

They're Playing Our Song...
By Joanne Dennison, MSED, CMP

For many people, comprehension of music licensing starts when sitting in a class, frequently a CMP study group. As they listen, some of the students begin to realize they have been inadvertently breaking the law. Inevitably someone looks up in surprise during this discussion and says: "But I paid \$20 for my James Taylor CD—why can't I play it for my walk-in music at my meeting?"

The term "intellectual property" has become very familiar to us in the past 15 years especially in the field of technology. But the thoughts behind it cover other fields too.

A good example occurred during my early days as the owner of a meeting planning company. As a trusting and not-too-savvy business owner, I spent hours with a client, designing the event she wanted, without any money down. The short version of the story is she took my plans to a caterer who assured her he could do everything—and did! I never got paid for the time it took me to walk through the creative development, my intellectual and creative property. People are quick to point out that this was unfair, and this is the same premise behind the Music Licensing Laws.

We have great admiration for people who have the creative ability to entertain us with their music and lyrics, and we realize it takes a lot of time and talent to write each piece. What we do not take into consideration is that the song is the writer's and/or performer's property, and therefore we must get permission to use it in public places.

At times permission is not required, such as during private social events made up of close family and friends (e.g. weddings), worship services (if it's not being broadcast), and teaching activities held by a non-profit educational institution. Any other public event sponsored by a business or other organization (including associations), must have a license---this includes "members or employees only" events. Therefore permission must be gained for every meeting, convention, training seminar, trade show or other commercial or business presentation that uses music.

In an effort to make this logistically simple---instead of going to each songwriter and asking permission---a "blanket license" was created. These may be purchased through Performing Rights Organizations. Most music falls under one of the two largest: ASCAP (www.ascap.com), BMI (www.bmi.com) and SESAC. They in turn grant you permission for any music in their library and take care of paying the royalties to the musicians.

According to Al McCree, president of *Altissimo!* Recordings, this issue started being discussed in the late 1980's. McCree, a musician himself, has spent the past ten years trying to educate both speakers (as a member of the National Speakers Association's Ethics Committee) and meeting planners, of the legalities and ethics of music licensing. At that time hotels and restaurants were responsible for paying licensing fees based on their capacity. The hotels insisted that they had no control over what went on in their

function space, and felt they should not be responsible. The law was then changed to say that leased (meeting) space could not be covered under the hotel license; therefore the organization leasing the space does become responsible.

Planners over the years have tried to put the responsibility back on the performer. If so, the responsibility must be clearly stated in the contract with the performer that they must have written permission for any intellectual property they use (music, video, cartoons original art work etc.).

Music may be used at an event in a variety of ways including a performance (which may be audio or video taped, producing a product) and for use in a multimedia format. But music licensing covers only the performance of music. If you are audio taping for distribution, you will need to obtain the Mechanical Rights from the publisher. If you are using it for a multimedia or video format, you will need Synchronization Rights from the publisher. If you are using a multimedia production company, make sure the contract reads that the company has obtained the rights to all music used.

If you are going to use music for performance there are three ways to legally approach it:

- Blanket Licenses for music start at \$125. Fines can range from \$750 to \$150,000 *per song* that you play without the license. Which is the better investment?
- Use “library music” or “royalty-free” music that is cleared for public use. Such music has been produced specifically for use at events. Once you’ve purchased the CD, it’s yours.
- Have original music written for your company or organization. Depending on the size of the event and therefore the fees you pay, having original music composed may be more cost effective. You can use it for as many times as you want in all three ways: Performance, Mechanical, and Synchronization with no additional fees.

I am not an attorney and this column does not constitute legal advice. I am, however, a dedicated meeting professional who takes MPI’s Principles of Professionalism seriously. In a time when breaches of ethics are hot new topics, remember that music licensing is not only a legal issue, but also an ethical one.

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