

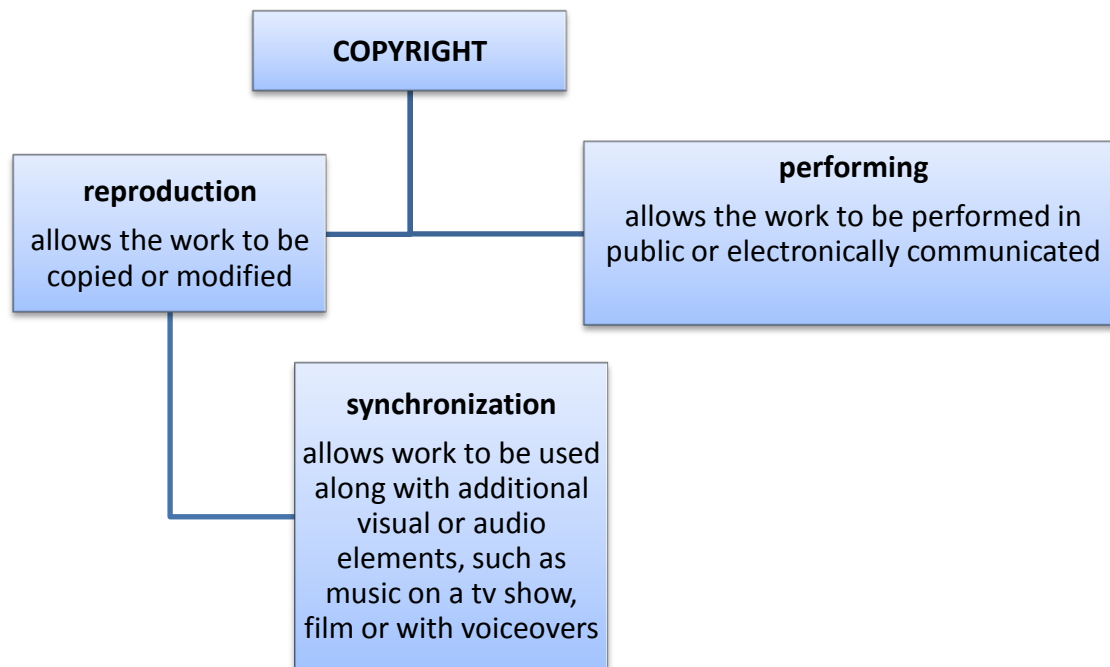
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## Understanding Music On Hold Copyright and Licensing

By Tim Brown

### Copyrighted Can Be Easily Misunderstood

Copyright is made up of several rights granted by law to any creators of original works. To assist such creators (for our discussion these are musical composers, artists and producers) organizations exist to monitor the use of copyrighted material and collect royalties. These organizations (BMI, ASCAP and SESAC in the U.S. and SOCAN in Canada) deal only with the performance of original works. All other rights are handled by the copyright owners or by other organizations.



### Reproduction and Performance Are Different Parts Of Copyright

#### What Constitutes A Performance?

The law (not just in the U.S. and Canada but in accordance with international treaties between nations) provides composers, artists and producers the right to be compensated when their music is publicly performed. A performance would include being played on the radio, on a public address system or over a phone system to callers on hold. If you own a business, it is your responsibility to know whether the music you are playing is copyrighted and therefore requires compensation to be made for its use.

### **What Is Included In Reproduction Rights?**

We've all see the warnings on DVD movies informing us that unlawful reproduction is a serious crime. While you may own a CD or DVD, you do not own the material contained on it. The creative work that makes up a movie or song is protected by copyright law and thus duplication is prohibited.

## Copyright And Music On Hold

### **Where Does My On Hold Company Get Its Music?**

Typically, creators of music for use by on-hold companies are independent music production firms making backgrounds for a variety of uses. Gene Michael Productions, a production music house in Michigan, provides background tracks for HGTV and other networks. These instrumental tracks are available for use by music on hold firms under a special license.

### **Music On Hold Companies Are Assigned Some, But Not All Rights**

A creator of music for use "on-hold" may choose to allow synchronization, reproduction or both, under a special license to a music on hold company. Under a contract with a recording studio, agency or music on hold producers/composers may stipulate that their work can be used only along with another production element, such as voiceover. Another music producer may allow their work to be re-sold or even re-named. This means that a portion of the copyright has been assigned to your music on-hold company. This allows the studio to work with the music tracks, but does not necessarily cover "performance" or use at a business.

## Licensing

### **What Is A Music License?**

The term license can be confusing. A TV station or radio station is licensed by the FCC (U.S. Federal Communications Commission) and CRTC (Canadian Radio-television and Telecommunications Commission). When you re-broadcast a radio station over your telephone hold system, or play music to callers on hold, you are not required to obtain a license from a federal licensing organization.

The rights to songs are bought and sold every day. Philips Corporation paid the \$1 Million to be able to use the Beatles hit "Getting Better" in a TV commercial. The composers, artists and producers own the song and are therefore allowed to let others use it under contract for a fee. That contract is called a license.

### **What Is Royalty Free Music?**

A royalty is a payment made to an artist, composer and/or producer of a piece of music (or other copyrighted creative work) for one particular use of that piece. A piece of music that is deemed "royalty free" would suggest that rather than paying a royalty for each use, a "blanket" license was purchased to allow multiple uses without ongoing royalty payments. The term "royalty free" has been loosely defined, however. The specifics of a blanket license can vary.

### **Is Music Licensing Needed For Music On Hold?**

Any establishment that wants to play music publicly, whether over the phone (on-hold), in their lobby or other public space is required to obtain some form of licensing. If you're using a music on hold service, you might think that the fees you pay for the music and message service will also cover the licensing of the music. Does it? You need to know.

### **How To License Music On Hold**

A reputable music on hold company will be able to provide a copy of the contract (license) that shows that they have legally obtained performance rights for the music used in the productions they sell. The contract should state who the composers, artists and producers are, and should specifically assign the performance rights to a geographic area, such as U.S., Canada or "any and all countries".

### **How To License Music On Your Own**

If the music on-hold company you are working with does not have such a contract, you will be responsible for paying performance rights fees. Fees are collected by performance rights organizations, including SOCAN (Society of Composers Authors and Music Publishers of Canada), BMI (Broadcast Music, Incorporated), ASCAP (American Society of Composers Authors and Publishers) and SESAC (Society of European Songwriters, Artists and Composers).