



MUSIC COPYRIGHT EXPLAINED

TOP FIVE MUSIC COPYRIGHT FACTS

#1

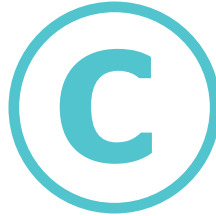
there are two sets of music rights

SONGS

- ★ Every time you write some original lyrics you create a copyright - a **literary work**.
- ★ Every time you compose some original music you create a copyright - a **musical work**.
- ★ These together form the **song rights** - ie the copyright in the song.
- ★ In the music industry we sometimes call these the **author rights** or **publishing rights**.

RECORDINGS

- ★ Every time you record a track you create a separate copyright - a **sound recording**.
- ★ These are the **recording rights** - ie the copyright in the recording.
- ★ In the music industry we sometimes call these the **phonographic rights** or **master rights**.



The (C) symbol is short for 'copyright' - we often put it before the name of whoever owns any one copyright



We can also use the (P) symbol to represent the recording copyright - P is short for phonogram

WHO ARE THE MUSIC-MAKERS?

Music-makers are all the people who get involved in the creation of songs and recordings - sometimes one or the other, often both. You might think of yourself as a composer, lyricist, songwriter, beat-maker, singer, vocalist, rapper, MC, musician, instrumentalist, record producer, featured artist or pop star - we think of all of these people as music-makers. And therefore everything we say in this guide is relevant to you.

WHAT IS THE MUSIC RIGHTS INDUSTRY?

The music rights industry is all the people and companies that work on creating, managing, marketing and monetising music copyrights.

The **music publishing industry** is all the people and companies specifically involved in managing the song rights.

The **record industry** is all the people and companies specifically involved in managing the recording rights.

Although many people and many companies are involved in both songs and recordings, these two industries are still distinct.

ACT STUFF

Copyright in the UK begins with the Copyright, Designs & Patents Act 1988. It sets out and defines the different kinds of creative work that enjoy copyright protection. Which means it provides definitions of literary works (lyrics), musical works (compositions) and sound recordings...

“**literary work** means any work, other than a dramatic or musical work, which is written, spoken or sung”.

“**musical work** means a work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with the music”.

“**sound recording** means a recording of sounds ... or a recording of the whole or any part of a literary, dramatic or musical work ... regardless of the medium on which the recording is made or the method by which the sounds are reproduced or produced”.

So a track contains two sets of rights - song rights and recording rights

#2

copyright allows music-makers to control what happens to their music

REPRODUCTION CONTROL
the copying of the music

DISTRIBUTION CONTROL
distributing the copies

RENTAL CONTROL
renting out the copies

ADAPTATION CONTROL
reworking or remixing the music

PERFORMANCE CONTROL
performing the music in public

COMMUNICATION CONTROL
broadcasts or webcasts of music

MAKING AVAILABLE CONTROL
making the music available online

Copyright is all about control. It allows music-makers and their business partners to control what happens to the songs and recordings they create.

Copyright actually provides a number of controls. It means music-makers can control the copying, distribution, rental, adaptation, public performance, communication and making available of their music.

In the music industry we sometimes...

- ★ group the reproduction and distribution controls together and call them the **mechanical rights**.
- ★ group the performance and communication controls together and call them the **neighbouring rights**.
- ★ group the performance, communication and making available controls together and call them the **performing rights**.

Copyright works like this...

- 1:** If anyone else wants to copy, distribute, rent out, adapt, publicly perform, communicate or make available someone else's music...

- 2:** Well, the copyright owner controls all of those things - so they need to find the copyright owner and ask them for permission...

- 3:** The copyright owner usually sells this permission - which is how copyright makes money - we call this selling of permission **licensing**.

HOW LONG DO YOU HAVE CONTROL?

As a copyright owner you have these controls for a set number of years.

In the UK, for songs the controls last for the lifetime of the creator or creators and then another 70 years.

For recordings the controls last for 70 years after first release.

WHERE DO YOU HAVE CONTROL?

The UK copyright system provides these controls within the UK.

However, all the copyright systems around the world are joined up.

So as a UK copyright owner you will be able to control your songs and recordings in other countries too - although the exact list of controls varies from country to country.

ACT STUFF

The different controls that come with the copyright are set out in Section 16 of the Copyright, Designs & Patents Act.

It refers to the controls as the "acts restricted by the copyright".

It states the following...

