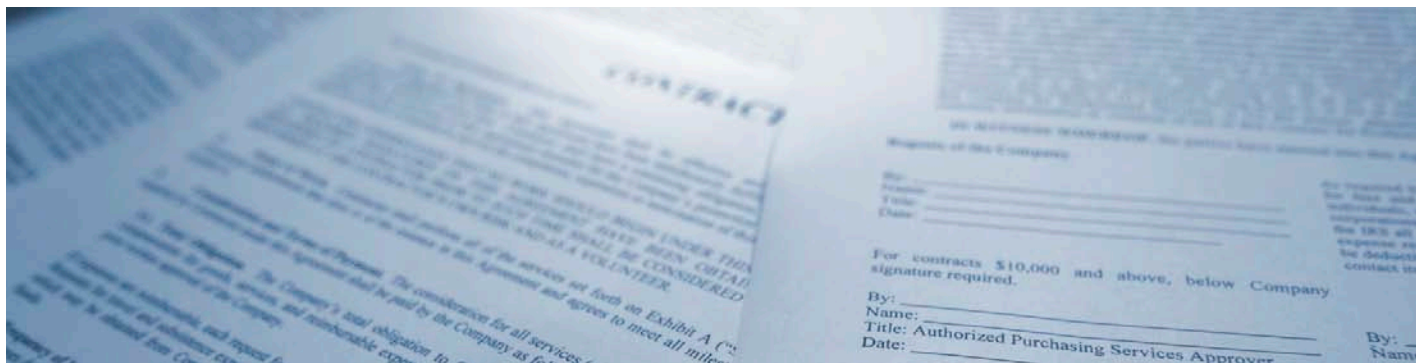


A practical guide to copyright

August / September 2009



Contents

- [Page 1 > What is Copyright?](#)
- [Page 1 > Publishing rights](#)
- [Page 2 > Mechanical rights, Synchronisation licences and Performing rights](#)
- [Page 3 > Recording rights and Organisations involved in licensing recording rights](#)
- [Page 4 > Creative Commons](#)
- [Page 4 > Contacts](#)
- [Page 5 > Flow of rights, licences and royalties](#)

Introduction

Looking after your copyrights is the single most important thing you can do if you hope to make a living from recorded music. To do this you need to ensure your copyrights are identified and registered.

First you will need to ensure that your recordings carry all the appropriate metadata to identify them - eg the ISRC (the International Standard Recording Code which is a unique identifier available from PPL) a bar code (available from GS1 in association with AIM) and other relevant information. For more details on this please consult the separate guide, "Hot to get my music online" on how to ensure your music is properly identified.

Then, to register copyrights for a share in any income generated by the use of your recordings on radio, television, live and for some online uses, you will also need to register with the PPL (Public Performance Limited) collecting society (see end section for contact details). And should you have any interests in the writing or publishing of the music then you will also need to register with PRS For Music (see end section for contact details). These organisations generate over £800 million turnover a year for their members and if you want your share of this revenue you must register your recordings or songs with them.

What is Copyright?

It's important to understand the nature of what copyright is before looking in more detail at the different types of copyright which exist, how they operate and - more importantly - what you need to be aware of to ensure you're able to collect money from the use of those copyrights.

Copyright exists to give creators of various kinds of materials - songs, recordings, books - the ability to control the way their material is used. This might include anything from how that work/recording is sold, broadcast, performed in public or even adapted into another work. Copyright also helps to ensure that those usages are properly compensated. Copyright allows an original work to be considered as a property that is owned by somebody.



The main legal framework in the UK for this is the Copyright, Designs and Patents Act 1988.

Copyright is a time limited right after which the work will enter the public domain and no longer be subject to such restrictions, and it's worth noting that the length of time can vary according to the type of right involved.

Copyright is not just one single right. There are a number of different types of copyright which are involved in the exploitation of music and recorded music in particular. But the principal two copyrights which we shall focus on in this document are:

- a) the copyright in the song/musical composition (which is normally owned by the author/writer/composer and/or music publisher and
- b) the copyright in the sound recording of that song.

Publishing rights

Publishing rights exist to protect the interests of the author/writer/composer of any given work. The first owner of the copyright in a musical work is the person who creates an original work. This could be established by writing the song down in the form of sheet music or it might be proven by making the first recording of the song. But publishing rights in a musical work can often be split between a number of co-writers, so it is always important to establish from the outset who owns what portion of the music and lyrics in order to clarify the percentage of royalties to which each contributing writer is entitled.

