherry-picked contracts
    - (eg, with the ticket agency)
  - Key people?

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The licence

- You need a licence (Licensing Act 2003) for your event:
  - To play live music
    - (if amplified, or late at night)
  - To play recorded music
  - To sell booze
  - To sell hot food and drinks to your guests late at night
  - To show films
  - To put on plays late at night
  - (The list goes on…)
- So the festival must be licensed.

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Types of licence

- The licence may be:
  - A 'temporary event notice'; or
  - A 'premises licence'.
- But a 'temporary event notice' is limited:
  - To a maximum crowd of 500; and
  - To an event of up to 168 hours (seven days).
- The festival needs a premises licence.
  - It can be an indefinite licence.
  - It is transferable.

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Licensing - compliance

- The licence will include an 'operating schedule'.
  - This describes how the festival will be run.
  - It will:
    - Have a detailed plan of the festival site.
    - Set the dates and hours for it.
    - Say who is in charge.
    - Accept responsibility for:
      - Preventing crime and disorder at the festival
      - Safety of the public there
      - Preventing public nuisance
      - Protecting children from harm
- The licensing authority is likely to check:
  - On day one, before the festival is allowed to open.

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Licensing – who is in charge?

- The premises licence names:
  - The holder of the licence.
    - They are who is carrying on the business from the premises.
    - They don't have to own the premises.
    - They can be a company.
  - The premises supervisor
    - Must hold a 'personal licence' (if the business is selling booze).
    - They must be an individual.
    - They must set and enforce the policies for selling booze.

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Licensing - insolvency

- The premises licence lapses immediately on the holder's:
  - VA
  - Administration
  - Administrative receivership
  - Liquidation
  - Bankruptcy
- But, as (eg) administrator, you have 28 days (only) to revive it with:
  - An interim authority notice (and you can then transfer it within three months); or
  - An immediate transfer.
- If you do neither, the licence is permanently lost after 28 days.
  - The buyer has to apply for a new licence.
  - Delay, expense, the risk of new conditions.

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Key people - TUPE

- Many of the key people won't be employees.
  - They will be contractors, working for other festivals over the summer.
  - Formal contracts may terminate on insolvency.
- Key employees may be transferred by TUPE
  - Whether you want them to, or not.
  - And they have a right to opt out.

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GDPR

- There will be personal data in:
  - The customer database.
  - The curator's iPhone.
    - Artists and their managers.
  - The project manager's iPhone
    - Suppliers
- It's unlikely to be in a special category (and so sensitive).
  - So there are no great difficulties over transferring it.
  - But the buyer must register with the ICO.
  - And undertake to treat the data correctly.

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The name

- There may be trademarks to assign
- The buyer may want an assignment of goodwill
  - (Dressed up as a 'Certificate of Rights')
- Other IPR (eg copyright) in logos, designs, etc.
  - Third parties may claim rights in them.

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The location

- Obstacles to changing the location of the festival:
  - The licence
  - Planning permission
    - Not needed! Unless:
      - > 28 days of events on that site
      - Permanent structures need to be built
      - The local authority has removed 'permitted development rights' from the area
      - Newts! (SSSI)
  - NIMBY neighbours
    - 'Nuisance'
      - Tort, at common law
      - Local authority powers under Environmental Protection Act 1990
        - Abatement notices

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Cherry-picked contracts

- The buyer's options for contracts:
  - Take them over (by assignment or novation);
  - Re-negotiate them (by novation, or a new contract);
  - Have nothing to do with them (so do none of the above, and offer no indemnity).
- Those contracts may include:
  - Use of the site (the licence with the land owner).
  - Support services:
    - Ticketing
    - Security
    - Engineers
    - Etc.

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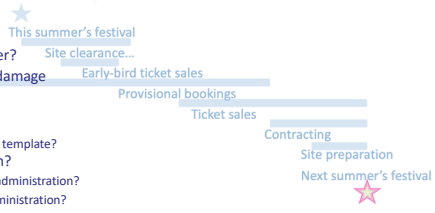
Insolvency options

- Factors include: Seasonality
  - Timing
  - The licence
  - Is there a buyer?
  - Reputational damage
- Consider:
  - CVA?
    - R3 CoViD-19 template?
  - Administration?
    - Light touch administration?
    - Pre-pack administration?



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