"The owner of the copyright in a work has ... the exclusive right to do the following acts in the United Kingdom -

- to copy the work;
- to issue copies of the work to the public;
- to rent or lend the work to the public;
- to perform, show or play the work in public;
- to communicate [broadcast or make available] the work to the public;
- to make an adaptation of the work or do any of the above in relation to an adaptation".

#3

copyright is automatic - collaborators need to agree ownership

Copyright is automatic.
This is the really brilliant thing about copyright.

As soon as you write an original song - you create a song copyright.

As soon as you record a track - you create a recording copyright.

There are NO forms to fill out, money to pay, permission to be granted - the copyright exists and you have control.

All you have to do is make sure that the work is **fixed**. So, that means it is written down or recorded.

WHO OWNS COPYRIGHT?

But if you don't register a new copyright as it is created, how do we know who owns each copyright?

The law provides us with default ownership rules - so we know who the first owner of any new copyright is.

With songs - the default first owner is whoever writes the song.

With recordings - it is whoever organises and/or pays for a recording to take place.

If more than one person is involved in writing a song or organising a recording session they co-own the resulting copyright.

AGREEING OWNERSHIP

Whenever music-makers collaborate on writing a song or recording a track they need to reach an agreement about copyright ownership.

AGREE IT!

Who will own or co-own each copyright? What share does each co-owner get? This is for the collaborators to decide. It's common for either the label or the main artist to wholly own the recording copyright. With songs the copyright would usually be split between each writer.

DOCUMENT IT!

Whatever you agree, write it down. A one page 'split sheet' is fine. More established artists might get a lawyer to write a short contract. Worse case scenario an exchange of emails would suffice. Or there are apps that can help with this process.

LOG IT!

Ideally you should let the music industry know what has been agreed by logging it with the main industry databases.

MUSIC DATABASES

Because copyright is automatic there is no formal registry where you can log each work. However, the music industry has its own databases.

The UK music publishing industry has a big **database of songs** managed by an organisation called PRS.

The UK record industry has a big **database of recordings** managed by an organisation called PPL.

So once you start making music you should join these organisations and log your works with their databases.

ASSIGNMENT

Default owners of copyright can transfer ownership to another person or company via a signed written agreement - we call this **assignment**.

The rules around assignment in copyright law are super flexible - this means you can assign...

- ★ Existing and future copyrights.
- ★ A percentage of a copyright.
- ★ Specific controls of a copyright.
- ★ For a set time period or for as long as the controls exist.
- ★ For just specific countries or for the whole world.

ACT STUFF

The Copyright, Designs & Patents Act refers to the people who write lyrics and compose music as **authors** and the people who organise recording sessions as **producers**. However, day-to-day in the music industry we often use those terms to mean different things - so don't get confused!

Another important rule in the Act is that if someone creates a new copyright work as an employee of a company, then the employer is the default owner. The Act says: "Where a literary, dramatic, musical or artistic work is made by an employee in the course of his employment, his employer is the first owner of any copyright in the work subject to any agreement to the contrary".

Though that only applies to formal employees - not freelancers. A lot of people in the music industry are freelance. In that case the freelancer would be the default first owner unless a written contract said otherwise.

#4

music-makers work with business partners to manage their music rights

Music-makers work with various different business partners in the music industry to generate money out of their music rights.

Those business partners might actually own the copyright or simply manage it on behalf of the music-maker. The business partners look for ways to make money from the music - and then share that money with the music-maker.

SONGS

In certain scenarios the music industry generally licenses through the **collective licensing system**. This is where large groups of creators and copyright owners appoint central organisations to collectively negotiate deals, and collect and distribute royalties.

PRS usually licenses when someone exploits the performing rights in songs.

MCPS sometimes licenses when someone wants to exploit the mechanical rights in songs.

A songwriter might work with a **rights administrator** that helps them manage their data on a global basis and possibly handles the licensing of digital services.

Or they might sign with a **music publisher**. The publisher would then handle all the administration, while also supporting the writer's creative development; seeking opportunities for the writer to collaborate with other music-makers; pitching their music to TV, movies, games and ads; and seeking other opportunities for the writer.

RECORDINGS

PPL licenses radio stations, TV channels and pubs/clubs/shops/cafes/etc whenever they use recorded music.

A sister organisation called **VPL** licenses music videos for TV and public screening.

An artist might work with a **music distributor** that gets their recordings onto all the digital services, and possibly provides other support too.

Or they might sign with a **record label**. The label would then handle all the distribution - including CDs and vinyl if appropriate - while also overseeing and inputting on the recording process; planning and delivering marketing campaigns around each release; managing all the data; and seeking other opportunities for the artist.

