Copyright Notice:
performance of live music

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What is a Copyright Notice?

Copyright Notices are published by the Intellectual Property Office to help explain specific areas of copyright in the UK. This Notice is aimed at individuals or groups who may wish to perform music live.

This Notice is not meant as a substitute for legal advice on individual cases, but it can help readers understand some of the issues involved. It is not a conclusive view of the law – only a decision of the court can provide that.

Performance of live music

The basics

Much music performed by musicians is likely to be protected by copyright. The copyright lasts for the life of the creator, plus 70 years after their death, and gives the copyright owner exclusive control of their work. This means that the permission of the copyright owner(s) is required before their music is performed in public. As part of their exclusive rights to control certain specific uses made of their work, the copyright owner(s) is entitled to charge for giving permission to someone to use their work.

If someone wants permission to perform a copyright work, it is sometimes possible for them to approach the copyright owner directly for a licence. More usually, copyright owners tend to use organisations known as collective management organisations to license their works. The collective management organisation (CMO) which administers the rights associated with live performance of music in the UK is called PRS for Music (PRS).

The responsibility for holding licences to allow the public performance of live music falls to venues where the performances take place, for example a pub, club or village hall. Provided that the venue that you are performing in has an up to date public performance licence from PRS then in almost all cases no further action is necessary in order to perform the music and lyrics from a published copyright work. It is the responsibility of the venue to ensure it has the correct licence(s) in place for the copyright works that are to be performed.

In the case of street performers (e.g. buskers) the relevant local authority may hold a public performance licence from PRS to allow the outdoor performance of music. If you want to busk you should contact the local authority to check what the position is.

Further information about PRS and the licences they offer can be found at: http://www.prsformusic.com/Pages/default.aspx.

In addition to a PRS licence, it is also possible to license the use of recorded music in public, which is through the CMO Phonographic Performance Limited (PPL) (http://www.ppluk.com/), which manages the rights of performers and record companies in the sound recordings. This will only be relevant if you incorporate someone else’s recordings into your performance.

Who owns the copyright in a piece of written music?

The composer, lyricist and/or music publisher (if the lyrics and/or music have been formally published) will generally be the owners of the copyright, but in most cases will have authorised a Collective Management Organisation (CMO, also known as Collecting Society) to manage the rights on their behalf. Copyright owners may also have sold or transferred their rights to a third party. However if the piece was created as part of the creator’s job, the employer will generally own the copyright.

What happens if I or my band mates have written the music and lyrics we are performing?

If you are a solo musician or perform in a band and you and/or your band mates have written your own original music and lyrics, you and/or your band mates will own the copyright to that music. This means that you can choose when this music is performed and require others wanting to use these songs or music to obtain your permission.

You can choose to manage your rights directly or use a CMO to do so. For the latter, you will need to become a member of the relevant CMO to authorise them to act on your behalf: PRS manages rights in the musical works, while another CMO, Phonographic Performance Limited (PPL) (http://www.ppluk.com/), manages the rights of performers and record companies in the sound recordings, when recorded music is played in public.

Is permission always required to perform live music in public?

If you do not own the copyright in the music and lyrics you intend to perform, in most circumstances, permission will be required from the copyright owner(s) for live performances of music.

Provided that the venue that you are performing in has an up to date public performance licence from PRS then in almost all cases no further action is necessary in order to perform the music and lyrics from a published copyright work. It is the responsibility of the venue to ensure it has the correct licence(s) in place for the copyright works that are to be performed.

Usually PRS will be able to authorise permission for all the rights associated with the live performance of a piece of music. In rare cases, where the music being used is not included in the music licensed by PRS, separate permission will be needed from the individual rights owners.
However, venues will not require public performance licences in certain specific circumstances. For example, if:

- the entire performance is of folk music where the music and lyrics have not been written down or recorded;
- all the music and lyrics being performed are no longer in copyright;
- where the copyright is wholly owned by the individual(s) performing the music; or
- a copyright work is being performed in a school, university or other educational establishment for educational purposes. This only applies if the audience is limited to teachers, pupils and others directly connected with the activities of the establishment. It will not generally apply if parents are in the audience.

In addition where live music is played at one-off events for example fêtes, carnivals or charity events the organiser of the event is responsible for ensuring they have the correct public performance licence in place. If you are organising an event and are unsure whether you will require a public performance licence to cover the use of music you should contact PRS for advice.

Can I make an arrangement of an original piece of music?

If you wish to make an arrangement of a piece of music that is still in copyright you will need the permission of the copyright owners in most circumstances. The Music Publishers Association (http://www.mpaonline.org.uk/licensing-music-copyrights) which represents most music publishers in the UK can help you find the copyright owners of a piece of music.