Copyright bestows upon the author(s) rights which include the following:

- a) the right to authorise the reproduction of a musical work (in the form of a sound recording)
- b) the right to authorise distribution of the musical work (ie by making it available for sale as a CD or download)
- c) the right to rent or lend the work to the public
- d) the right to authorise the public performance of that work (ie via broadcast media such as radio and TV)
- e) the right to make an adaptation of that work.



The copyright in a musical (or literary work) lasts for 70 years from the end of the calendar year in which the author (or the last surviving co-author) dies. So if the author died on January 1 2000, then copyrights in his/her work would expire on 30 December 2070.

There are many different ways of earning money from the licensing of these rights but most income tends to fall under three key categories: a) mechanical rights b) synchronisation licences c) performing rights.

a. Mechanical rights

The mechanical right generates royalties on copies of sound recordings of the musical work. In the past this was mainly from the sale of vinyl records, cassettes and CDs. The royalties are paid by the parties recording the songs and reproducing them, typically labels and manufacturers. As a songwriter you may either decide to 'self-publish' or assign your rights to a music publisher. But either way you must register your works with the MCPS (Mechanical Copyright Protection Society) which has recently been renamed PRS For Music (see www.prsformusic.com), so that they are able to collect these royalties on your behalf.

b. Synchronisation licences

A synchronisation licence allows a third party to synchronise a musical work to visual images. This might be for the purpose of including the music in a film, a TV production, an advertisement, or a game. These licences can either be procured directly from the writer or publisher rather than via a collecting society such as the MCPS/PRS For Music, though some writers may choose to allow the society to license third parties on their behalf.

c. Performing rights

The performing right generates royalties for writers whenever a recording of the song is played in public, whether that be on the radio or TV, in shops and clubs, or performed live. Nearly all writers collect money from these usages by joining PRS and allowing them to collect the monies on their behalf.

The digital age has not changed the above rights but it has created new exploitation opportunities (such as downloads, ringtones and streams) and it has impacted on the licensing mechanisms, particularly among the collecting societies. For example a music download is deemed to involve both a mechanical right (because you're copying a file) and a performing right (because the file has to be delivered progressively over a network to the customer). To cater for this PRS for Music has been offering several so-called joint licences since 1997 which license both the mechanical and the performing right in one single licence.

These include:

- The Joint Online Licence (JOL) for medium to large scale digital music and TV services
- The Limited Online Exploitation Licence for smaller internet broadcasters and non-commercial organisations that generate under £3,000 a year in revenue
- The Joint Ringback agreement which is for ringback tones on mobile.

Under these licences income to songwriters and publishers may be split up differently depending on the nature of the exploitation. For instance on a download 75% goes to the mechanical rights arm (MCPS) of PRS for Music and 25% to the performance arm of PRS for Music. By contrast, with a webcast the split is the opposite, ie 75% to the performance arm of PRS for Music and 25% to the mechanical rights arm.



Recording rights

a. Recording Rights

The recording right is separate from any publishing rights in that it is designed to protect the interests of the owner of the sound recording of any musical work, not the work itself. The two rights are separate because it is entirely possible (and commonplace) for many different artists to record different versions of the same song. The recording right is generally owned by a label/record company unless the artist self releases the recording in which case the artist could be deemed to be his/her own label.

As with the copyright in the musical work, the copyright in the recording allows the owner of the sound recording to control various activities associated with the exploitation of that recording such as a) making copies of that recording b) issuing copies of the recordings to the public c) the renting or lending of the recordings d) public performance and/or communication to the public of the recordings.

The length of protection for recording rights is less than that for musical works as copyright in sound recordings only

lasts for a period of 50 years from the end of the calendar year in which the recording was originally released.

b. Organisations involved in licensing recording rights

As with publishing rights, the recording right can generate income from many different forms of exploitation ranging from the sale of CDs, to the use of music in advertising, film, TV and games and the public performance of the recording. Most of these usages are licensed directly by the record company/label. This includes the licensing of tracks for sale in online and mobile stores and the licensing of tracks for on demand jukebox services such as Spotify or Napster. However, some labels choose to license many digital activities via other intermediary bodies and many usages (such as the public performance of sound recordings on radio and TV) are licensed collectively via a variety of organisations.

