



Music Licensing for Business: Simplified

Need-to-know information to ensure the music in your business never skips a beat

Introduction



Music licensing is one of the most confusing topics for small business owners and a topic we get questions on all the time. You're passionate about your products, your services, your customers and your business, and want to create the best guest experience possible.

Frequently, music is a key element in creating this environment. But how are you supposed to know what licensing is required, or if it's even different than consumer licensing?

This guide provides an overview to navigating the music licensing waters and tips to help ensure you're in compliance.

Unfortunately, licensing music for business isn't as simple as buying a CD or downloading a digital copy from iTunes or Amazon. There are defined rules that U.S. copyright law and licensing organizations have established to ensure proper compensation is delivered to rights holders and labels, and it's your responsibility as the business owner to ensure you're in compliance. You wouldn't steal the artwork displayed on your store's walls, and music is no different!



WHAT LICENSING IS REQUIRED TO PLAY MUSIC IN A BUSINESS?

There are three main types of music rights ownership in the United States:

- 1} Master Use License** – grants the ability to use a specific master recording embodying a specific artist's performance of the composition.
- 2} Mechanical License** – permits the licensee to manufacture, reproduce, and distribute the musical composition in audio-only formats.
- 3} Public Performance.** The most known rights ownership related to commercial use, Public Performance rights cover the performance or transmission of a copyrighted work where there are a substantial amount of people present.

DID YOU KNOW?

Any public transmission or performance of a protected work must be licensed from the associated rights holder under all three scenarios.

WHY IS LICENSING MUSIC FOR BUSINESS DIFFERENT THAN FOR CONSUMER USE?

Public Performance rights are protected in **Title 17** of the United States Copyright Law, which lays out the ownership, scenarios, and responsibilities for the licensing of music.

In the copyright law, “public” is defined as “a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered.” Businesses fall into this category and hence, Public Performance licenses are required in addition to Master Use and Mechanical licenses.

DID YOU KNOW?

When you purchase a CD, download a song from iTunes, or stream music from the internet via Pandora or Spotify, you are only paying for the rights to personal use. These rights for these sound recordings do not carry over to commercial settings.

WHAT TYPES OF BUSINESSES DO THESE RULES APPLY TO?

The copyright law can be applicable to all types of commercial establishments — some that you may not think of immediately — including:

- » Bars and Taverns
- » Restaurants
- » Inns
- » Nightclubs
- » Fitness and Health Clubs
- » Retail Stores
- » Banks and Financial Institutions
- » Doctor and Dentist Offices
- » Hotels
- » Supermarkets and Grocery Stores
- » Auto and Boat Dealerships
- » Shopping Malls
- » Schools
- » And More

WHERE DOES MY MONEY GO?

In the U.S., composers, lyricists, artists, and publishers are typically part of a Performing Rights Organization (PRO). These groups control the ability to publicly perform and play the works of their members, and they collect and distribute fees for the licenses granted accordingly.

In the U.S. the main PROs are the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC.

BMI[®]

 **ASCAP**

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WHO RECEIVES COMPENSATION?

Rest assured, your license fees go to the correct place – the composers, lyricists, performers, and publishers!

Each of the PROs distributes the collected fees to the these parties per the agreements established between the two entities.

If you like music, support those involved through proper licensing so they can keep producing exceptional creative works!

Responsibility

Your obligations as a business owner are vast. Inventory, rent, salaries, taxes – all of these costs are the responsibility of the business. Music is no exception!

WHO IS RESPONSIBLE FOR THE LICENSE?

The owner of an establishment in which copyrighted music is performed is responsible for ensuring that the proper licenses are being obtained for each song played on the premises.

This means business owners are also liable for any infringement of copyrighted music.

In some cases you may be exempt from licensing, such as if your business has very small square footage and you play broadcast radio, however most instances require proper licensing for the music that is played in the business.

WHAT HAPPENS IF I DON'T HAVE PROPER LICENSING?

Bypassing appropriate music licensing can be far costlier than paying upfront.

Failure to obtain the proper licenses is copyright infringement under the current laws in place. If you are found in violation of copyright law, you can be fined for damages as well as for the copyright owner's legal fees. The amounts of these statutory damages can easily range from **\$750 to \$150,000** per song if the court finds the infringement was willful.

And remember, since different PROs represent different songs and their copyrights, you need licenses from each PRO that represents every song you play!

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Instances of copyright infringement are well documented and have frequently been **reported on in the media**. Each of the PROs acts swiftly to ensure that their members are being compensated accurately, and that businesses are taking the time to ensure their music is legal.

Here are a few examples of establishments that have failed to get the proper music licensing and the ramifications that resulted.

La Huerta Mexican Restaurant

Ordered to Pay More than \$37,000

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Fosters

Found liable for \$41,150 in
Copyright Infringement

[Read More >>](#)

Fody's Great American Tavern

Fined \$150,000

[Read More >>](#)



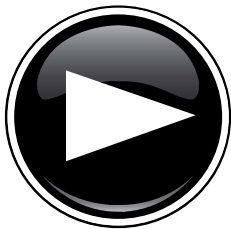
WHAT CAN I DO TO ENSURE THAT MY MUSIC IS PROPERLY LICENSED?

Thankfully, there are affordable ways to get premium quality music and other programming for your business while relieving yourself of the administrative burden and stress that comes with music licensing.

Essential Communications is a leader in commercial music programming and licensing. We support both big companies and small alike, as well as thousands of local and one location businesses and franchises.

We take our label, artist, publisher, and PRO relationships very seriously and invest significant time to prevent potential problems for our clients. We connect regularly with these parties to maintain open communication and ensure all requirements are being met and payments being made.

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PLAY

Essential Communications has a wide range of music service levels, allowing you to choose one that's tailored for your business needs. From custom, curated music strategies that extend your brand identity to channel-based, commercial-free programming, we have options that will fit with your objectives and budget.

Essential Communications' music services:

- » **Cover Master Use, Mechanical, and Public Performance licenses in the U.S. and Canada.** We also have established structures to license content in over 90 countries – each country has its own laws and regulations – giving you the opportunity to grow your business worldwide and take your music with you.
- » **Eliminate the business risks and management burden of commercial music licensing and rights procurement from your business.** Our Global Licensing team handles all license management, reporting, and royalty payments on your behalf.
- » **Ensure you have a diverse set of music programming from multiple genres that's kept fresh.** We work with more than 4,000 labels, artists, publishers, and PROs worldwide, and ingest more than 1,000 new songs into our database every week.



GET STARTED TODAY

Call now and a music specialist will help you to decide which of our programs works best for your business.

973-884-1800



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