

MUSICIANS – PROTECTING YOUR MUSIC AND DOING THE RIGHT THING

As a musician, your livelihood depends on music – so it's important for you to understand how to protect your music and to ensure that you are doing the right thing with other people's 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), 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 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 have a number of exclusive rights, including the right to:

- make copies of the tracks;
- perform the tracks in public; and
- communicate the tracks to the public.

How do I know if I am doing the right thing? How can I protect my rights?

Can I record a cover version of a song?

If you want to record a cover of a song you must get a licence from the owner of the musical and literary works (usually through AMCOS) for the reproduction of those works.

What about sampling music in a mix CD?

Sampling is the taking of a 'substantial' or recognisable portion of another artist's work – including lyrics, melodies, rhythms and even the recording itself. You have sampled an artist's work if it is still recognisable as that work, regardless of whether you have altered the original excerpt or placed it into a new context. Sampling is only legal if you have been granted permission from both the owner of the sound recording (generally through the licensing department of the relevant record company) and the owner of the musical and literary works (usually through AMCOS).

Why should I bother to ask for permission to use samples?

Not bothering to ask for permission may seem like the quickest and cheapest option when you decide to sample another artist's song. However, there are a number of other reasons why you might want to think twice:

- As a musician you will appreciate that other musicians deserve to be compensated for their hard work;
- If people aren't willing to pay for the music they love, the music industry will find it increasingly difficult to commit the kind of resources it takes to discover and develop new Australian talent;
- Under the Copyright Act, infringement of copyright by illegally copying (including over the internet), selling, distributing, importing, performing or having in your possession illegal discs, attracts maximum penalties of up to \$60,500 or 5 years imprisonment for each infringement; and
- It is wrong. You wouldn't steal a mobile phone, so why would you steal music?

What if my CD is going to be distributed for free?

Regardless of whether or not you are making a profit from your CD, recording or copying somebody else's music without their permission breaks the law.

Is it illegal for me to copy other artists' music from the internet?

The basic legal principle is that you cannot copy or distribute music including music 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.

Is all file sharing illegal?

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.

What if I download music 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 perform at a club or other venue?

If you are performing cover versions of songs then generally the venue (for example, the club, hotel, nightclub or restaurant) needs a public performance licence from APRA in order to allow you to perform the music in public. However, in circumstances where you are performing at a venue that would not ordinarily require a licence, you may need to get an APRA public performance licence in your own right.

How do I protect my music?

When you create a piece of music a whole system of legal rights and obligations comes into play. Copyright also gives artists, composers, publishers and producers various rights over the copying, distribution, performance and communication (including over the internet) of the music they have created. These rights and obligations outline what someone can and can't do with your material. For example, people cannot copy your music and sell it on eBay, nor can they sample your music without your permission.

Music piracy, such as the manufacture and distribution of burnt CD-R discs or illegal file sharing, erodes your rights and has a major effect on everyone that is involved in creating, recording, producing and distributing music, from the original artist to employees in a CD manufacturing plant. Music piracy also impacts on the ability of the music industry to discover and nurture new talent like you.

In order to protect copyright in music, MIPI provides investigative and intellectual property rights enforcement related services to the Australian music industry. We welcome information from artists or members of the public who may be aware of copyright infringement of theirs or others' works.

Please help to protect artists' works by reporting piracy at www.mipi.com.au/report_piracy/report.cfm, by emailing at mipi@mipi.com.au or by calling MIPI's toll-free number on 1800 06 16 16.

Need more information?

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