



INFORMATION SHEET

G020v11

Music: playing music, APRA and PPCA

June 2010

This information sheet contains information about the licences people need for playing live and recorded music “in public”. It also contains information about playing music on hold.

Check our website www.copyright.org.au to make sure this is the most recent version, and for information about our other information sheets, other publications and our training program.

The purpose of this information sheet is to give general introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.

Key points

- You almost invariably need permission to play live or recorded music in a shop, at your business or any other non-domestic setting.
- Several copyrights may exist within one item such as a CD. For example, the lyrics, music and the sound recording may be separately protected by copyright.
- The Australasian Performing Right Association (APRA) can give you a licence covering playing music or lyrics in public; licences covering sound recordings are available from the Phonographic Performance Company of Australia (PPCA).

When do you need a licence to play music?

You do not need permission to play music in a private situation (for example, if you are at home with family or friends). However, if you are playing music “in public”, you will need permission from the owners of copyright in the music, lyrics and sound recording. These owners have the right to control both the playing of the material “in public” and the communication of the material “to the public”.

What is a “public performance”?

Any performance of copyright material which is not essentially private or domestic is likely to be regarded as “in public” for the purposes of copyright.

A commercial or business context is likely to make the use of copyright material “public”. This includes playing music in an office, hotel, club, restaurant, shop, professional rooms, hairdressing salon or fitness centre. For example, a court has held that the screening of an information video to eleven employees of the Commonwealth Bank outside business hours was a “public performance” of the music on the video.

A performance which is given for free or which has a small audience may still be regarded as a “public” performance for the purposes of copyright; courts have held that music played by an orchestra to members of a club was a public performance even though no admission fee was charged.

However, performances of music at events such as weddings or twenty-first birthday celebrations will not generally be “in public” even if they occur in a hotel, wedding hall or restaurant, as these events are considered private in nature.

What is “communication to the public”?

Online use of copyright material – for example, uploading music to the internet and emailing files (except to family and friends) and broadcasting music – constitute communications to the public. Courts have also held that the transmission of music over the telephone while people are waiting on hold is a communication to the public. You will need permission to do these things unless a specific exception to infringement applies.

When do you need an APRA licence?

If you perform live music or play CDs, the radio or a television in your business or otherwise in public you will need a licence from APRA covering the **musical works** and **lyrics**.

APRA can grant a complimentary licence to businesses with fewer than 20 staff that play music by either radio or television for the enjoyment of employees. To qualify for the complimentary licence, radio and television sets and any speakers must not be located in an area accessible to customers or the general public.

Live music venues: who should get the licence?

Where music is being performed live, both the performer/s of the music and whoever organises that performance are responsible for making sure permission to perform copyright-protected music in public has been obtained. The proprietor of the venue may also be liable if a licence is not obtained. In practice, it is generally the proprietor of the venue who gets the relevant permission. Usually the APRA licence covers all performances taking place in a particular venue.

Performances not covered by the APRA licence

Certain public performances of music are not generally covered by the APRA licence. These include “**grand rights**” (the performance of entire dramatic and musical works such as operas, musicals or large choral works) and also the use of musical works in dramatic presentations and ballets. Permission to perform musicals, operas, and other “grand rights” works which are still protected by copyright is usually sought from the relevant music publisher. The composer or publisher may, however, deal through an agent who negotiates these uses for them. If you want to use music in a theatrical context (for example, as background music during a play) contact APRA for initial information.

When do you need a PPCA licence?

If you play recorded music (such as CDs) in your business or otherwise in public, you need a licence from PPCA as well as from APRA.

Because of special exemptions in the Copyright Act, a PPCA licence is **not** necessary if:

- you are playing sound recordings at premises where people live or sleep (for example, a guesthouse or club), as part of the amenities provided exclusively for residents and their guests, and no charge is made for admission to the part of the premises where the recording is to be heard;
- you are playing sound recordings as part of the activities, or for the benefit, of a non-profit club, society or other organisation that has, as its principal objects, charity or the advancement of religion, education or social welfare and, if a charge is made, the proceeds go toward the objects of the organisation; or
- you are playing music from a radio or television, rather than from a cassette, digital file or CD.

Recordings from some countries, such as the United States, may be played in public without the copyright owner's permission, as may recordings in which copyright has expired.

Even if you do not need a licence from PPCA, you will still need a licence from APRA if the music and lyrics on the recordings are protected by copyright and no other exception applies.

Common question: I only play music composed by Mozart. Why do I need a licence?

Generally, copyright in musical works and lyrics lasts from the time the work is made until 70 years after the creator's death. Copyright in a sound recording generally lasts for 70 years from the end of the year the sound recording is first published.

Therefore, even though the copyright in a musical work composed by Mozart may have expired (since it has been more than 70 years since he died), copyright may still subsist in the particular sound recording that you wish to play in public. If this is the case you will need a PPCA licence to play the music in public.

For more information, see our information sheet *Duration of copyright*.

Playing music on hold

If your telephone system has a facility allowing callers to listen to music while they are "on hold" then you need to make sure that licences from APRA and PPCA have been obtained. You need licences from both organisations because both music and sound recordings are being "communicated to the public" via the telephone system. It does not matter whether the source of the music is the radio, TV or a recording.

Before March 2001, Telstra and other telecommunications carriers were responsible for paying licence fees for music on hold, but because of a change in the law, individuals and businesses who operate a telephone system with a music-on-hold facility are now responsible for getting the licences.

Applying for your licence

You can use the online Business Music Licence Application SmartForm to work out which licences you need to play music in your business and to apply for a licence online. This form can be found at <https://govforms.business.gov.au/BLIS/musiclicence.aspx>. The development of this online form was a joint initiative between APRA, PPCA and the Commonwealth Department of Tourism Industry and Resources.

If you are paying licence fees in a business or as part of the activities of an organisation, it is likely that the fees are tax deductible. Ask your accountant or tax agent for information or advice about this.

What are APRA and PPCA?

APRA is a non-profit copyright collecting society that collects and distributes fees for the public performance and broadcasting of music. Money is distributed twice-yearly to APRA's members, who are composers and music publishers. PPCA is a non-profit collecting society that licenses the public performance of sound recordings on behalf of its members, who are record companies. PPCA also distributes part of the income to performing artists.

APRA: <http://www.apra-amcos.com.au>

PPCA: <http://www.pcca.com.au>

Australian Copyright Council

The Australian Copyright Council is a non-profit organisation whose objectives are to:

- assist creators and other copyright owners to exercise their rights effectively;
- raise awareness in the community about the importance of copyright;
- identify and research areas of copyright law which are inadequate or unfair;
- seek changes to law and practice to enhance the effectiveness and fairness of copyright;
- foster co-operation amongst bodies representing creators and owners of copyright.



Australian Government



The Australian Copyright Council has been assisted by the Commonwealth Government through the Australia Council, its arts funding and advisory body.

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