

## A FILMMAKERS'S GUIDE TO MUSIC AND COPYRIGHT

### The basics

#### **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 come 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 music in public (eg by playing the tracks in hotel, café or retail stores); and
- Communicate the tracks to the public.

#### **What should I keep in mind when choosing music?**

Music should be one of the first things you consider when planning your production - the last thing you want to do is limit the life of your film by making hasty music choices or leaving this till the last minute. It is a good idea to try to use local music in your film. This means that local musicians and composers can benefit and it is usually easier to organise and may be more economical. You should be aware that well known and published music can be very expensive to use.

#### **Can I use someone else's music in my film?**

Yes, as long as you have obtained permission to use the music from all of the copyright owners. 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.

As a practical guide, to using music in your film you should:

1. contact the Australasian Mechanical Copyright Owners' Society (**AMCOS**) on 1300 852 388 to obtain the correct licence for the use of the musical work; and
2. contact the Licensing Department of the relevant record company to obtain permission for the use of the sound recording.

#### **What if I record my own version of someone else's song to use in my film? Do I still have to get permission?**

Yes even if you record your own cover version of a song, you must still get permission from the owner of copyright in the musical work in order to use it in your film. This can usually be done by



contacting AMCOS or the relevant music publisher directly. Similarly, if you arrange or transpose someone else's music you may first obtain their permission to include it in your film.

***Do I need permission to film a live performance of music?***

Yes, performers also have rights under the Copyright Act and permission must be sought to film a live performance of music, as well as live performances of dramatic and literary works, circus acts and dance. You should obtain written consent from all performers, by asking them to sign a release form.

**What are the consequences?**

Copyright infringement can attract fines of up to \$60,500 and up to 5 years imprisonment for each offence. For companies the fines are up to 5 times as much.

**Need more information?**

Music Rights Australia	<a href="http://www.musicrights.com.au">www.musicrights.com.au</a>	<a href="mailto:info@musicrights.com.au">info@musicrights.com.au</a>	(02) 8569 1177
APRA   AMCOS	<a href="http://www.apra-amcos.com.au">www.apra-amcos.com.au</a>	<a href="mailto:apra@apra.com.au">apra@apra.com.au</a>	(02) 9935 7900