

Phone On Hold Music Licensing – Am I Legal? [Edit this entry](#)

June 13, 2018 | Tim Brown | [Music Licensing](#)

[+](#) Share / Save [f](#) [t](#) [r](#)



Is my business
playing phone on
hold music illegally?

On Hold Music Licensing For Business Phones – Am I Legal?

Why should a business pay for phone on hold music? Because publishers and writers deserve compensation for making your business a little better, and because they have the law on their side. We present this article on **Phone On Hold Music Licensing** as way of informing the public about how do *music on hold* the right way.

Performance rights organization BMI says:

Songwriters, composers, and music publishers have the exclusive right of public performance of their musical works under the U.S. copyright law. Therefore, any **public performance** requires permission from the copyright owner — [BMI](#)

When you place a caller on hold and transmit music via your telephone lines, that is a public performance of the music. It is your responsibility to obtain permission to perform ASCAP songs from ASCAP or directly from the copyright owner. —[ASCAP](#)

Through contractual agreements, Easy On Hold(R) **pays all applicable music licensing (royalties) on behalf of our clients.** Without a contract with Easy On Hold(R), your business must execute its own agreement with performance rights organizations. One way or another, all businesses need a license to play music (whether on hold or in their space).

[We have provided articles on this topic at easyonhold.com. Review articles here.](#)

What Is A Public Performance?

Each PRO collects royalties for “performances” of music. A performance is considered **any public use of music**, such as background music in a restaurant or store, the music you hear while getting that therapeutic massage or what you hear while waiting on hold when you call to make a doctor’s appointment. They disperse that money to the composers and publishers within their organization.

Know The PROs

Licensing payments are delivered to the publishers and composers by **Performance Rights Organizations**. They are:



- **ASCAP**. The **American Society of Composers, Authors and Publishers**, established in 1914 to protect the rights of composers and to collect fees for public performances of their work. Founded by a group that included composers and lyricists working in New York City. John Phillip Sousa and George M. Cohan were early members. With the advent of radio, ASCAP was able to collect performance fees for radio broadcasts of its

member’s compositions.

- **BMI. Broadcast Music Incorporated**; founded in 1939 to represent songwriters in emerging genres, like jazz, blues and country. Set up by the National Association of Broadcasters as a lower-cost alternative to ASCAP, which raised license costs (likely necessitated by the Great Depression).
- **SESAC**. German immigrant to the United States, Paul Heinecke, founded SESAC, the **Society of European Stage Authors and Composers**, to represent European publishers in America. SESAC music was regularly performed by Duke Ellington,

Woodie Herman and Count Basie into the 1950s. It wasn't until 1970, however, that SESAC began signing composers in addition to publishers.

- **GMR. Global Music Rights** was formed in 2013 by entertainment executive Irving Azoff. Many of the people Azoff gathered to form GMR had been with ASCAP. Unlike music societies, GMR does not allow composers, artists and publishers to "join". Rather, they facilitate their repertoire on an "invitation-only" basis.
- **SOCAN. Society of Composers, Authors and Music Publishers of Canada.** Founded as the Canadian Performing Rights Society (CPRS) in 1925, later becoming CAPAC. BMI (from the USA) set up its Canadian division in 1940, and in 1970 BMI Canada Ltd. became PROCAN. In 1990 CAPAC and PROCAN merged to become SOCAN.

Facts About The Pros

- PROs are responsible for collecting all performance royalties and distributing them to their members, which include songwriters and publishers (but not the record labels).
- In the United States, ASCAP and BMI are by far the largest of the three organizations.
- BMI is the largest music rights organization in the USA, representing nearly 13 million musical works.
- Popular artists among the BMI repertoire are Lada GaGa, Taylor Swift, Rihanna, Ed Sheran and Willie Nelson.
- ASCAP did well with folk artists in the 1960's. In 1971, ASCAP took over most of the Motown Records music publishing.
- ASCAP represents about 650,000 songwriters and publishers.
- GMR founder Irving Azoff had already represented many world-famous artists, including Christina Aguilera, The Eagles, Gwen Stefani, Bon Jovi and Van Halen. He has served as CEO of Ticketmaster and is on the board of Clear Channel Communications. In 2014 writer/producer [Pharrell Williams joined GMR](#).
- SESAC is privately owned, and is not obligated to publicly divulge any of its financial statements or internal procedures relating to royalty collection and distribution.
- Some of the artists with works published by SESAC include Bob Dylan, Neil Diamond, RUSH, Charli XCX, Zac Brown, Mumford & Sons, Lady Antebellum.
- All PROs offer a pay-as-you-go phone on hold music licensing agreement.