MUSIC COPYRIGHT DEALS

Whenever music-makers work with business partners they need to do a deal which sets out what happens to all the rights and what happens to all the money.

With rights administrators and music distributors, the music-maker would usually keep ownership of their copyrights. The business partner then provides a set number of services and takes a cut of any money generated in return.

If a music-maker signs with a music publisher or a record label, that publisher or label might become the copyright owner. They then make money from the rights and share that money with the music-maker.

With **publishing deals**, the performing rights of the song would still be controlled by PRS, which would pay 50% of the money it generates to the publisher and 50% to the writer. The publisher would then own and control the other elements of the copyright.

With **record deals**, the label would own and control all elements of the copyright, although it would usually appoint PPL to collect money from radio, TV, pubs, clubs etc.

Every deal is different. If a deal includes long-term commitments or assignment of copyright, the music-maker should always get independent legal advice first.

THE SOCIETIES

The organisations that manage the music industry's databases and the collective licensing system are variously known as collecting societies, collective management organisations (CMOs), performing rights organisations (PROs) or music licensing companies. There are three main societies in the UK...



PRS and **MCPS** both represent song copyrights - the former performing rights, the latter mechanical rights. They work very closely together - a single company called PRS For Music issues and administrates both PRS and MCPS licences. Both songwriters and publishers join PRS. Only songwriters that are not working with a rights administrator or publisher need to join MCPS. prsformusic.com



PPL represents recording copyrights. Both artists and labels join PPL. Artists who own and release their own recordings technically join PPL twice - once as a label and once as a performer. ppluk.com

#5

performers have rights even if they don't own the copyright in a recording

Performers often do not own the copyright in the recordings on which they appear. They might not even have a relationship with the copyright owner that allows them to share in any money the copyright generates.

The main artists on a recording may do a deal with a record label which makes the label the copyright owner. The artists get investment and a whole load of services from the label and - in return - the labels gets the copyrights. The artist would usually be due a cut of any money generated from the copyright under that deal, though what share they get would be set out in the contract and the label might be able to recoup some of its costs out of future income.

But even if the main artist retains ownership of the sound recording copyright, any session musicians who also appear on the recording will not usually share in the copyright. Session musicians don't usually share in future income either, instead receiving a one-off fee for their time in the studio.

However, performers also have a set of rights in law that co-exist with the actual copyright.

PERFORMER APPROVALS

First, whenever anyone makes a recording of someone else's performance, they must get that performer's approval. They need the performer's permission to make the recording itself (ie to "fix" the performance) and also to exploit the resulting copyright in a number of ways. That means there are six approvals that are needed in total...

FIXATION APPROVAL

REPRODUCTION APPROVAL

DISTRIBUTION APPROVAL

RENTAL APPROVAL

LIVE BROADCAST APPROVAL

MAKING AVAILABLE APPROVAL

For session musicians, there is an industry standard agreement put together by the Musicians' Union and record label trade body the BPI that provides these approvals. Under that agreement the performer retains some rights regarding certain future exploitation of any recording - mainly when it is synchronised or used as a backing track - in which circumstances the MU can collect additional royalties for the performer.

PERFORMER ER

Second, any performer that appears on a sound recording has a right to **equitable remuneration** whenever the performance or communication controls of the sound recording copyright are exploited. So that's what the record industry often refers to as the **neighbouring rights**.

That covers things like radio, TV and when recorded music gets played in public spaces like pubs, clubs, shops, cafes etc. In all these scenarios the performers as well as the copyright owners have a right to payment.

Performer ER is managed by the collective licensing system. As it happens, royalties paid by radio, TV and pubs/clubs/shops/cafes/etc are already going through the collective licensing system, so that simplifies everything for everybody!

It means that performers as well as copyright owners need to join PPL and - whenever a new record is released - PPL needs to be told who appears on the record as well as who owns the copyright. This includes the main artist whose name the track is released under but also all and any session musicians who appear.

ACT STUFF

Performer rights are set out in Section 182-182D of the Copyright Designs & Patents Act.

Here's what the act says about the performer's right to equitable remuneration:

"Where a commercially published sound recording of the whole or any substantial part of a qualifying performance - (a) is played in public or (b) is communicated to the public ... the performer is entitled to equitable remuneration from the owner of the copyright in the sound recording".

The Act doesn't actually define equitable remuneration, so this is worked out by the music industry. Basically PPL income is split 50/50 between copyright owner and performers.

Of that allocated to performers, approximately two thirds goes to the main artist and a third to session musicians - although there are some extra complexities here. These rules are managed by PPL.

