

## MUSIC IN YOUR FITNESS CLASS – ARE YOU DOING THE RIGHT THING?

**This guide has been created to educate you on the dos and don'ts of using music in the fitness industry.**

Music is a key part of most fitness classes! It's essential to motivate people to exercise and have fun. But is music being used legally in your fitness class?

### 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), a whole system of legal rights and obligations comes into play. These rights and obligations outline what someone can and can't do with the material.

#### **Who owns the copyright in a piece of music?**

There is generally more than one owner of copyright in any given musical track. The composer who wrote the music owns copyright in the musical works. The lyricist who wrote the lyrics owns copyright in the literary works. The artist who performed the music owns copyright in a sound recording of their live performance. Finally, the maker of the recording (typically a record company) owns copyright in the sound recording.

#### **What rights do the copyright owners have?**

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

- make copies of the tracks;
- perform the music in public (e.g., by playing the tracks in a fitness class); and
- communicate the tracks to the public.

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

#### **I bought a legitimate CD. Can I make copies for use in my aerobics class?**

The purchase of a CD only gives you the right to own the physical disc, to play it privately, and to pass on the same physical disc to another person. This means that copying the music from a CD, without the permission of all relevant copyright owners, is an infringement of copyright except in very limited circumstances. The Copyright Act allows you to copy music legitimately obtained for your **private and domestic** use on another device that you own e.g., from CD to iPod. **However, this does not extend to use of the music in a fitness class.**

If you want to copy your legitimate CDs into a more convenient format or onto your computer for playing in a fitness class or centre, you must get:

1. permission or a licence from the record company that controls the copyright in the sound recordings (contact the licensing department of the relevant record company or ARIA); and
2. a licence from AMCOS for the reproduction of the music. Generally, AMCOS will offer a "blanket" licence which allows you to be covered for all reproduction of musical and literary works for certain purposes.

#### **Is it illegal for me to copy music from the internet and use it in my class or give it to another instructor?**

Generally yes – the basic legal principle is that you cannot copy or distribute music including from the internet without the permission of all relevant copyright owners.

#### **What if I just want to download a few songs to see if they are worth using in my aerobics class?**

If permitted, you can sample a 'taster' limited download of the music, but you cannot copy this before you buy without permission.

### **What about using music obtained by file sharing?**

Unless authorised, the vast bulk of P2P 'file sharing' is considered illegal copying and transmission of copyright material. This activity hurts sales of music and the livelihoods of people in the business including your favourite artists.

### **What if I download music to use during my aerobics class from a site overseas where the law might be different?**

Internet activities of this sort typically involve acts of copying, transmission, or distribution in both the 'receiving and sending' countries and the laws of each will apply. Be aware that if you download music files to your PC located in Australia, without the copyright owners' permission, you are committing an infringement of copyright under Australian law.

### **Do I need any licences to play legitimately purchased music in my aerobics class or more generally in the gym?**

Yes, there are a number of licences that may apply depending on how you are using the music:

- the owner of the fitness centre, gymnasium or health club needs a public performance licence from PPCA (or the relevant copyright owner) to play protected sound recordings and a public performance licence from APRA to play the musical and literary works either generally or as music to accompany the fitness class; and
- the instructor needs a public performance licence from PPCA (or the relevant copyright owner) to play protected sound recordings and a public performance licence from APRA to play the musical and literary works if they are conducting classes at a venue that would not ordinarily require a licence.

## **Respect copyright in music**

Unauthorised copying or downloading whether from CDs or the internet has a major effect on the music industry. And it's not free at all – it is the musicians, artists, sound technicians and all the other people involved in the music industry who are paying the price with less music being sold. People's livelihoods are affected. Further, as a result of piracy there is less money to be invested in new talent, which ultimately means less new music for your fitness class.

## **Need more information?**

MIPI	<a href="http://www.mipi.com.au">www.mipi.com.au</a>	<a href="mailto:mipi@mipi.com.au">mipi@mipi.com.au</a>	(02) 8569 1177	1800 06 16 16
APRA AMCOS	<a href="http://www.apra-amcos.com.au">www.apra-amcos.com.au</a>	<a href="mailto:apra@apra.com.au">apra@apra.com.au</a>	(02) 9935 7900	
PPCA	<a href="http://www.pcca.com.au">www.pcca.com.au</a>	<a href="mailto:pcca.mail@pcca.com.au">pcca.mail@pcca.com.au</a>	(02) 8569 1111	