

COPYRIGHT IN MUSIC AND LYRICS

What is copyright?

- Copyright is a bundle of legal rights which artists own in relation to their creative work. Copyright gives the artist rights to control how other people can use their creative work.
- The copyright owner can control who can copy their work and how it can be used. The copyright owner can permit or refuse permission to other people who want to do these things.
- Copyright exists immediately. You do **not** need to register to get copyright.
- The © symbol is a way of telling people that you own copyright.

Does copyright protect music?

- Copyright only protects certain kinds of creations called 'works' and 'other subject matter'. For information about how copyright protects other things like art and film, see the Artist in the Black information sheet on Copyright.
 - Works protected by copyright include song lyrics and music. Music might be a composition for an orchestra, rap music or music for a traditional instrument like a yidaki or didgeridu.
 - Other subject matter protected by copyright includes sound recordings. It might be a sound recording of a live performance or one made in a recording studio.

- Copyright only protects music and lyrics which if they have been written down or recorded somehow. It does not protect ideas or styles.

For example, it does not protect particular ways of making music such as using clapping sticks. Copyright does not prevent another band from copying your 'sound' as long as they do not copy your music or lyrics.

- If someone wants to perform your songs or record them, they are using your copyright and need your permission. You can give them a licence to perform or record your music. If you register your songs with APRA, it will help collect royalties from people who play your music.
- Copyright doesn't usually protect traditional Indigenous music or lyrics. For example, copyright would not protect a song which had been passed down through many generations of a particular language group.

Who owns copyright?

- Copyright generally belongs to the person who composed the music or came up with the lyrics. Sometimes two or more people can own copyright together. For example three band members might all have collaborated to write a song. A different person might write the lyrics.
- If you write music or lyrics as part of your job, your employer (e.g. the business owner or government) may own the copyright. This means they can perform and record it and earn royalties from it without your permission.
- If you do not want your employer to own copyright, you have to meet with them before you start creating. Together you can agree that you should own copyright or how it can be shared with your employer.
- Usually, the person who makes the sound recording (the person who operates the recording equipment) and the performers will own the copyright in the sound recording together. That means that different people can own the copyright in the song and in the sound recording.
- If you pay someone to make a sound recording or pay musicians to perform for the purpose of making a sound recording then they will not own any copyright in the sound recording. The person paying will be the copyright owner.

For example, if you perform your own music and pay a studio to record it, you own the copyright in the sound recording. If the studio offers to record the song for free, it will own the copyright unless you have made an agreement with them in writing that the copyright is yours.

- To make sure that people know that you are the copyright owner of your work use the ©, symbol, your name and the year that it was created like this:

© I. Musician 2004

You should put this on your work - on your sheet music, on the CD cover and any webpage where your music can be downloaded or listened to. You do not have to do this. But it's a good idea.

Dealing with copyright and proof of ownership

- Always keep a record of your work to show that you made it.
- A musician can only sell or give away their copyright in a written document which they sign. If you want the copyright in a sound recording of your work made by someone else, and you didn't pay them to make the recording, you need to get them to sign a written document giving you the copyright.
- On the other hand, it is very easy for a copyright owner to give permission to someone else to use their copyright. That might happen in an email or in a conversation so you should be very careful in any discussions about how your work is going to be used. Any permission to use your copyright should be in a written agreement that you understand and on terms you agree are fair (including payment).
- If someone copies music or makes a sound recording of a song without the copyright owner's permission, this might be an infringement of copyright. The copyright owner can take legal action to stop this. Court cases can be about one musician using several bars from another musician's song in their own song or using a sound recording as the soundtrack for a film without the musician agreeing. If you think someone has copied your music or used your

sound recordings without your permission, you should speak to a lawyer about the chances of success.

- However there are some uses of music and sound recordings which are permitted even if there has been no contact with the copyright owner.

APRA/AMCOS manage a system of licences and collect money for musicians when their songs are used. For example, APRA/AMCOS collect licence fees when a musician's songs are covered by another band or played on radio.

Universities and schools are permitted to copy your work without asking you if it is to be used for an educational purpose but they must pay a fee. Those fees are collected and distributed to artists by collecting societies. For more information see Arts Law's information sheet on Collecting Societies.

How long does copyright last?

- Copyright in music and lyrics generally lasts for the life of the artist plus another 70 years.
- Copyright in a sound recording lasts for 70 years from the end of the year when the sound recording was first released.
- After this time, the work enters the public domain and is no longer protected by copyright. For example, the copyright in most classical music expired long ago. The copyright in sound recordings made before 1 January 1955 has also expired. Anyone can copy and use works and subject matter in the public domain.
- When you pass away, your copyright goes to whoever inherits your estate. You can make a will that says who gets the copyright in your music and sound recordings.

Further Information

Arts Law Centre of Australia (www.artslaw.com.au), tel. (02) 9356 2566 1800 221 457

Australian Copyright Council (www.copyright.org.au)

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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