MAKING MONEY FROM MUSIC COPYRIGHT

making money from music copyright in the UK: how rights and royalties flow

So, let's put all of our top five music copyright facts together and explain how things work with each of the key uses of music. What does the user of music need to do to make use of music legally? What does the music maker need to do to make sure they get properly paid?

For each use of music we need to ask five questions:

- 01:** Are both song and recording rights being exploited?
- 02:** Which controls of the copyright are being exploited?
- 03:** Who owns the copyright?
- 04:** Which business partner is managing the copyright in this scenario?
- 05:** Are the performers due any equitable remuneration?

Based on the answers to these questions we can identify how the rights and royalties will flow.

You'll notice that in this section we talk about money flowing to publishers and labels. If a writer or artist isn't working with a publisher or label (or similar companies), they would get this money.

RADIO

Which copyrights?

SONG

RECORDING

Which controls?

COMMUNICATION

Which business partner?

Collective licensing applies

PRS

PPL

Is Performer ER due?

YES!

RIGHTS + ROYALTY FLOW

The radio station gets licences from PRS and PPL.

PRS pays 50% of money to publisher and 50% to writer.

PPL pays 50% of money to copyright owner and 50% to performers.

LIVE MUSIC

Which copyrights?

SONG

Which controls?

PERFORMANCE

Which business partner?

Collective licensing applies

PRS

Is Performer ER due?

N/A

RIGHTS + ROYALTY FLOW

Venue or concert promoter gets a licence from PRS.

PRS pays 50% of money to publisher and 50% to writer.

PUBS/CLUBS/SHOPS/ETC

Which copyrights?

SONG

RECORDING

Which controls?

PERFORMANCE

Which business partner?

Collective licensing applies

PRS

PPL

Is Performer ER due?

YES!

RIGHTS + ROYALTY FLOW

Pub, club, shop, cafe etc gets a single licence - called TheMusicLicence - from a joint venture run by PRS and PPL. This JV then passes the money onto PRS and PPL.

PRS pays 50% of money to publisher and 50% to writer.

PPL pays 50% of money to copyright owner and 50% to performers.

making money from music copyright in the UK: how rights and royalties flow

CD/VINYL

Which copyrights?

SONG

RECORDING

Which controls?

REPRODUCTION

DISTRIBUTION

Which business partner?

Direct and collective licensing

MCPS

LABEL/DISTRIBUTOR

Is Performer ER due?

NO!

RIGHTS + ROYALTY FLOW

Label would usually press the discs itself exploiting its own recording rights. Retailers sell the discs and pass the money back to the label, which would then share that with the artist.

Label also gets a licence from MCPS covering the song rights. MCPS passes this money onto the publisher which shares that money with the songwriter.

MUSIC DOWNLOADS

Which copyrights?

SONG

RECORDING

Which controls?

REPRODUCTION

MAKING AVAILABLE

Which business partner?

It depends on repertoire

MCPS OR PUBLISHER

REP

PRS OR PUBLISHER

MA

LABEL/DISTRIBUTOR

Is Performer ER due?

NO!

RIGHTS + ROYALTY FLOW

The download store licenses recordings from both labels and distributors which share any income with each track's main artist.

Songs maybe licensed via MCPS/ PRS or the publisher (depends on repertoire). Either way, each song's writer still gets part of their share of the money from PRS and the other part from MCPS or their publisher.

ON-DEMAND STREAM

Which copyrights?

SONG

RECORDING

Which controls?

REPRODUCTION

MAKING AVAILABLE

Which business partner?

It depends on repertoire

MCPS OR PUBLISHER

REP

PRS OR PUBLISHER

MA

LABEL/DISTRIBUTOR

Is Performer ER due?

NO!

RIGHTS + ROYALTY FLOW

The streaming service licenses recordings from both labels and distributors which share any income with each track's main artist.

Songs maybe licensed via MCPS/ PRS or the publisher (depends on repertoire). Either way, each song's writer still gets part of their share of the money from PRS and the other part from MCPS or their publisher.

TV

Which copyrights?

SONG

RECORDING

Which controls?

REPRODUCTION

ADAPTATION

COMMUNICATION

Which business partner?

Collective licensing applies

MCPS

REP

PRS

COM

PPL

Is Performer ER due?

YES!

RIGHTS + ROYALTY FLOW

TV network and/or producer gets licences from MCPS, PRS and PPL.

MCPS passes money onto the publisher which shares it with the songwriter. PRS pays 50% to publisher and 50% to the songwriter. PPL pays 50% of money to copyright owner and 50% to performers.

