

MUSIC IN BARS & HOTELS – ARE YOU DOING THE RIGHT THING?

This guide has been created to educate you on the dos and don'ts of using music in your bar or hotel.

As a bar or hotel owner or operator it is important that you understand how to legally use music at your venue. It's all about respecting the music you use and the artists who created it – after all, what would a bar or hotel be without music?

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; 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 bar or hotel?

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, including onto an iPod, without the permission of all relevant copyright owners, is an infringement of copyright except in very limited circumstances. The Copyright Act allows you to “format shift” music for **personal use**, for example, to copy from CD format to MP3 format in certain limited situations. **However, this does not extend to use of the music in a bar or hotel including in jukeboxes, karaoke devices or by DJs performing at your venue.**

If you want to copy your legitimate CDs onto an iPod, computer or onto other CDs to play at your bar or hotel, you must get:

- 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). In some instances you may be able to obtain a “blanket” licence from ARIA which allows you to be covered for the reproduction of the ARIA Licensors' repertoire (which includes the major record companies and many smaller labels); and
- 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 download music from the internet and play it in my bar or hotel?

The basic legal principle is that you cannot copy or distribute music including from the internet without the permission of all relevant copyright owners. There are a number of legitimate download sites in Australia which are listed on the MIPI website under “Links”. If you are unsure of whether a particular website is appropriately licensed, you can contact MIPI.

If you legitimately buy music from iTunes or other legal online distributors you should check their relevant terms and conditions to make sure that you are licensed for the relevant purpose, including for using the music at your bar or hotel.

What about downloading music through 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 and songwriters.

What if I download music to use in my bar or hotel 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 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.

Can I be responsible for third parties like DJs, karaoke jockeys or jukebox operators playing pirate music at my venue?

As the owner or operator of premises you may be held liable for authorising copyright infringement at your premises by allowing a third party such as a DJ, karaoke jockey or jukebox operator to use pirated music. From a risk management perspective it may be wise to raise these issues with your third party providers.

If you are suspicious that a third party provider is not doing the right thing, for example they are using burnt CDs/ DVDs, then contact MIPI.

More information about copyright and DJs, Jukeboxes and Karaoke Operators is available at www.mipi.com.au/issues_faqs/piracyinyourindustry.htm.

Do I need any licences to play legitimately purchased music in my bar or hotel?

Yes, there are a number of licences that may apply depending on how you are using the music at your venue. Basically, the owner or operator of the bar or hotel needs a PPCA public performance licence to play protected sound recordings and an APRA public performance licence to play the musical and literary works. Further, the sound recordings used must be licensed copies.

Can I be fined or jailed for music piracy?

Music pirates can be fined up to \$60,500 and up to 5 years imprisonment for each offence. For companies the fines are up to 5 times as much. The police can also issue an on-the-spot fine of \$1320 and seize pirate music.

Respect copyright in music

Stealing music is the same as stealing anything else. It is illegal and the consequences are real, for artists, songwriters, and for the future of 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 will be available for you.

Need more information?

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APRA AMCOS	www.apra-amcos.com.au	apra@apra.com.au	(02) 9935 7900	
PPCA	www.pcca.com.au	ppca.mail@ppca.com.au	(02) 8569 1111	
ARIA	www.aria.com.au	licensing.aria@aria.com.au	(02) 8569 1144	