MANAGING YOUR COPYRIGHT BY JOINING A COLLECTING SOCIETY

What is a collecting society?
Collecting societies collect royalties on behalf of their members. Their members are artists, authors, musicians and others who own copyright in works (such as music, lyrics, visual art and literature) or other copyright material (such as sound recordings, films, and television broadcasts). They may also be visual artists entitled to resale royalties in respect of their visual artworks.

The Resale Royalty Right for Visual Artists Act 2009 (Cth) established a scheme whereby visual artists will receive a statutory (compulsory) royalty when their artwork is resold by a commercial dealer commencing from June 2010. This is not a copyright licence but a new right. For more information as to how this scheme works and which sales attract the royalty, see Arts Law’s information sheet on Resale royalty rights for visual artists.

This information sheet deals with the use by artists of copyright collecting societies to manage and earn income from their copyright.

Artists (such as visual artists, authors, musicians and filmmakers) use copyright collecting societies to grant licences of their copyright to third parties. The collecting societies negotiate licences of their members’ works, collect the royalties, retain a proportion of the fees that they collect as a commission, and then distribute the remainder to their copyright owner members.

Such collecting societies make it easier for copyright owners to licence their work and also easier for those who want to obtain a licence to use copyright material. It would otherwise be necessary for the prospective user to identify and locate the owner of the work and then negotiate an individual deal with that owner.

For example, a gym that wants to make a compilation tape of recorded music for its workout classes doesn't need to approach the record label and recording artist for each song separately for permission. It can contact AMCOS for a licence. AMCOS will grant the licence and charge a royalty. It distributes the money it collects to its member musicians and record labels.
Most copyright collecting societies are operated on a not-for-profit basis; however some are commercial enterprises.

Many copyright collecting societies have reciprocal relationships with equivalent collecting societies overseas and are able to access licensing opportunities for their members outside Australia. They may also be able to facilitate licences of international works to Australian users.

In addition to collecting licence fees and distributing fees to members, collecting societies may also perform the following functions:

- representing copyright owner members and protecting their economic and creative interests;
- creating international affiliations with copyright collecting societies overseas so that licence fees can be collected for overseas use and assisting with the use of work from overseas;
- documenting and identifying unauthorised use of members’ works and pursuing infringers; and
- educating the public and representing members in areas of reform on a national and international level.

What types of licence fees are collected?

Copyright collecting societies collect two types of copyright licence fees.

Statutory copyright licences

The Copyright Act 1968 (Cth) (Copyright Act) provides that certain uses of copyright must be permitted by the copyright owner. These uses are called compulsory licences (the copyright owner cannot refuse to grant a licence) and are limited to certain purposes, such as copying by libraries, educational institutions or government.

Voluntary copyright licences

If there is no statutory licence then the general rule is that the permission or ‘licence’ of the copyright owner is required in order to use a copyright work. Copyright owners are free to identify those opportunities and negotiate licences with such users themselves. Alternatively, they can join a collecting society which will negotiate those licences on behalf of the copyright owner. The copyright owner might provide a blanket authorisation for all licences or a more restricted permission limited to certain types of licences – for example, a visual artist might authorise the collecting society to license the reproduction of his work for auction catalogues and exhibitions only. The collecting society in that instance may not issue licences for the work to be reproduced on greeting cards or t-shirts.

Who are the collecting societies in Australia?

This information sheet provides a brief description of the aims and activities of each of the following copyright collecting societies (or similar licensing organizations) operating in Australia.

1) Music, lyrics, sound recordings and music videos
   a) AMCOS – Australasian Mechanical Copyright Owners’ Society Limited
   b) APRA – Australasian Performing Right Association
c) PPCA – Phonographic Performance Company of Australia
d) CCLI – Christian Copyright Licensing International
e) licenSing,
f) Word of Life International

2) Visual arts
   a) CAL – Copyright Agency Limited
   b) Viscopy
   c) Aboriginal Artists Agency

3) Film
   a) Screenrights
   b) ASDACS - Australian Screen Directors Authorship Collecting Society
   c) AWGACS - Australian Writers’ Guild Authorship Collecting Society Ltd

2) Literature (including illustrations and images accompanying text)
   a) CAL – Copyright Agency Limited

AAA - ABORIGINAL ARTISTS AGENCY LIMITED

Aboriginal Artists Agency Limited (AAA) represents over 300 Indigenous artists from the Central Desert and Arnhem Land areas by providing similar copyright licensing services to those provided by VISCOPY. It is a non-profit organization that was established in 1976 by the Australian Government through the Australian Council for the Arts.

