



An **Easy On Hold** White Paper

1918 W. Milham Ave.  
Portage, MI 49024  
1-888-798-4653  
[www.easyonhold.com](http://www.easyonhold.com)

## Licensing and Legal Implications of Using Radio or CD Music On Hold

*By Tim Brown, Principal*

March, 2009

## **The Authority on Music Licensing**



BMI  
(Broadcast  
Music, Inc.)  
is a

performing rights organization. BMI collects license fees on behalf of its songwriters, composers and music publishers and distributes them as royalties to those members whose works have been performed.



ASCAP is a membership association of more than

330,000 U.S. composers, songwriters, lyricists, and music publishers of every kind of music. ASCAP protects the rights of its members by licensing and distributing royalties for public performances of their copyrighted works.

## **Why You Can't Play "Just Any Radio Station or CD" On Hold**

Questions and answers you should know to protect your company from liability due to improper use of licensed content.

### **Our music-on-hold system uses programming from local radio stations. Aren't the stations already licensed?**

Though radio stations are licensed with BMI to perform the music they broadcast, that agreement **does not cover further public performance** by those receiving the radio broadcast signal. Using radio music as music-on-hold is a separate performance under the copyright law.

### **So, I should pay licensing fees. If we have a music on hold system in our office, how are fees assessed?**

If you use a service, such as Music On Hold by Easy On Hold, ask whether your hold music provider is properly paying royalty fees on your behalf. If not, you are obligated to pay fees. (Easy On Hold does pay music performance fees on your behalf.) Music on phone-hold system fees are based on the number of trunk lines your office has, which is the number of different individual telephones you have with music-on-hold capabilities. In addition, each office would need its own license.

### ***We use our own tapes and CDs on our telephone. Isn't this our private property to play where and when we like?***

There is a distinction in the law between owning a copy of the CD and owning the songs on the CD. There is also a difference between a *private performance* of copyrighted music and a *public performance*. Most people recognize that purchasing a CD doesn't give them the right to make copies of it to give or sell to others. The record company and music publishers retain those rights.



*When you buy a CD the purchase price covers **only your private** listening use, similar to the “home” use of “home” videos. Once you decide to play these tapes or CDs **in your business**, it becomes a public performance.*

Similarly, the music on the CDs and tapes still belongs to the songwriter, composer or music publisher of the work. When you buy a tape or CD Similarly, the music on the CDs and tapes still belongs to the songwriter, composer or music publisher of the work. When you buy a CD the purchase price covers *only* your *private* listening use, similar to the “home” use of “home” videos. When you buy a tape or CD the purchase price covers only your private listening use, similar to the “home” use of “home” videos. **Once you decide to play these tapes or CDs in your business, it becomes a public performance.**

### **Does the price of the music-on-hold system purchase include performance licensing fees?**

Some providers of customized music-on-hold programming *may* include music licensing fees in their price. **Easy On Hold does.** Easy On Hold pays composers and publishers significant blanket fees on behalf of clients using the music on hold. Other firms offering phone on hold music service **may be creating liabilities for you.** Be certain your provider utilizes unlicensed music for on-hold productions. If you are uncertain, ask your service whether or not they do include the music licensing fees in their price.

---

### ***If we choose to pay BMI directly, how do we report music usage under our Music On Hold Agreement?***

You will submit a report on a form provided by BMY (or ASCAP) indicating the number of telephone trunk lines used to provide music on hold during the contract year. Your fee will be assessed based on this information.

*Tim Brown is founder and principal with TBA, Inc., dba Easy On Hold. His firm provides best-in-class custom productions and services to businesses of many sizes and types. Clients include DHL International, Shaw Flooring, Universal Forest Products, Ashley Furniture HomeStores, Genworth Financial, Thyssenkrupp, Gordon Food Service, Stryker Medical, Eaton Corporation, and many more. He can be reached at 1-888-798-4653. Easy On Hold URL: [www.easyonhold.com](http://www.easyonhold.com).*

---