

Copyright

John Smith APAGB CPAGB

For AV makers obtaining the copyright clearance and licences required for any public show might feel a real pain in the ... until you wonder what it would be like if someone else exploited your work for profit without permission or payment.

The laws of copyright allow artists, writers and composers to treat their work rather like possessions which they can sell or rent out to others. They can also refuse anyone else the right to use it.

Few AV's are without some form of background or supporting music and to use this legally involves obtaining the necessary permissions and licences, of course anyone can try to buy the rights to use a piece of music from music publishers but at a very high price.

For amateurs not willing to spend a fortune you could:-

- Write and play your own music or maybe find someone to do it for you.
- Use "royalty free" music - this comes either in CD collections or as tracks you download from a company's website. These CDs typically cost around £30 - 35 - far more than normal music CDs - but for this you get a whole set of rights to use the music in your work without further charge. (It is important to check carefully exactly what rights each company offers.) Many of the suppliers also let you buy individual tracks to download at various prices. The catch is that a great deal of this music is synthesised rather than played on real instruments - and you can hear it. There are also sources of royalty free music which can be downloaded for nothing.
- Use 'library music' - this is what a great many professionals use for television and film with a vast range of recordings offered by specialist companies. Most are played by real musicians on real instruments and many well-known classical music tracks are available this way. These firms do not normally sell to the public but IAC members can get advice on what is available and buy this music through their Music Advisory Service.

If you are not an IAC member to use library music you need the two clearances in the IAC's Copyright Scheme and also you must then obtain written permission from the Musicians Union.

- Use Commercial Music taken from a CD purchased from a retail outlet in this country - to be able to use this you must join the IAC and then buy all the licences in their Copyright Clearance Scheme

What is their Copyright Clearance Scheme?

Before we start, please note most of the information in this section is UK specific - laws and customs may be different in other countries and that copyright law is very complex and although great care has been taken in compiling these notes which are of particular interest to amateurs, neither we, the IAC, nor the compilers accept responsibility for any inaccuracies or misunderstanding that may result from their use.

The IAC has negotiated special arrangements with the various licensing bodies allowing the use of both Library music and Commercial recordings in members' sound tracks, for their video, film and audio visual presentations.

Copyright is recognised by Acts of Parliament - the main legislation being the Copyright, Designs and Patents Act of 1988 and subsequent amendments. The Law is designed to protect the ownership of the work of writers and composers and others to whom the creators of the work have assigned their Rights, as well as the manufacturers of sound recordings and broadcasting authorities.

Current legislation extends the protection period to SEVENTY years after the death of the creator and an infringement of its provisions can give rise to legal action.

The Rights to be cleared cover:

- The Rights of composers and arrangers
- The recording from which a sound track is made
- The performer(s)
- The public performance

It is an offence:

- To make a recording of Copyright music, even if that recording is not played back
- To record, or copy, any recording without the consent of the maker and or performer(s)
- To play or reproduce Copyright music in public without the appropriate permissions

There are four copyright bodies in Great Britain from which copyright clearance must be obtained:

- **The Mechanical Copyright Protection Society (MCPS)** which protects the **rights of the Composer of a piece of music** for up to 70 years after their death. It permits the licensee to record (dub) musical works owned by its members which have previously been released as a sound recording on condition that the recordings are privately used only:
 - a) For exhibition to friends and relations in private
 - b) On amateur movie, photographic or video club premises where admission is free or where a charge is made for club funds
 - c) For public exhibition when such is promoted for the raising of club funds or for bone fide charitable causes
 - d) For not more than TWO public exhibitions held annually in addition to those in (a) and (b) above
 - e) For exhibition at annual amateur movie, photographic or video festivals attended by competitors and friends
 - f) Exhibition to judges in amateur film, photographic or video competitions.

Remember that this is only the Composers' clearance and that to show your sequence on any of the above occasions you will also need to be in possession of the Phonographic Performance Licence (PPL) licence.