Provided certain criteria are met, you may be able to make the arrangement in an educational establishment under the MPA’s Code of Fair Practice (http://www.mpaonline.org.uk/sites/default/files/Code_of_Fair_Practice_1.pdf), or Printed Music Licensing Limited’s School Music Licence (http://schools.cla.co.uk/about-your-licences/schools-printed-music-licence/).

What are the consequences of copyright infringement?

When someone infringes copyright, the copyright owner or a CMO acting on their behalf could take action against the infringer. The person or company that has failed to obtain the appropriate public performance licence may be asked to purchase one and an agreement might be reached after which no further action is taken. In addition PRS may require them to repay the cost of the unlicensed use for a period up to 6 years.

However, in certain circumstances PRS and other copyright owners may take legal action by bringing a claim in a court which could result in the person responsible having to go to court for a hearing. Court cases can be expensive, as they may result in the person or company responsible for a venue paying the cost of a licence, the legal costs for themselves and the copyright owner and possibly further financial compensation for copyright infringement.

What other permissions may be needed?

If you are a busker, some local authorities have a code of conduct, a byelaw, or a permit or licensing regime, although many places have no restrictions. You should contact the local authority responsible for the area where you perform. More information is available from: https://www.gov.uk/busking-licence

If you are a venue that allows the performance of live music or the playing of recorded music you may need a licence from the relevant local authority to make sure you conform to the requirements of the Licensing Act 2003 in relation to providing entertainment. However, recent changes made to the law have extended the range of live music performances that can take place without a licence. Further information about these changes is available from: https://www.gov.uk/entertainment-licensing-changes-under-the-live-music-act

If you teach music in a school in the UK and you wish to make copies of printed music you may need a licence from the collective management organisation called Printed Music Licensing Limited. More information about this licence is available from: http://www.printmusiclicensing.co.uk/school_licence. There is also information about how copyright exceptions apply for educational use at: https://www.gov.uk/exceptions-to-copyright#teaching. If the music is performed before an audience consisting of people other than teachers, pupils and others directly connected with the school’s activities, the school will need to have an additional PRS licence to cover this public performance.

If you are part of a choir, orchestra or other musical group and wish to use sheet music, there are restrictions on when you can and cannot copy that music. The Music Publishers Association has information on its website, including guidelines on what may be copied or helping you to locate specific sheet music: http://www.mpaonline.org.uk/content/printed-music.

Examples

I have been invited to do a live performance of music at a venue/play at an open air festival in my town

If you are invited to perform at a venue or festival you are unlikely to need to make any checks yourself. It is the responsibility of the venue or festival organiser to ensure they have the appropriate licences in place (e.g. from the local authority and PRS). If you are unsure whether the venue or festival organiser has the appropriate licences in place you could ask them for confirmation before you accept the booking.
What if I use a backing track?

If you use a backing track for your performance that is in copyright you will usually need an additional licence. As with the licence for the music or lyrics, this can sometimes be obtained directly from the copyright owner, but more usually it is through a collective management organisation in this case, it is PPL (http://www.ppluk.com), which manages the rights of performers and record companies in the sound recordings, when there is a public performance of recorded music. If you are unsure whether the venue has the appropriate PPL licence in place, you could ask them for confirmation before you accept the booking.

I have been allowed by Transport for London to perform at a pitch on a tube station

Transport for London (TFL) has set aside a number of pitches on the Tube Network in London where authorised busking can take place. In order to busk on one of these pitches you need to obtain permission from TFL and further information is available at: https://tfl.gov.uk/corporate/about-tfl/culture-and-heritage/busking

TFL has a licence in place with PRS to allow the public performance of live music in these circumstances. This means that if you are a PRS member and you perform your own songs you can claim money. PRS have produced an information leaflet (http://www.prsformusic.com/SiteCollectionDocuments/Membership/PRSforMusicUserGuideforLUBuskers20_11.pdf) which details how these claims should be submitted. If you do not perform your own songs you will need to submit a set list so that PRS can make sure the correct members get paid.

I have borrowed printed music from a library – what does this entitle me to do?

When you borrow printed music from a library you can play this music in the same way as you would be able to play any music you own. This means that you can perform it at home or in private without requiring a licence from PRS. If you would like to perform the music in a public place the venue or event at which the performance takes place will need to hold the appropriate public performance licence from PRS. Unless both the publication and music works contained within it are public domain, you may only photocopy printed music borrowed from a library under a copyright exception, one of the specific permissions in the MPA’s Code of Fair Practice, or with permission from the right holder(s).

For further information about Copyright Notices, email copyrightnotices@ipo.gov.uk.

To ask for a Copyright Notice on another topic please complete the online form.