It negotiates copyright licences for its members across a variety of media including print, digital uses, film and video, theatre and architecture.

Warlpiri artist Michael Jagamara Nelson is one of the best known artists in Australia. He is a member of AAA which negotiated the licence of his artwork for the forecourt mosaic in front of the Parliament House in Canberra and his commission for 9 meter painting in the Opera Theatre foyer of the Sydney Opera House.

Businesses that want to use copies of artwork by AAA's members in books, on websites, greeting cards and posters, in newspapers, magazines, television, exhibition catalogues, merchandise, advertising and film can approach AAA for a license. It will negotiate a royalty for that use and, after deducting a fee to cover its costs, will pay the remainder to the artist.

For further information, see AAA’s website (www.aboriginalartists.com.au/) or contact Anthony Wallis at AAA by phone: 0417 230 464 or email: antnywallis@aol.com.

APRA – Australasian Performing Right Association

AMCOS – Australasian Mechanical Copyright Owners' Society Limited

APRA administers the public performance and communication rights for musical compositions and lyrics on behalf of authors, composers, music publishers and other music copyright owners. It has a
large database of music. If APRA does not represent the copyright owner of the music that a potential licensee wants to use, it can often assist in identifying and locating the owner or music publisher. APRA is affiliated with other equivalent collecting societies worldwide. APRA also manages the Australian rights for the musical works written by members of these overseas societies.

AMCOS collects, administers and distributes royalties collected for the use of 'mechanical' and 'synchronisation' rights in the musical works of its members. Its members are composers and music publishers. Most composers and lyricists assign the mechanical copyright in their music (or lyrics) to a music publisher prior to commercial release of a sound recording of their music.

Often mechanical rights and communication rights are exercised simultaneously so that licences from both APRA and AMCOS are necessary. For example, performing a cover of a musical work at an event and then making and selling a recording of that performance requires both a performance licence from APRA and a mechanical licence from AMCOS. For this reason, APRA and AMCOS were amalgamated in 1997 and now share the same offices and staff. Although technically they are still separate companies and manage separate copyright rights of their members, many of their licences are designed as joint licences.

**Public performance and communication rights** are used in any situation where music is 'communicated' to the public such as by live performances, or radio and television broadcasts and also by streaming over the internet.

**Mechanical rights** arise once a musical work has been commercially released or published in Australia either as a sound recording (other than as a soundtrack) or through sales of sheet music. A statutory licence is then available for the exercise of the 'mechanical rights' in that musical work subject to payment of a royalty. Mechanical rights concern the copying or reproduction of the sound recording in a form that can be heard later – such as on a CD, cassette, or in a digital file (for example, where music is available for digital download or internet use, or used for mobile phone ring tones).

Mechanical rights also include the right to make covers of musical works, namely rerecording the work. Once a musical work has been released publicly (whether by sales of CDs, digital downloads, television broadcast) anyone can record a 'cover' subject to the payment of the statutory licence fee to AMCOS.

Royalties are earned both from the re-use of the original sound recording as well as from new recordings of the musical work.

Copying or reproducing or rerecording a sound recording is different from merely playing or broadcasting it in public. Publicly playing or broadcasting a sound recording is **not** part of the mechanical right but still requires a licence. That type of licence is obtained from a different collecting society called the PPCA as discussed below.

While the major record labels will negotiate directly with a music publisher for mechanical rights, nearly all other record labels have to go through AMCOS.

**Synchronisation rights** concern the reproduction of recorded music in a film or audiovisual recording. AMCOS issues synchronisation licences for its large library of production recordings (music specifically written for synchronisation in films and audiovisual recordings). It also administers
a limited range of synchronisation rights for the musical works of its members (music which is not ‘production music’).

AMCOS has a comprehensive database which lists the copyright owners of over 500,000 musical works. If AMCOS doesn’t administer the particular rights to a work you wish to licence, it may be able to assist in identifying the copyright owner or music publisher which holds those rights.