If the music is altered permission may be required for that "adaptation".

making money from music copyright in the UK: how rights and royalties flow

MOVIE IN CINEMA

Which copyrights?

SONG

RECORDING

Which controls?

REPRODUCTION

ADAPTATION

PERFORMANCE

Which business partner?

Direct and collective licensing

PUBLISHER

REP

PRS

PER

LABEL/DISTRIBUTOR

Is Performer ER due?

NO!

RIGHTS + ROYALTY FLOW

Movie studio would license recording rights (all controls) from the label, which would share money with artist.

Studio would license reproduction element of song from the publisher.

Cinema would license the performance with PRS. Publisher shares money with writer. PRS shares money with publisher and writer.

If the music is altered permission may be required for that "adaptation".

ADVERT ON TV

Which copyrights?

SONG

RECORDING

Which controls?

REPRODUCTION

ADAPTATION

COMMUNICATION

Which business partner?

Direct and collective licensing

PUBLISHER

REP

PRS

COM

LABEL/DISTRIBUTOR

Is Performer ER due?

NO!

RIGHTS + ROYALTY FLOW

Brand would license recording rights (all controls) from the label, which would share money with artist.

Brand would license reproduction element of song from the publisher.

The TV network would license the communication with PRS. Publisher shares money with writer. PRS shares money with publisher and writer.

If the music is altered permission may be required for that "adaptation".

LYRICS & SCORE

Which copyrights?

SONG

Which controls?

REPRODUCTION

DISTRIBUTION

Which business partner?

Direct licensing

PUBLISHER

Is Performer ER due?

N/A

RIGHTS + ROYALTY FLOW

Whoever wants to utilise the lyrics or musical score (whether to print books OR to use them as part of an online service) will get a licence from the publisher.

The publisher will then share this income with the songwriter.

Whenever a new kind of music service or experience comes along, the music industry has to work out how it will license that service or experience and how everyone will get paid.

That may include deciding whether to license the service or experience through direct deals or the collective licensing system.

The industry also needs to decide which controls are being exploited. That is not mere semantics, because it can impact on who does the deal and whether or not Performer ER is paid.

It is worth noting that the wider music industry doesn't always agree on the answers to these questions! For example, a debate continues within the music community as to how digital services are licensed and digital royalties shared out.

What share of any money each label and publisher pays each artist and songwriter depends on each record and publishing deal. The share may differ according to how music is used. This creates another challenge when new services come along - if those deals don't mention those new services, how does the label or publisher know what to pay?

MUSIC COPYRIGHT AROUND THE WORLD

music copyright around the world – and the music rights market in the US

Every country has its own music industry and its own copyright system. But the music business is a global business...

COPYRIGHT AROUND THE WORLD

Your music has direct protection under UK copyright law if you are a British music-maker, or a British company, or your music is published in the UK first. UK copyright law then allows you to control how your music is used in the UK.

However, you will obviously want to control how your music is used in other countries too. And music-makers in other countries will want to control how their music is used in the UK. To ensure that can happen copyright systems around the world are joined up through global treaties.

This means that UK music-makers can control how their music is used – and therefore generate income from their music – around the world. Although quite what controls they have and how they can be exploited will vary according to the specifics of each country's copyright laws.

COLLECTIVE LICENSING AROUND THE WORLD

The music industry has set up separate collecting societies in each country. Traditionally, music-makers joined their local societies. And those societies only issued licences in their home countries. So, for example, PRS and PPL only issue licences to radio stations in the UK.

But again we have to remember the global dimension. Music-makers want to license their music to radio stations all over the world. And British radio stations want access to music from every country, not just the UK.

To ensure that can happen, most of the societies around the world are joined up through what are known as reciprocal agreements. So PRS and PPL can license something nearing a global catalogue of music in the UK, and UK music-makers can include their music in licences issued by all the other societies around the world.

That said, as music-makers and copyright owners you actually have a choice. You could join every society in the world directly and only allow each society to represent your rights in its home country. Or you could join your

local society and give it global rights, allowing other societies to license that music via the reciprocal agreements. There are pros and cons to both approaches, though most music-makers initially go with the latter approach.

MUSIC COMPANIES AROUND THE WORLD

In the digital age, as soon as a music-maker puts their music online they have global reach. For many music-makers, the first business partner is a DIY music distributor which will make sure that their music is streaming all over the world.

That said, to effectively market music and manage music rights in other countries, it can help to have on-the-ground support in those places.

