UNDERSTANDING COPYRIGHT, ROYALTIES and Practical Application in Folk Music

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A Note: This document was compiled by the Advocacy Committee of Folk Alliance International in the interest of providing our members with basic information about copyright and royalties. We reserve the right to update this document as laws, policies and/or common industry practices change. You can be sure you are reading the most updated version of this document by accessing it at: www.folk.org/copyright.
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INTRODUCTION

We live in a world of fragmented and flowing media. Music, movies, photography, stories, lectures, poetry, literature, drama, painting, drawing, graphic art, multi-media – all reproduced in countless forms, and shared, purchased, experienced, consumed. Whether lofty or mundane, sacred or profane, today “media” is simply everywhere.

For centuries, as a culture that values innovation, we have sought ways to encourage creation and also protect the rights and livelihood of creators. In 1785, James Madison, in the State of Virginia, established a “copy right” which, for a limited time, allowed creators of printed literature to control and profit from the dissemination of copies of that work. From there it grew – as technology progressed and additional forms of creative expression, reproduction and distribution were enabled.

A formal copyright represents the ownership of a piece of property. For a specified amount of time, it is owned and controlled by its creator and can be bought and sold, rented and hired, gifted and willed. It’s not real estate, but it might as well be. It’s unreal estate. Intellectual property. And the fundamental ownership of the work resides in the hands of its creator, from the moment of creation, for a finite number of years, until it is sold or given away.

As with any property, how it is held and used, desired and controlled, determines its value.

Over time, laws, agreements, treaties and decrees have been enacted to regulate how intellectual property is owned and used, its intrinsic value, and to balance the needs of creators for recompense and the needs of the public for access. Organizations and agencies have been established to define and protect the interests of creators and users in fair measure. Or at least, to try.

Music publishing was initially established to secure payments for composers from the sales of sheet music and piano rolls. From there, to wax cylinders, lacquer 78s, vinyl singles and albums, magnetic cassette and 8 track tapes, CDs and DVDs, and now, digital downloads, not to mention stage, radio, cinema, television and Internet streaming performance. Protecting rights and managing royalties in all of these realms is a complicated challenge.

And now, as groundbreaking and precedent-setting decisions are being made about performance and streaming-related royalties in particular, it is vital we all understand how these elements come to play in Folk Music, so we can participate in the conversation.

Here we will attempt to explain the complexities, clarify the mysteries and debunk the misconceptions, in as concise a manner as possible. We won’t succeed at every turn. But, with luck, we can shed some light on a confusing subject, so you can understand how your own creativity is guided and governed by laws that were designed to protect creators — and users — of creative content.
Who This Document Is For

At Folk Alliance, we often get questions about royalty and licensing topics from songwriters, performers, presenters, labels, publishers, managers, royalty collectors and union organizers alike. We have a diverse membership, and we all have an interest in copyright and royalty issues.

We’ve all experienced the changes enabled by technology – in how we listen to and make music, how audiences find, obtain and experience our music, and in how we communicate and organize our work. These changes have altered the music industry. We’ve seen it coming for a while, but now it’s really arrived.

1. First, we will explain the basics of music copyright, licenses, and the key organizations involved in management, tracking, collection and dispensation of royalties.

2. Then, we will share additional information about best practices – what to do if you are facing particular issues (based on what we commonly hear about from our membership).

3. Finally, we will provide additional resources including links to and information about some organizations referenced here.

FACT 56% of people (in the US) access media on multiple platforms ie Mobile, Tablet, Desktop

FACT 84% of Americans watch online videos.

FACT Mobile phones and tablets have nearly doubled the amount of time people spend online, without decreasing time spent on desktop (increased 7% year over year).

FACT 63% of US music listeners report discovering new music through terrestrial radio;

FACT 68% of the US population reports they have streamed music online in the last year.

FACT 48% use radio as their primary source discovering music.

FACT OVER 50% of cell phones are “smart” – and that is growing at an increasing rate.

FACT 72% of new phones are web/data-enabled.


SOURCE: comScore 2014 US Digital Future in Focus

FACT SMARTPHONES ARE A MOBILE MAJORITY

SOURCE: comScore 2014 US Digital Future in Focus
Copyright Basics

What Are the Rights Inherent in a Song and a Recording of That Song?

Under the current US copyright law, an original song is automatically protected by copyright when it is created and fixed. “Fixed” means the song is documented in any tangible medium – whether written on a piece of paper or recorded while you perform it. While registering a composition with the Copyright Office has many advantages, it is not required for copyright protection under the present law.

There are rights held by whoever controls copyright of a song composition - usually this is the songwriter and the publisher (sometimes they are the same person). These rights are called the “bundle of rights”...

How Do You Secure Formal Copyright?

