

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

Music plays a key role in the success of your function – whether it be a birthday party, a wedding reception or corporate event, music can set the tone and provide atmosphere.

But 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 function.

### 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 hotel or function centre); 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 copy tracks from the purchased CD onto an iPod or a blank CD for use in my function or at my function centre?***

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 on commercial premises.**

If you want to copy your legitimate CDs onto an iPod or onto other CDs to play at a function venue, you must get:

- permission or a licence from the record company that controls the copyright in the sound recording/s (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 members’ repertoire (which includes the major record companies and many smaller labels); and
- a licence from AMCOS for the reproduction of the musical works (which are embodied in the sound recordings). Generally, AMCOS will offer a “blanket” licence which allows you to be covered for all reproduction of musical and literary works for certain purposes.

However, if you are holding a function in your own home this would be considered private use of the music and therefore the above licences would not apply.

#### ***Is it illegal for me to download music from the internet and play it at a function?***

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 legitimate online distributors, you should check their relevant terms and conditions to make sure that you are licensed for the appropriate purpose, including for use at a function.

### **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.

### **What if I download music to use at my function or in my function centre 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.

### **Do I need any licences to play legitimately purchased music at my function?**

Yes, if your function is being held at a commercial premises (such as a function centre or hotel) then you will need to ensure that the owner of the premises holds a public performance licence to play protected sound recordings from PPCA (or the relevant copyright owner) and a public performance licence to play the musical and literary works from APRA. If you are holding your function at your home, this is considered to be a private function and therefore you do not need to obtain public performance licences.

### **I operate a function centre. Can I be held responsible for any pirate music played on the premises?**

Yes, as the venue operator you may be held liable for authorising copyright infringement if pirated music is played on your premises. This might include iPods that are loaded with illegally downloaded music or DJs who are using digital music devices, such as computers, without the relevant reproduction licences in place. As the venue operator, it is also your responsibility to obtain public performance licences from APRA and PPCA (or the relevant copyright owner).

### **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. Under recent changes to the Copyright Act 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, you, and for the future of music. You wouldn't sit by and let somebody steal products from you. And it's not free at all – it is the musicians, artists, sound technicians, legitimate music retailers 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 music available for your functions.

## **Need more information?**

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