There are rights organizations throughout the world. Most have reciprocal arrangements with each other across borders, but not within a country. [Article on performance rights organizations at Wikipedia.](#)

Which Music Belongs To Which PRO?

With a BMI Music License, you can publicly perform all BMI-licensed music. With an ASCAP license, you can play all ASCAP-licensed music, and so on. The PROs collect royalties on behalf of the composers and publishers only on its own roster. A composer may only register with a single PRO. But what if the composer is ASCAP and the publisher is BMI? Or what if an ASCAP composer gets together with a SESAC composer?

As an example, look at the many composers behind the song Too Good by Drake and Rihanna. The publisher in the USA is a part of ASCAP, as are two of the composers. Two are with BMI. If your business is licensed only for BMI, you would not be able to play this song on your hold button or anywhere else. As a company in the US, the only way to be sure you're not in violation is by registering with all **four** PROs in the United States.

TOO GOOD

Total Current ASCAP Share: 34%

ISWC: T9206783940

Work ID: 891036167

[Share](#)
[Print](#)
[Collapse](#)

Writers

ASCAP controls 20.25%

	PRO	IPI
BIDAYE MANEESH	SOCAN	503920091
CHIN-QUEE DWAYNE RICHARD	ASCAP	473653632
FENTY ROBYN	BMI	479976665
GRAHAM AUBREY DRAKE	NS	529397022
HERSHEY ANDREW	ASCAP	519553733
JEFFERIES ANTHONY PAUL	SOCAN	580195736
LAM TERENCE PO LUN	SOCAN	662148349
MARTIN ADAM	SOCAN	669034034
SUTHERLAND ANDRAE	BMI	670967701

Publishers

ASCAP controls 13.75%

	PRO	IPI
BLACK CHINEY MUSIC <small>Contact Info</small>	ASCAP	458333639
EMI MUSIC PUBLISHING LTD <small>Contact Info</small>	PRS	87019563
NYANKINGMUSIC <small>Contact Info</small>	ASCAP	717099622
SONY/ATV TUNES LLC <small>Contact Info</small>	ASCAP	338164558

Additional Non-ASCAP Publishers

Performers

AFSHEEN/CONOR MAYNARD	CONOR MAYNARD
DRAKE	DRAKE & RIHANNA
DRAKE FEAT. RIHANNA	GRAHAM AUBREY
JASMINE THOMPSON	JO&ME
RIHANNA	ROLLUPHILLS

Alternate Titles

TOO GOOD (EXPLICIT)	TOO GOOD [FEAT. RIHANNA] [EXPLICIT]
TOO GOOD F/RIHANNA	TOO GOOD FEAT. RIHANNA
TOO GOOD REMIX	

However, obtaining a license from one PRO doesn't necessarily mean you're in the clear — you only have a license for that PRO's copyright holders. For example, the composer of a song may be represented by ASCAP, while the lyricist may be with SESAC. To avoid this problem, some businesses choose to purchase a blanket license from each of the PROs, which allows the licensee to play any of the music from each PRO's library. Blanket licenses can range from the low hundreds to several thousands of dollars per year. – Entrepreneur.com

Phone on Hold Music Licensing For Business Phones

For this article, we are talking about "**phone on hold music licensing for business.**" When you're waiting on hold and there is no music or talking—or anything—just silence—you aren't sure you're still connected. The use of music to assure and entertain callers is a very common practice.

What's on your hold button? How did it get there?

After 21 years in the music on hold business, we've seen (heard) just about everything. Here's a rundown of common phone on hold sources and the challenges each provides.

Radio Station with Commercials – Not Legal.

BMI and other PROs address the use of radio on hold on their websites. "Aren't the radio stations already licensed?", you may ask. Yes, however...