**APRA/AMCOS licences**

If you are a member of APRA/AMCOS, it can grant licences to third parties to use your music and sound recordings in the following situations:

- music in business - for example, background music, television, jukebox, karaoke and live performances. This includes businesses such as cinemas, venues, gyms, bars, hotels, clubs, shops and restaurants. Some organisations pay a 'blanket' licence fee, which gives them permission to use any music controlled by APRA.;
- music performed at events - for example promoted concerts, dance parties and other performances;
- telephone music – playing the radio or recorded music as on hold music on a telephone system;
- online or new media licence – for example music for mobile phone ring tones and the online use of music on a website;
- broadcasters – for music which is used (synchronised) in a radio or television program or broadcast on their broadcasting service;
- schools and educational institutions - for the recording and use of music in educational institution;
- dramatic context - where music is used in a ballet or in conjunction with acting, costumes, scenic accessories, scripted dialogue or other dramatic effects (you may also need to negotiate directly with copyright owners);
- various other licences for the use of music such as by churches, community bands, choirs, orchestras, eisteddfods, dance schools and other groups/organisations;
- making a sound recording of a musical work (such as for a demo or audition tape);
- copying a sound recording of a musical work (such as to use as background music at an event or as a promotional give-away);
- making recordings of music to use as music on hold;
- uploading recorded music onto web pages (including those containing user-generated content such as MySpace or YouTube);
- reproducing recorded music on online radio webcast channels, online simulcasts, music download and online music subscription services and online clips and play-only songs (not for downloading);
- live webcasting of concerts;
- synchronisation with or dubbing into all forms of audio and audio-visual productions including home and school videos, advertisements, films, DVDs, and TV & radio programs;
- use of sound recordings by churches, community bands, choirs, orchestras, eisteddfods, dance schools and other groups as backing music for performances;
- using (synchronising) a sound recording in a radio or television program or broadcast; and
- copying print music for use by community orchestras, bands, choirs, churches, theatrical producers and music teachers.
The money collected by APRA/AMCOS is distributed, less administrative costs, as royalties to members. The method of distribution relates to the extent of use of any given work based on the information collected by APRA/AMCOS. For that reason, radio and television stations provide APRA/AMCOS with logs or cue sheets that set out which songs they have played. Songwriters can ‘self report’ on use of their songs, including their own live performance of them. APRA/AMCOS also monitor the foreign performance of musical works.

APRA/AMCOS have offices in Adelaide, Brisbane, Melbourne, Perth, Sydney and Auckland. For further information telephone (02) 9935 7900 or visit the APRA/AMCOS website (www.apra-amcos.com.au).

**ASDACS – Australian Screen Directors Authorship Collecting Society**

ASDACS represents directors of publicly released film, television and audiovisual media.

Under the European authors’ rights system, the director is considered to be the author and first owner in copyright of an audio visual work. ASDACS collects, administers and distributes the European royalty income owed to film and television directors arising from ‘secondary’ use (blank video tapes, retransmission of broadcasts by cable and video rental for film and television) in Europe. Australian screen directors are entitled to this European royalty income from ‘secondary’ use under the Berne Convention.

The Australian copyright system does not provide for the directors’ rights of ‘secondary use’.

‘Primary’ use rights are theatrical and television broadcast rights: the director will normally negotiate these rights on an individual basis with the producer. There is no collecting society dealing with those rights.

The only statutory scheme under the Copyright Act which requires royalties to be paid to directors is where an educational institution copies radio and television broadcasts. This scheme is administered by Screenrights (see above).

ASDACS maintains a database of Australian and New Zealand audiovisual works. If you are a director it is important to provide information about your audiovisual works to ASDACS so it can be matched against the information held by the European societies and royalties collected on your behalf.

Membership of ASDACS is free to members of the Screen Directors Guild of New Zealand (SDGNZ) and ASDA. SDGNZ and ASDA are industry associations representing the interests of film and television directors, documentary filmmakers, animators and independent producers throughout New Zealand and Australia, respectively.

The money collected by ASDACS is distributed, less administrative costs, as royalties to its members. The method of distribution relates to the extent of use of any given work based on the information collected by ASDACS.

