

CD/DVD PLANTS – ARE YOU DOING THE RIGHT THING?

This CD/DVD Plant Guide has been created to let you know the dos and don'ts of duplicating and replicating music CDs and DVDs. It explains the basics of copyright law, your obligations and what you can do to avoid liability for copyright infringement.

Some simple facts

What's copyright?

When someone creates a piece of music (or a piece of text, a graphic, a photo, a film or anything else that is protected under copyright laws), there is a whole system of legal rights and obligations that comes into play. These rights and obligations outline what someone can and can't do with the material.

Who owns the copyright in music?

There is generally more than one owner of copyright in any given music track. The composer and lyricist who wrote the tune and lyrics respectively own copyright in the musical works. In addition, the maker of the recording (typically the record company) owns copyright in the sound recording.

What rights do the copyright owners have?

The copyright owners separately (i.e., the owner of the work and the owner of the recording) have a number of exclusive rights, including the rights to:

- make copies of the music tracks (reproduction);
- perform the music in public; and
- communicate the music to the public.

How do I know if I am doing the right thing?

Can my plant be liable for copyright infringement?

When you manufacture copies of music in any format e.g., CDs, DVDs or CD-ROMs, you will have infringed copyright unless the relevant copyright owners have granted a licence for that copying. Even if you have obtained a warranty and/or declaration from your customer that he has obtained all the necessary rights for the order, or even an indemnity regarding any legal claims, it is you who will be performing the actual copying and you who will be responsible for it.

What are the penalties for copyright infringement?

Under the Australian Copyright Act, infringement of copyright by illegally copying music, attracts maximum penalties of up to \$60,500 or 5 years imprisonment for individuals and up to \$302,500 for corporations for each infringement. Directors can also be held personally responsible. Civil liability may also apply.

What needs to be cleared in order for my plant to reproduce music?

Prior to processing any order involving content that may be protected by copyright e.g., music, you need to ensure that the owners of the copyright have granted a licence for that reproduction. This means that your customer needs to show you evidence that they have a licence from:

1. the owner(s) of the sound recording – generally from the record company or through the Australian Recording Industry Association (ARIA); and
2. the owner(s) of the musical work – generally from the music publisher or through their collecting society the Australasian Mechanical Copyright Owners' Society Limited (AMCOS).

What can my plant do to avoid infringing copyright?

MIPI, the anti-piracy organisation for the Australian music industry, recommends that all plants as a minimum implement the following measures:

1. Notify your customers – Inform your customers in writing that your plant observes anti-piracy good business practices;
2. Employ SID codes – For plants involved in replication, employ Source Identification (SID) Code mastering (LBR) and mould codes for both pre-recorded optical discs and recordable media such as CD-Rs and DVD-Rs. This ensures that every disc produced at your plant carries a distinct code identifying your plant. For more information see www.ip.philips.com/licensing/ordering_old_section/sid_codes.html.

3. Employ RID codes – For plants involved in duplication, you should ensure that your recording equipment is programmed to apply its unique Recorder Identification (RID) Code onto each disc as specified in the Philips Orange Book Standard. For further information see www.ip.philips.com/licensing/ordering_old_section/RID_codes.html.
4. Compliance officer – Designate a qualified plant employee as the Compliance Officer to be responsible for internal training of plant personnel, reviewing orders and conducting necessary customer background checks.
5. Customer identification – Ensure that you obtain reliable identification and background information from all customers including complete street addresses and phone numbers. Brokers must always provide this information in respect of their customers.
6. Content details – Ensure that you obtain a complete artist and track list for each order. Examine artwork and inlay cards to ensure that it is consistent with the details provided by your customer.
7. Appropriate copyright licences – Require your customer to produce verifiable ownership/licensing documentation (including the name of the rights owner) to prove that they have the rights to place the order. Offers of indemnity and simple declarations of ownership should not be accepted as a substitute. You should expect to see a licence from the rights owners (generally the record company or ARIA and the music publisher or AMCOS) to your customer.
8. Keep records – Ensure that your customer records are kept for six (6) years.
9. Look out for piracy indicators – Look out for the piracy indicators listed below and contact MIPI if you have any concerns.

What are indicators of pirate product?

You should be suspicious of the following:

- Unusual customer requests such as large cash purchases, ‘cover versions’ of popular artists, compilations in mp3 format, or that the SID Codes or any standard plant identification marks be omitted;
- Orders to be shipped on spindles and/or with unorthodox delivery/shipping arrangements such as orders placed for discs only without accompanying packaging, insert cards or liner cards;
- Orders using commercially pressed discs as input data or recordings marked as ‘Promotional Copy’ and/or ‘Not for Sale’ and/or ‘For DJ Use Only’;
- Entire albums, live concert recordings, studio outtakes (incomplete mixes/recordings) or compilation discs containing tracks of major artists appearing on ‘unknown labels’;
- Incorrect information or misspellings on the disc or packaging, such as the artist’s name, song title, copyright notices or country of origin; and
- Missing or inconsistent information on the disc and/or packaging, such as artist listing, graphics, trademarks, catalogue numbers or album title.

What should I do if I have concerns?

If you have any concerns or queries then contact MIPI, the anti-piracy organisation for the Australian music industry on the contact details below.

Need more information?

MIPI	www.mipi.com.au	mipi@mipi.com.au	(02) 8569 1177	1800 06 16 16
APRA AMCOS	www.apra-amcos.com.au	apra@apra.com.au	(02) 9935 7900	
ARIA	www.aria.com.au	aria.mail@aria.com.au	(02) 8569 1144	