... that agreement does not cover further public performance by those receiving the radio broadcast signal. When radio music is used in music-on-hold, that use is a separate performance under the copyright law.

Before starting Easy On Hold, founder Tim Brown called a restaurant to make a reservation. They were busy and placed him on hold. While on hold, Tim heard a radio station playing a commercial for another restaurant. It sounded so good, he hung up and went there.

Ever been placed on hold just to hear the gory details of a violent crime? Or, polarizing and controversial topics? "Morning Zoo" banter? Um, not good for business.

Sirius XM Radio – Not Legal

Here's the word directly from Sirius XM: *It is a violation of the SiriusXM Customer Agreement for consumers to use a consumer subscription for your business.*

End of discussion.

Non-Profit Radio Station – Not Legal

"Public radio. It's free. It's supported by donors and tax payers. I should be able to use that without a license." Here again, using broadcast content on your phones is considered a performance. National Public Radio has been approached on this topic, and even for non-musical works, they say, "*We typically deny permission to use NPR content or marks in connection with...Advertising, marketing or promotional activities.*" Clearly, entertaining your callers with someone's broadcast is a promotional use.

Radio Commercials For Your Business – Probably Not Legal.

If your business is already advertising on radio, you might think, "why not use the radio spots on my phone-on-hold queue? It's already paid for." Again, the radio station pays for the music to be used only on the broadcast signal. You can't use it on the phone without proper licensing.

If your radio spots have no music? Legal. However, not very smart. Radio commercials are built to drive calls to your business. When callers are on hold, they have already contacted you. The call to action does not apply. Radio spots are often 60 seconds in length, which is a lot of promotional talking while your caller is waiting patiently.

Songs Purchased From Amazon, iTunes, etc. – Not Legal.

... purchase price covers only your private listening use, like the "home" use of "home" videos. Once you decide to play these tapes, CDs, or audio files in your business, it becomes a public performance. - BMI

Rental or purchase of sheet music or the purchase of a record[ing] does not authorize its public performance.- ASCAP

On Hold Music Player Device Default Music – Possibly Legal

Some music on hold message player devices include "royalty free music". It will be the responsibility of the business installing any device on their phones to be certain that all licenses are paid. To get around this, some music on hold devices only include a music

background that has voice recorded over the music. This changes the product from a music-only use to a “synchronized” music + voice, which can be provided royalty-free.

Pandora, Spotify, Amazon Prime – Not Legal

The National Restaurant Association has warned its members:

Pandora’s “terms of use” specifically prohibit businesses from streaming music... – National Restaurant Assn.

Most people listen to Pandora (Pandora.com) without subscribing. Yet, even if you subscribe to the premium service (Pandora One), you cannot play your Pandora station for your customers. Your personal-use Pandora license prohibits doing so. – Richmond Times Dispatch

As laid out in our [T&Cs](#), Spotify is for personal entertainment only and not for commercial use. This means it can’t be played in public places such as bars, restaurants, stores, schools, etc. – Spotify.com

Default Music That Came With The Phone System – Probably Legal

Some phone systems have some type of default music on hold track. Why do these free tracks sound so awful? To get around music licensing, phone providers have come up with “work for hire” music agreements to allow the music to be played without license. Cisco employees devised the bizarre music that has been used for over 20 years.

Classical Music That Is Out Of Copyright – Not Legal

If you’re thinking, “Hey, Mozart has been dead for a while, he won’t mind if I use his music at my business...” you’re only partially right. Yes, many classical composers are themselves decomposing, but the recordings of those works are protected under copyright law. Publishers still collect royalties for arrangements and recordings of classical works.

Other Types Of Music Licensing

Phone on hold music licensing is just one of many kinds of licensing. Unique licenses are required for each of the following:

- Playing music on business phones.
- Playing music as background in your space.
- If music is performed live in your space.

- If you charge admission.
- If you provide television programming in your space.
- If you're teaching a fitness class that moves to the music, or if you operate a skating rink or any other business that matches music with physical movement.

If your business is using music in **one** of the above ways, you must obtain the necessary licenses from the PROs for that use. If your business is using music in more than one of the above applications, you must obtain **all** applicable licenses.