Digital aggregators/distributors

While some labels license many digital

services directly, the majority of independent labels choose to license many digital services via the services of one of the many digital distribution/aggregation companies. See the separate guide “How to get my music online” for a description of what digital distributors do and for a list of distributors.

PPL (Public Performance Limited) www.ppluk.com

PPL is a collecting society which licenses sound recordings and music videos for use in broadcast, public performance and, more recently for certain new media uses. These tend to be for more non interactive usages. For instance PPL licenses the online broadcast of an offline radio station (this is called a simulcast) and other internet only radio stations. PPL also licenses on behalf of performers (see Performers rights below).

AIM Digital (Association of Independent Music) www.musicindie.org

AIM, the non profit body representing the independent music sector, also licenses some online usages on behalf of its

members through its AIM Digital division. For instance AIM offers a podcasting licence which enables music users to include full-length tracks in podcasts provided certain restrictions surrounding the use of the content are adhered to.

Merlin www.merlinnetwork.org

Merlin was set up in 2007 as an international non-profit body “to make it easier for independent labels across the world to sign up to collective deals with digital services.” Merlin is not an aggregator or distributor. Its remit is to represent its members in digital deals that can’t be easily negotiated locally or individually or are not covered adequately by existing arrangements. Labels can apply to become a member of Merlin either via their digital distribution company or directly via Merlin itself. Labels that are members of a national trade association (i.e. AIM in the UK) will qualify for reduced commission fees charged by Merlin.

Creative Commons

c. Performers rights

Aside from the rights which exist to protect the owners of the sound recording there are also so-called ancillary rights which protect the interests of the individual musicians who perform on the sound recording.

Under UK Copyright law, performers are (in certain circumstances) entitled to what is called "equitable remuneration" (i.e. a fair payment) where sound recordings on which they have performed are played in public or broadcast in the UK. In order to be able to collect this revenue the performer must have registered with PPL (www.ppluk.com).

PPL collects these monies on behalf of the labels (the owners of the sound recordings) and distributes the equitable remuneration to the individual performers. Over 270 performers sign up every month to PPL. PPL also operates a series of so-called reciprocal agreements with similar collecting societies overseas so that performers are also able to collect such monies from the public performances of their work in other countries.

While the copyright regime described above is the most common way of protecting your rights, it is also worth noting that there are alternative options for those who are not seeking to exploit their music for commercial gain. The most well known alternative licensing scheme is called Creative Commons.

Creative Commons is a new copyright system which allows copyright owners to allow others to be able to make free use of their works or sound recordings in a variety of ways. It is designed to be flexible in that it allows the copyright owner to set certain rules around how their content may be used.

But it's important to note that Creative Commons is very much not aimed at the commercial business. It is also irreversible.

That is to say that once you have designated a song or a sound recording as being available under a Creative Commons licence, you cannot decide to change these rules at a later date: i.e. if you agree to give your music away, you will not be able to reverse this at a later date.

It's also worth noting that it is possible to permit certain usages without financial compensation under the existing UK Copyright framework while reserving your legal right to be paid at a later date.