While in principle copyright ownership commences from the moment the song is in fixed form, it is important to register your songs to protect you in the case that you do experience disagreement or even litigation. The court favors copyright owners with formal documentation, and it reduces the perception of you as opportunistic if you are making a claim. You can register individual songs as you create, or register them in batches. There is a fee associated each time you file. Often people wait and file copyright for full albums, to save expense. Do whatever you are most comfortable with from a risk perspective. But do register your copyrights! Instructions on how to register are at: http://www.copyright.gov/circs/circ50.pdf

A song’s copyright owner has 6 exclusive rights called the “BUNDLE OF RIGHTS” (Section 106 of Copyright Act)

1. Reproduce work (copies of scores, CDs, DPDs, Vinyl, download cards, etc)
2. Create Derivative works based on the copyrighted work
3. To Distribute copies of the work to public (includes for sale, rental, lease or lending)
4. To publicly Perform the work (live)
5. To publicly Transmit the work (broadcast)
6. To publicly Display the work
So You Own Your Song, and a Bundle of Rights... Now What?

Songwriters, and the publishers that represent them, grant LICENSES to those who wish to record, reproduce, perform, or undertake any of the bundle of rights inherent in a song's copyright. There are many types of licenses, but five are most common.

Below are the five licenses, and the common uses when they come to play in music today...

### There are many ways to license and monetize music

**MECHANICAL**
- Physical (CD, LP)
- Digital (MP3)
- Interactive stream
- Ringtones
- DVDs

**PERFORMANCE**
- Live
- Broadcast
- Non-broadcast
- Advertising
- Web
- Video
- Gaming

**SYNCHRONIZATION & MASTER USE**
- Television
- Film
- Advertising
- Web
- Video
- Gaming

**MERCHANDISING**
- Brand extensions
- Clothing
- Toys
- Games

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What is the Difference Between © And ℗?

A songwriter's copyright is JUST for the composition of the song itself, not the recording. It is signified by the © symbol. The copyright of the song usually belongs to the Writer(s) and the Publisher(s) of the song's creation.

Recordings are also subject to a separate copyright. There may be any number of recording copyrights of a song - belonging to various people/companies. When you see the ℗ symbol, that is indicating who controls the copyright of the recording (not the song). This usually belongs to the Label and/or the Artist who performed and recorded the song.

So a song will have ONE instance of composition copyright but may have MANY instances of master copyright. For example, Woody Guthrie would be the sole owner of the composition copyright of “This Land Is Your Land” but for every unique recording that exists of that song there is a new master copyright.

When you hear people talk about the “sides” of a song, this is what they are talking about. And it can get confusing because sometimes people are referring to the two sides of the Publishing copyright – sometimes they are referring to the two sides of the Master copyright – and sometimes they are referring to the higher level of Publishing vs Master rights.
MECHANICAL RIGHTS

What Is a Mechanical License? What Is “First Use”?  

The first recording of a song is controlled by the composer. So no one can release the song commercially first without the writer’s permission. This is called the “first use” provision. After that first recording is released, mechanical licensing is compulsory - so anyone can record a cover of the song, provided they notify the publisher and send mechanical royalty payments for every unit reproduced (and in some cases streamed). Sometimes mechanicals are paid in installments based on actual sales, sometimes in advance against future sales. This is handled based on writer/publisher preference.

How Do I Know If I Need A Mechanical?  

Anytime you want to distribute/sell your recording of a song you didn’t compose that is under copyright protection, you need to obtain a mechanical. Physically or digitally. Even if you want to give the song away for free. Even if your recording is only appearing on YouTube. In our genre, we play a lot of music that is traditional. So it is important to determine if the song you wish to record is copyright protected or in public domain.

How Do I Get a Mechanical?  

In our scene, these are often managed directly (e.g. Manager or Label reaches out to Publisher or Manager of songwriter) or they are purchased through Harry Fox’s Songfile system. Songfile is the first place to look if you are seeking a mechanical license, as many songs are available and it is easily done online. www.songfile.com

Limelight also offers a service for this called Song Clearance: www.songclearance.com

Keep in mind that you must obtain mechanicals for all writers/publishers and all territories you wish to release and sell your music in. Sometimes these services only represent some of the owners of a song – it is clearly indicated when you search a song. Both of these services only handle mechanicals for distribution and sales that happen in the United States. To secure mechanicals outside of the United States, you may have to work through a kindred system if it exists, through the song’s publisher(s) directly, or with the local PRO or a mechanical rights society – for example, GEMA in Germany or PRS for Music in the UK.

In Canada, CMRRA is a similar system to Songfile and SongClearance – they handle mechanical licensing, online music licensing and private copying licensing. More info at www.cmrra.ca/cmrra/about

So, make sure you start the process of securing mechanicals early. It can take minutes or months to complete the process!

How Much Do Mechanicals Cost?  

Mechanical royalty rates are statutory, though are sometimes negotiated lower by major labels for mainstream releases, or controlled by label agreements.