To that end, many UK music companies also have offices and teams in other countries. Or they form partnerships with other music companies in those other countries, in order to access local and regional knowledge and expertise.

For music-makers, one of the attractions of working with a music company might be the connections and support it can provide in other markets

where they know there is – or might be – an audience for their songs and recordings.

MUSIC RIGHTS + THE MUSIC MARKET IN THE US

Lots of UK music-makers aspire to find an audience in the US. That's partly because, in revenue terms, the US is the biggest market for songs and recordings. But also because there are lots of connections – personal, creative and commercial – between the US and UK music communities.

There are lots of similarities between the music industry and music copyright in the US and the UK. Though there are also some differences that are worth knowing about.

COPYRIGHT REGISTRATION

To get full protection under US copyright law, you need to register songs and recordings with the US Copyright Office in Washington.

That said, UK music-makers have basic protection by default without registering any works. But registration becomes important if you ever seek

music copyright around the world – and the music rights market in the US

to enforce a copyright through the American courts.

However, most UK music-makers don't worry about registration until they have music industry business partners who can advise on these things.

CONTROLS

Under US copyright law, the controls that come with the sound recording copyright are different to the controls that come with the song copyright. This means that artists and labels currently don't earn any money when their recordings are played in public spaces or on AM/FM radio stations. However, they do earn money when their recordings are played on online or satellite radio.

COLLECTIVE LICENSING

In the US there are several collecting societies representing the performing rights in songs (ie the equivalent to PRS), including BMI, ASCAP, SESAC and GMR. American songwriters have to decide which society to join.

PRS has reciprocal agreements with both BMI and ASCAP, meaning UK music-makers that allow PRS to represent their rights globally need to decide whether they want BMI or ASCAP to license their music in the US.

The US collecting society for recordings

is called SoundExchange. Though it only collects royalties from online and satellite radio. Remember, there are no AM/FM radio or public performance royalties, and in the US the labels directly license TV. As with PPL, both artists and labels join SoundExchange, although session musicians access their ER royalties via another organisation run by performer unions AFM and SAG-AFTRA.

Until recently there wasn't an equivalent to MCPS in the US representing the mechanical rights in songs. However, at the start of 2021 a new organisation was launched called the Mechanical Licensing Collective (MLC).

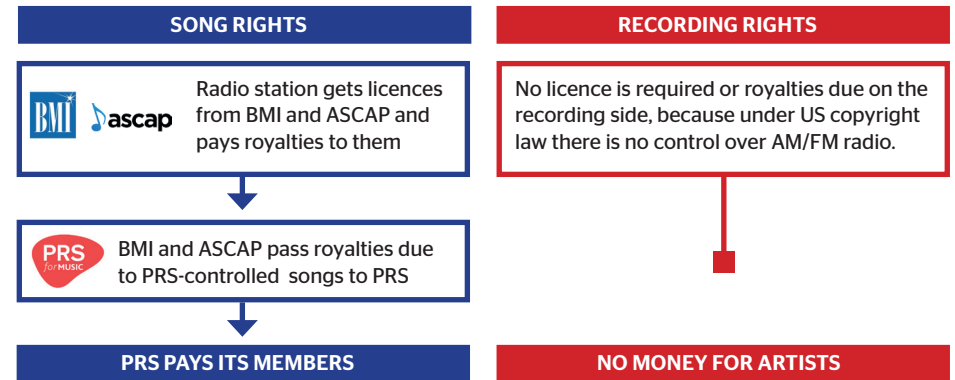
FAIR USE

In all countries, including the UK, there are certain scenarios where people can actually make use of copyright works without getting permission. We sometimes refer to these as copyright exceptions. These exceptions include things like critical analysis, news reporting and parody.

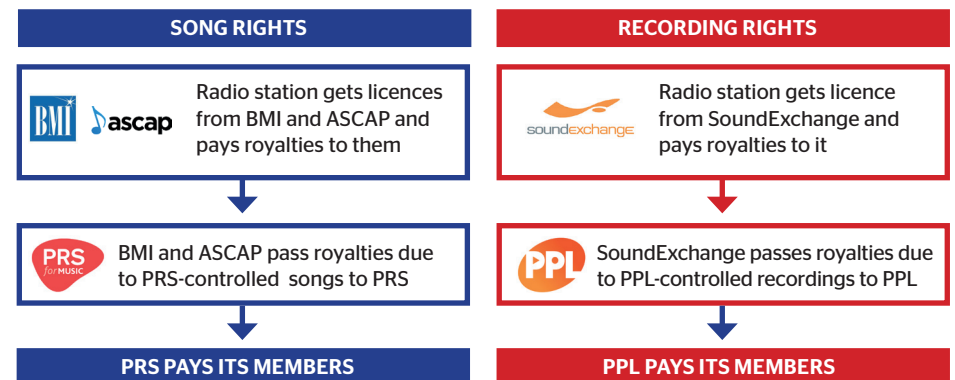
In the US there is a much wider concept called 'fair use'. People use this term a lot online, but the principle only actually applies in the US. What is deemed 'fair use' under US law may be covered by a more specific copyright exception in other countries, but not always.