• **The British Phonographic Industry (BPI)** which permits the **Copying** of the whole or section of a piece of music made by leading manufacturers.

- a) The original recording used by the licensee must be his/her personal property and purchased through regular retail channels
- b) The **names** of all instrumental groups, bands, orchestras, choruses, solo artists and/or performers shall **NOT** be identified in subtitles or credits etc.
- c) All other Copyrights e.g. Composer, Performer, shall be cleared before the recordings are copied or dubbed
- d) That no copies of the sound tracks on which the recordings reside be used for any other purposes whatsoever.

• **The Phonographic Performance Ltd (PPL)** which covers the **Reproduction in PUBLIC** of sound tracks that have been created from **COMMERCIAL RECORDINGS**.

It is important to note the wording and definitions within the above statement:

PUBLIC has been defined by the courts as any group of persons outside the immediate family circle.

COMMERCIAL RECORDINGS are defined as recordings purchased by the producer of the sequence through normal retail channels within the United Kingdom.

Also please note that whilst two of the necessary licences are available to members of the Royal Photographic Society and the Photographic Alliance of Great Britain **this important licence is only available to IAC members and IAC Affiliated Clubs**.

A licence in a club's name applies only to productions made by the club nominated. It does not cover any productions made by individual members on their own behalf. Similarly, licences in the name of an individual clear that person's work only

- **The Musicians' Union** has to be contacted to obtain the **performers consent** to having a recording of any part of their performances incorporated into a sequence and in addition the author must hold the MCPS, BPI and PPL licences.

From August 2005, however, it has been no longer necessary for IAC members to apply for this consent provided that it is for **PRIVATE** use and/or for exhibition to a **NON-PAYING AUDIENCE**.

Commercial exploitation will still require prior consent of the Union.

Non IAC members would have to seek written permission from the Musicians' Union to be able to use Commercial recordings. This would be in addition to all clearances and consents that would have to be obtained with regard to Composer and Recording Rights.(MCPS and BPI)

So to try and simplify things what does all this mean to the producer of an audio visual sequence who wishes to use a piece of music from a CD that they have purchased from a shop in this country?

If they are a member of the Royal Photographic Society or the Photographic Alliance of Great Britain they might have gone out and purchased the MCPS and the BPI licences - the only ones that are available to non IAC members at a cost of £8.54, believing that this is all they need.

Unfortunately what this really means is that the producer can add a part or the whole track of a commercial recording to their project - but then they do not have the necessary permission to show their beloved work of art to anyone deemed to be the 'PUBLIC' - by definition that is to no-one outside their immediate family!!!

How many authors would just want to do that?

There are even more complications with those authors who wish to purchase the two available licences as members of PAGB affiliated clubs.

Why?

Well the constitution of the PAGB states 'Clubs are affiliated to the Photographic Alliance of Great Britain through their 'area' Federation - so the clubs are members of the Federation - but it is the 15 Federations that are the actual members of the PAGB!!! This means that individual members and maybe even clubs are not covered by these licences.

Royal Photographic Society members are different in that they are actual members of that Society.

In conclusion you can see that this is a typical legal minefield.

Unless the RPS and the PAGB are willing and able to negotiate a new agreement with the IAC on behalf of their respective memberships, then to ensure that they are fully covered, individual authors should maybe become members also of the IAC. The cost of this is presently £37.50 per year with a reduction for the over 65's but with the subscription members also receive their bi-monthly copies of 'Film and Video Maker', the IAC 'in-house' magazine. Once they become members they will also have to purchase the three licences for an additional £7.17 and then it is just a matter of abiding by all the conditions that are attached to each licence and they should be fully protected from any legal action.

I hope that this article has made things a little clearer and I thank Pam Harrison Administrative Secretary at the IAC and Gerald Mee FACI ARPS, the IAC Music Copyright Adviser, for all their help.