<http://creativecommons.org/>



Contacts

AIM and AIM Digital

Web: www.musicindie.com

Email: info@musicindie.com

Tel: 020 8994 5599

Merlin

Web: www.merlinnetwork.org

Email: info@merlinnetwork.org

Tel: 0207 436 7387

PPL

Web: www.ppluk.com

Email:
Record companies should contact:
recordcompany@ppluk.com

Performers should contact:
performer@ppluk.com

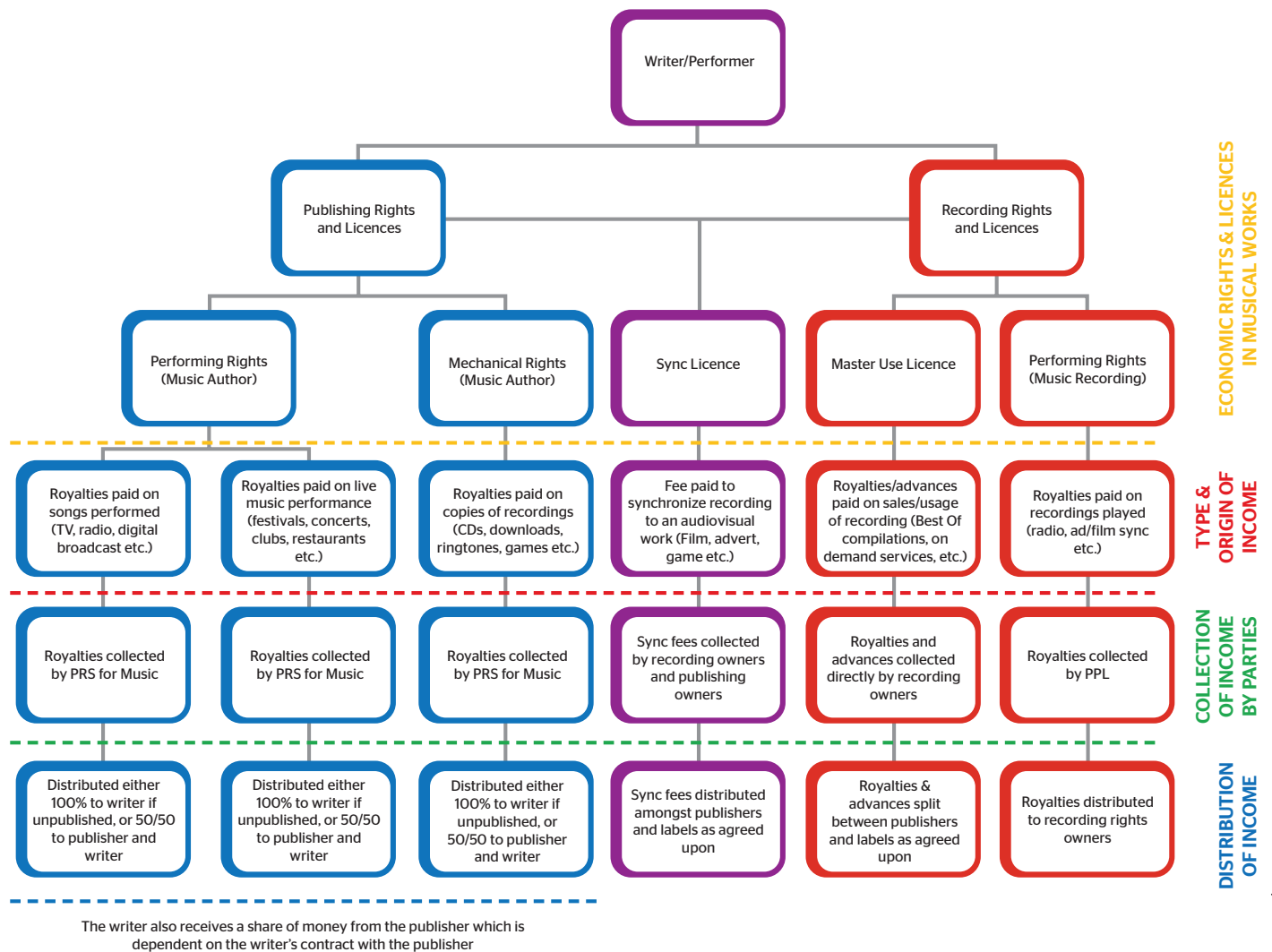
Tel: 020 7534 1000

PRS For Music (and MCPS)

Web: www.prsformusic.com

Tel: 020 7580 5544

Flow of Rights, Licences and Royalties



About London Connected

London Connected is the digital network for London, helping the Capital's music companies and individuals to make the most of opportunities presented by digital technologies.

The programme is supported by £650,000 from the London Development Agency (LDA) and delivered by the Association of Independent Music (AIM) - the organisation that looks after over 800 of the UK's independent labels. Over the last 10 years AIM and its members have been at the forefront of pioneering new digital music business models.

"An invaluable service for any music company or entrepreneur looking to compete in the rapidly evolving digital music market"

Danny Ryan, MD and Founder, Kudos Records

www.londonconnected.org

About Music Ally

The leading digital business information and music strategy company, Music Ally, has been providing publications, consulting, training, research, events to the music and technology industries since 2001.

Music Ally's executives come from a genuine music business background, from the sharp end of the major label recording and publishing worlds through to digital business strategy, licensing and retail. This means Music Ally understands the relationships and the politics that drive the real-world activity within the music industry; backed up with a full complement of market data, consumer research, forecasting and trend insight.

"Music Ally is a one stop drop for all your digital news and analysis."

Martin Mills, Chairman, Beggars Group

www.musically.com