COLLECTIVE LICENSING AROUND THE WORLD: US TO UK

MUSIC GETS PLAYED ON AM/FM RADIO



MUSIC GETS PLAYED ON ONLINE OR SATELLITE RADIO



If a music-maker signs with a label or publisher, they would usually get 50% of any radio royalties. Those labels and publishers might be members of BMI, ASCAP and SoundExchange and therefore get their share directly from the US societies. Or they may allow the money to flow through PRS/PPL.

TOP FIVE TIPS FOR MUSIC-MAKERS

top five tips for music-makers: getting paid when you get played

1 always talk about copyright with your collaborators

Whenever you collaborate with other people on making music you need to have a conversation about copyright.

Who will own the copyright in each song and each recording that you create? If multiple people are going to co-own each copyright, you also need to discuss and agree what percentage share each co-owner will get.

Once all that has been agreed you should make sure that there is a written record of the agreement.

2 join the music industry's collecting societies

Once music you have made is being performed or played, you should think about joining the music industry's collecting societies.

That way you can log your music with the industry's databases and earn royalties whenever your music is broadcast, and played or performed in public.

For your recordings, you can join PPL.

If you are self-releasing your music you basically join PPL twice, as a copyright owner and as a performer. If you only perform on music other people release, you still join as a performer.

For your songs, remember there are two societies, PRS for performing rights and MCPS for mechanical rights. If you are not working with a publisher or rights administrator, you would usually join both. If you are working with a publisher or rights administrator, you still join PRS, but you wouldn't join MCPS.

3 when you put out new music, update the databases

PPL manages the music industry's database of recordings and PRS the music industry's database of songs.

So every time you put out a new recording you need to log it with the PPL database, including information on who owns the copyright and all the performers who appear on the record.

And every time you put out a new song you need to log it with the PRS database. If the song copyright is co-owned you need to list all the co-owners and what their respective shares are.

If you start working with a label on your

recordings and a publisher on your songs, they will usually take responsibility for logging new music with the databases.

4 pick a distributor - and remember your song royalties

Most music-makers initially get their music onto the streaming services via a DIY distributor, which are companies that will provide distribution services to anyone in return for an upfront fee and/or an ongoing commission.

These companies get your music into all the key streaming services and, when your music is streamed, collect the royalties you are due and pay them back to you. Some distributors also offer other services.

However, remember that when your music is streamed both the recording copyright and the song copyright are being exploited. Distributors usually only collect the recording royalties. If you also wrote the song you are also due royalties for the song copyright.

If you are not working with a publisher or rights administrator, then PRS and MCPS will collect these royalties for you (50% of the money will go through PRS and 50% will go through MCPS).

If you start working with a label on your recordings they will take over the distribution of your tracks.

And if you start working with a publisher or rights administrator on your songs, they might also take over the collection of your song royalties from the streaming services. Though even where that is the case, you will still usually receive some of your streaming money via PRS.

5 if you perform your own songs live make sure to tell PRS

One of the challenges with music licensing - and especially collective licensing - is knowing which music has been played when, and therefore who needs to be paid.

The truth is the music industry doesn't always know what specific songs and recordings have been used and has to estimate payments.

However, if you perform your own songs live you can let PRS know, which means they can make sure you get the royalties you are due from that live performance.

Check the PRS website for details on how you can provide this information.

TOP FIVE TIPS FOR USING MUSIC

top five tips for using music: how to make sure you get the rights right

1 when you make a cover version - make sure it's licensed

Lots of music-makers perform and record songs that have been written by other people. When that happens, someone needs to make sure that the writers and publishers of those songs have issued a licence and are paid the royalties they are due.

In many circumstances, this isn't something the music-maker needs to worry about themselves. When an artist performs a cover version live, it is usually the responsibility of the concert promoter or venue to secure a licence and pay the song royalties, usually via PRS. When a cover version is made available via a streaming platform or download store, that platform or store often takes care of licensing the song and paying the song royalty.