For further information contact ASDACS on (02) 9555 7042, visit the ASDACS website (www.asdacs.com.au) or email asdacs@asdacs.com.au.
AWGACS – Australian Writers’ Guild Authorship Collecting Society Ltd

Australian and New Zealand scriptwriters for film and television can join AWGACS which will identify and distribute overseas statutory royalties due to them which have been collected by 16 European and South American collecting societies (including the Society of Dramatic Authors and Composers (SACD) in France, SUISSIMAGE (Swiss authors’ rights society for audiovisual works) in Switzerland, WG WORT in Germany and the Author’s Licensing and Collecting Society (ALCS), in the United Kingdom) for the following international uses:

1. Private copying (a levy collected for every blank video cassette tape sold);
2. Rental and public lending;
3. Simultaneous retransmission by cable or pay TV of primary broadcasts;
4. Communication to the public by means of technical equipment;
5. Pay-per-view, video on demand;
6. Communication in public places of radio and television programs;
7. Projection in cinemas and similar establishments;
8. Sale for private use; and/or
9. Use for educational purposes

The money collected by AWGACS is distributed, less administrative costs and a 5% cultural levy, as royalties to its members. The method of distribution relates to the extent of use of any given work based on the information collected by AWGACS.

For further information contact AWGACS on (02) 9281 1554, visit the AWGACS website (www.awg.com.au/index.php?option=com_content&view=article&id=60&Itemid=64) or email awgacs@awg.com.au.

CAL – Copyright Agency Ltd

CAL’s copyright licences

CAL represents authors, journalists, illustrators, visual artists, photographers and newspaper, magazine and book publishers. It licenses the right to reproduce (such as by photocopying or uploading online) and communicate published print materials (books, newspapers, magazines and online content).

CAL administers the statutory licence scheme set up under the Copyright Act which permits the reproduction (copying) and communication of published material (both in hardcopy or print form and online or digital form) by educational institutions, Federal, State and Territory governments and agencies and organizations assisting people with intellectual or print disabilities.
A school wants to photocopy a chapter from a recently published book on contemporary art to use in the classroom. It also wants to put a copy of that chapter on the school intranet for students. The chapter contains text written by the book's author, photos of several artworks by Australian artists and some illustrations commissioned especially for the book. The school's proposal involves the use of copyright owned by the author, the visual artist, the photographer and the illustrator. The school does not have to buy (or ask its students to buy) a copy of the book for each student. Instead, it relies on the statutory licence. CAL collects licence fees from schools and pays royalties to its members.

CAL also provides a voluntary licence scheme for users which are not covered under statutory schemes such as corporations, local governments, business, charitable and religious organizations and other entities. It acts as a non-exclusive agent for its members leaving them free to negotiate their own copyright licences as well.

CAL provides licences for the following circumstances:

- schools and educational institutions – this is the statutory licence required for the reproduction and communication of works by educational institutions. CAL's hardcopy licence permits the making of copies from hardcopy documents such as photocopies of newspaper articles as a classroom tool. Its electronic licence allows educational institutions to reproduce and distribute electronic or digital materials such as where parts of a website are reproduced on a school intranet;
- institutions assisting people with intellectual and print disabilities – these statutory licences permit such institutions to convert works to alternate formats such as Braille or large format print;
- government – this is the statutory licence for Federal, State and Territory government departments and agencies wanting to copy and communicate published works for government purposes;
- local governments and councils – this is the non-statutory equivalent of the statutory government licence used by all other government bodies and agencies;
- general copying – there are a range of other licences used by corporations, businesses, not-for-profit organisations and associations, press clipping agencies, libraries providing commercial document delivery services, media monitors and other organisations not covered by the statutory licences and which want to copy and communicate published print or electronic material;
- digital / new media / online - CAL has a range of different licences available for the use of works in online databases and electronic works and is actively facilitating online delivery through these different projects. This includes access to information on online databases and using works on corporate intranets
- church music – this licence covers lyrics for songs and hymns, poetry and other literary works used by religious groups and organizations. It does not cover print music which is licensed through AMCOS and the other agencies referred to above.
CAL's Copyright Express service (www.copyright.com.au/Copyright_Users/About_licensing/Copyright_express/Welcome_to_CALs_Copyright_Express_service.aspx) is a one-off copyright clearance service offered by CAL, where users can request permission to photocopy or digitally copy from a hard copy original in situations not covered by another CAL copying licence.

CAL has reciprocal agreements with other copyright collecting agencies and reproduction rights organisations around the world. Membership of CAL is free to all print rights holders. There are two types of membership: author membership and publisher membership.

The royalties collected by CAL are distributed, less administrative costs, to members. The method of distribution relates to the extent of use of any given work based on the information collected by CAL. For further information contact CAL on (02) 9394 7600 or visit the CAL website (www.copyright.com.au) which contains a number of helpful information sheets.

**CCLI – Christian Copyright Licensing International**

CCLI is based in the USA and issues licences and distributes fees for the use of Christian music and film resources. It has offices in 14 countries including Australia.

It offers the following licences:

- A church collecting licence allowing the licensee to make overhead transparencies, songsheets and songbooks, maintain a database of lyrics on a computer, record worship services, and make arrangements of the music (where no published version exists). There is an event version of this licence for specific occasions such as weddings and funerals and a mobile version for travelling ministries;
- A song select licence which features transposable lead sheets, chord sheets and vocal/hymn sheets along with lyric downloads and sound samples;
- A photocopy licence allowing the licensee to photocopy songbooks, including the words and the music and specialized arrangements of the music;
- A church video licence permitting the screening of videos for use during sermons, in youth groups, or teaching in educational classes; and
- A group licence which bundles licences and resources together, at a discounted rate.

For further information contact CCLI on (02) 9894 5386 or 1800 635 474 or visit the CCLI website (www.ccli.com.au).

**LicenSing**

LicenSing is a US licensing body which offers licenses to use and copy print music for hymns, songs and service music from more than 340 Christian music publishers and copyright holders. It offers licences from 1 week to 1 year to its entire catalogue.

For further information telephone LicenSing’s Australian representative MediaCom on 1 800 811 311 (08) 8297 8719 or visit the LicenSing website (www.licensingonline.org).
PPCA – Phonographic Performance Company of Australia

PPCA issues licences for the broadcast, communication and public playing of recorded music (sound recordings) and music videos. Its members are Australian recording artists and record labels.

The Copyright Act gives copyright protection to sound recordings which is separate to the copyright in the music and lyrics. To broadcast or play sound recordings or music videos in public, you need to obtain a licence from the copyright owner of the sound recording or music video as well as from the copyright owner of the music and lyrics. PPCA licences the sound recording while APRA licences the music and lyrics.

PPCA licences

PPCA provides licences to use audio and audiovisual recordings of music in the following situations:

- recorded music - for the broadcast, communication or public playing of recorded music. Licence fees are assessed according to the extent sound recording will be played and potential size of the audience;
- music videos - for the broadcast, communication or public playing of music videos. Licence fees are linked to the number of areas and size of screens videos are played on, as well as the potential audience size;
- ‘blanket’ licence - covering nearly all recordings and music videos commercially released in Australia. Required for businesses such as clubs, hotels, bars, restaurants, fitness centres, shops, halls and dance studios, radio and television stations;

A chain of boutiques want to play music DVDs on screens in their stores to create atmosphere for their customers. They will need a PPCA licence.

The PPCA database lists Australian recording artists, sound recordings and the registered copyright owners of recordings.

PPCA membership is open to those who own copyright in a sound recording (usually record labels) and Australian recording artists. ‘Australian recording artists’ are defined as a person or a group of persons whose performance is embodied in an Australian recording and who is entitled to be paid a royalty under the terms of their recording agreement. PPCA deducts a fee from the royalties it collects to cover its costs and distributes the remainder to its members. The method of distribution relates to the extent of use of any given work based on the information collected by PPCA.

For further information contact PPCA on (02) 8569 1100 or visit the PPCA website (www.ppca.com.au).
SCREENRIGHTS

Screenrights represents the owners of rights in film and television, including broadcasters, producers, distributors, and rightsholders in scripts, musical works, sound recordings and artistic works.

Screenrights administers the statutory licences under the Copyright Act that allow educational institutions (schools, TAFEs and universities) and government organizations to copy material from film, radio and television. In 2010, it collected over $25million in statutory royalties for educational copying.

A school wants to tape a 3 part television documentary shown on SBS and play it back to students as part of its Year 8 history lessons. It can do this under the statutory licence in the Copyright Act. It doesn't need to locate all the rightsholders in the documentary film and ask permission. Screenrights collects statutory royalties from Australian schools and distributes them. The producer, the director, and the composer of the soundtrack used in the documentary have all registered with Screenrights and receive royalties.