However, there are scenarios where this is the responsibility of the music-maker. If an artist was to self-release a cover version physically - eg on CD or vinyl - they would need to get a licence covering the song rights. You can usually get that licence from MCPS. That also applies to downloads (although not streams) that are sold in the US - though many DIY distributors offer a service to

help music-makers pay that royalty.

If you upload a cover version to a user-upload or social media platform, that platform may have licences from the music publishers and collecting societies, in which case you do not need to worry about the song rights and royalties. But if the platform does not have a licence then you will be infringing someone's song copyright and you might find that your video is blocked by the copyright owner.

2 when you put music into a video - make sure it's licensed

If you upload a video containing someone else's music to a user-upload or social media platform, you need to think about copyright.

Some user-upload and social media platforms have licences from the music industry that cover user-generated content. In which case you should be fine. However, whoever owns the copyright in the music might request that adverts be placed alongside your content and claim a share of the income generated by that advertising.

If the platform does not have a licence then you will be infringing the recording

and song copyrights of other people. As a result your video may well be blocked by the copyright owner. Even if a platform has a licence, it possibly only covers true user-generated content. Businesses uploading videos to that platform are not always covered by the platform's licence and may need to sort out licensing for themselves.

So, if the platform is unlicensed, or you're a business uploading videos, what should you do? For commercially released music this can be a challenge because you may have to secure licences from multiple people or companies. Remember, the song and the recording are separate, the mechanical rights and performing rights may be licensed separately, and there may be multiple owners of the copyright, especially the song copyright.

Another option is to license so called production music from a music library. This is music that is specifically designed for use in video and which is generally much easier and cheaper to license. Some music libraries license via the collective licensing system - which would be MCPS/PRS in the UK - while others license video-makers directly. And some music libraries are specifically set up for people posting videos to user-upload websites.

3 if you use music in a public space - make sure it's licensed

Whenever music is played or performed in public - which basically means anywhere outside the private home or car - licences are required.

However, live and public performance is usually licensed through the collecting societies, which simplifies things, because the societies usually provide a blanket licence covering all the music in their respective catalogues.

If the music is being performed live, you need a licence from PRS. If recorded music is being played you technically need a licence from both PRS and PPL - however the two societies now offer a joint licence covering songs and recordings called TheMusicLicence

If you are staging a live event, the venue you are using may already have licences from PRS and PPL that covers all the music you use. If not, then you will need to secure licences yourself. The websites for PRS, PPL and TheMusicLicence explain what licences are available and what they cost.

There are other options for people wanting to play music in public spaces,

top five tips for using music: how to make sure you get the rights right

with agencies and societies that can provide you access to a smaller catalogue of music usually at a lower price. However, most songs and recordings are covered by (and therefore only available via) the PRS/PPL licences.

4 if you use music for your business consult an expert

Once you start using commercially released music in videos as a business - whether that means movies, games, adverts or simple promotional videos - licensing becomes more complex.

You will likely be exploiting multiple copyrights and multiple controls, and will therefore probably have to do multiple deals. It pays to hire an expert in music licensing to make sure you get this right. Or, alternatively, you could consider using music from a production music library.

This is even more true if you are a business planning to launch some sort of online service that uses music, for example a new streaming or user-upload platform. Licensing music for online services is complex and - if your service is very innovative - you may

need labels, publishers and collecting societies to put together a bespoke kind of licence. This takes time and expertise. To get it right you are going to need to hire music licensing experts and specialist legal advisors.

5 you can be sued if you use music without permission

If you upload other people's music to unlicensed platforms online, there is a high chance that your content will be blocked by the copyright owner.

But remember, you could also be sued for copyright infringement. Because the law tells copyright owners that if a third party exploits their music without first getting permission, they can sue that person for damages.

That said, nobody likes suing people and no one likes being sued! So the best approach is to always ensure that any music being used is properly licensed. Which means, whenever you make use of music - at a live event, in a video, online or in any other way - check if the platform or venue you are using is already fully licensed. And if not, look into licensing the music yourself.

GETTING THE RIGHTS RIGHT: THE QUESTIONS YOU NEED TO ASK

- What recordings do you want to use?
- What songs do you want to use?
- What controls are you exploiting?
- How and where will you use the music?
- Is that use covered by a copyright exception?
- Can you use the recording under a PPL licence?
- Can you use the song under a PRS licence?
- Can you use the song under a MCPS licence?
- Is your venue or platform licensed?
- Who owns and manages the recording copyright?
- Who owns and manages the song copyright?
- Are there multiple owners?
- Can you get a license yourself or do you need an expert?



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