If you are an artist whose work is used in a film, video or radio or television broadcast, membership of Screenrights will ensure that you receive any statutory royalties due to you.

Screenrights’ EnhanceTV website (www.enhancetv.com.au) provides teachers with a database of audiovisual resources available from Screenrights for use in the classroom. By highlighting forthcoming educational programs on television, the website gives teachers the advance notice they need to copy, and provides exposure for filmmakers.

Screenrights also administers the distribution in Australia of royalties collected under the New Zealand educational copying service as well as international collection services in Europe and North America. If you have rights in an audiovisual work that you think is being broadcast or copied overseas, you can appoint Screenrights as your non-exclusive agent to collect any overseas royalties due to you under those programs.

If you want to show or use an audiovisual work and don't know how to identify or contact the rights owners to get permission, Screenrights may be able to assist you.

Screenrights has members from 47 countries. It also enters into agreements with overseas audiovisual collecting societies, registering titles and making blanket claims for royalties collected by these societies on behalf of its members.

The money collected by Screenrights is distributed, less administrative costs, as royalties to members. The method of distribution relates to the extent of use of any given work based on the information collected by Screenrights.

For further information contact Screenrights on (02) 9904 0133 or visit the Screenrights website (www.screen.org).
VISCOPY – Visual Arts Copyright Collecting Society

Viscopy is a copyright collecting society exclusively for the visual arts. Visual artists appoint Viscopy as their exclusive agent to grant voluntary (non-statutory) copyright licences to reproduce, publish and communicate their artistic works. The money collected by Viscopy is distributed, less a commission to cover administrative costs, as royalties to members.

Viscopy can also act as the intermediary between its members and CAL in relation to any statutory copyright royalties which CAL collects. This can be very convenient for members who prefer to deal with only one collecting agency rather than two. However members who choose this option will pay two lots of commission on those statutory royalties (one commission fee to CAL and one commission fee to Viscopy). Alternatively, to maximize their income, a visual artist can register with Viscopy for non-statutory copyright licences and with CAL for statutory licences.

Viscopy also acts as an alternative for the collection of resale royalties.

Viscopy members include painters, new technology artists, photographers, printmakers, cartoonists, sculptors, illustrators, designers, craftspeople, their agents and others who own or control copyright in artistic works.

Viscopy does not have a set list of licences. It can assist owners of copyright in artistic works to licence almost any type of use. A business that wants to use a copy of a visual artwork in its annual report, on greeting cards, on its website, in a book, or an advertisement needs a copyright licence. If the work will be seen in a film or television broadcast, a licence is also required. Viscopy arranges licences, collects fees and ensures that proper attribution of the creator of the artistic work is made in accordance with the Australian statutory moral rights regime.

An auction house prints a glossy catalogue containing photos of 45 Australian artworks for sale. It needs a copyright licence in order to take the photos and include them in the catalogue. Twenty of the artists whose works are featured are Viscopy members. Viscopy negotiates a catalogue licence with the auction house relating to the works by its members.

Viscopy has reciprocal agreements with over 40 international copyright collecting societies and distributes royalties collected by those societies for use of its members' works overseas. For further information contact Viscopy on (02)9280 2844 or visit their website (www.viscopy.com).

Word of Life International

Word of Life International is an Australasian licensing body which collects and distributes licence fees for the use of modern liturgical music from over 1100 music publishers.

Its licences permit multiple copies of print music with licence fees calculated on the basis of congregation size and duration. It offers both annual and single use licences.
For further information telephone Word of Life International on (03) 5664 9245 or visit the Word of Life website (www.freelink.com.au).

Further Information


Need more help?

Contact Arts Law if you have questions about any of the topics discussed above

Telephone: (02) 9356 2566 or toll-free outside Sydney 1800 221 457

Also visit the Arts Law website (www.artslaw.com.au) for more articles and information sheets

Disclaimer

The information in this information sheet is general. It does not constitute, and should be not relied on as, legal advice. The Arts Law Centre of Australia (Arts Law) recommends seeking advice from a qualified lawyer on the legal issues affecting you before acting on any legal matter.

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