<table>
<thead>
<tr>
<th>CURRENT US Compulsory Mechanical Royalty Rates (through 2017)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.091 (9.1 cents) per CD/Download for songs under 5 minutes</td>
</tr>
<tr>
<td>or</td>
</tr>
<tr>
<td>$0.0175 (1.75 cents) per minute for songs longer than 5 minutes</td>
</tr>
<tr>
<td>whichever is higher</td>
</tr>
</tbody>
</table>

IN CANADA, the rate is slightly lower, but it works the same way...

| $0.083 (8.3 cents) per CD/Download for songs under 5 minutes and $0.0166 (1.66 cents) is added for each additional minute over 5 minutes |
PERFORMANCE RIGHTS

What Are Performing Rights?
What Is a Performance License?

Whenever music airs in public - in any form - from background ambience to live performance in front of audiences - the organization presenting the music pays royalties to song composers for the benefits of using their compositions.

That means royalties are paid, for example...

- when songs are played live by artists at shows (not including musical theater) -
- when recordings are aired in public settings like retail stores, restaurants or coffee shops -
- when broadcasters air songs within programming.

To offer music to the public in any of these ways requires that the purveyor/programmer obtain a performance license. And remember – this is a license for use of the composition of the song. It is a license with the writer/composer/publisher.

What Are Performing Rights Organizations?

Performing Rights Organizations represent composers, songwriters, lyricists and music publishers by licensing and distributing royalties from licenses for non-dramatic public performances of their copyrighted works.

In America, there are three PROs - ASCAP, BMI and SESAC. Other countries have one PRO.

A list of organizations by country is at:
http://en.wikipedia.org/wiki/Performance_rights_organisation

In addition to copyright filing a new composition, it is also important that songwriter(s) and publisher(s) register it with their Performing Rights Organization in order to track performing rights royalties due. This is usually done very easily by adding the song through an online account - and should happen at the time of composition, before the first time the song is performed publicly, if possible. Writers should not wait until the song has been recorded and released! And remember, in America if you are a writer and are also your own publisher, you will have two accounts with your PRO – one as a writer and one as a publisher. PROs split the money between songwriter and publisher 50/50, so if you have only one account with your PRO, you’re missing 50%!
What is a “Blanket License” and Why are They Helpful?

Without PROs, the paperwork of performance licensing would be endless for writers and programmers. PROs make it easy for music users to obtain licenses and music creators to grant permission, so individual licenses do not have to happen in every single instance of a song being performed. By negotiating “blanket licenses” that cover all of their creator members in one agreement, rather than individual agreements for each and every writer they represent, PROs are able to track, collect and distribute royalties in an efficient manner.

It is the PRO’s responsibility to ensure that creators are compensated for their work being used.

PRO personnel are not only royalty collectors, reporters and distributors. The PROs are invested in developing the careers of their creators, and often hire staff dedicated to helping writers grow, connect, and prosper. PROs often present showcases at conferences, festivals and prominent industry events, offer workshops and panels in some cities, have awards programs, their own conferences, grants, and are instrumental making introductions assisting members with career development opportunities. So if you are a writer or publisher, don’t just think of your PRO as the company that sends checks. It is worth getting to know your PRO representatives personally!

What’s Changed?

One of the reasons we created this document is to let you know about some relatively recent developments on the part of ASCAP and BMI - programs they have created to ensure that our community’s writers get paid, and additional outlets PROs are licensing and collecting from, as technology impacts the performance landscape.

In the past, many Folk presenters struggled with paying licenses because the process by which our writers were paid was so variable, and sometimes our writers were not receiving the royalties our venues were paying. It’s important that all Folk promoters know that is no longer the case. Now, there is no reason a writer should not be paid their royalties, provided our artists and writers are adequately reporting and following up with their PRO.
How Do You Get Paid if You Are a Writer? (If You Are a Writer Performer...)

The reason every writer should be paid their royalties, especially writers who perform their own music, is because all of the PROs in North America, and most in other countries, provide performers the opportunity to report their actual shows and setlists so writers of independent music can get paid fairly, too.

Each PRO’s system is slightly different, so we will summarize each program here. If you have questions about their programs in more detail, or need help accessing your account in their system, we encourage you to contact your PRO representative - they will help you.

**ASCAP Onstage**

ASCAP sends royalty checks eight times a year: four distributions cover performances in the United States and four cover “foreign” performances. ASCAP has accelerated domestic royalty payments, with writers and publishers receiving full payment approximately six months after a performance quarter. The four “foreign” distributions, in February, May, August and November, also ensure that members receive internationally earned royalties as quickly as possible.

Through a program ASCAP calls “OnStage,” you can receive royalties when your music is performed live at venues of all sizes throughout the country. Just provide the basic details of the performance and which of your songs were performed and you’ll receive an OnStage payment with your normal ASCAP distribution. It’s that simple. Make ASCAP OnStage a regular part of your post-show routine, no matter how big or small the venue. OnStage is available 24/7 via your “Member Access” account online for convenience and flexibility.

More about ASCAP membership: www.ascap.com/about/ascapadvantage.aspx
More about ASCAP OnStage: www.ascap.com/onStage

**BMI Live**

BMI Live works much the same way. You login to your BMI account and report each gig. Incidentally, BMI was the first American PRO to market with this type of online system. It was a major first accomplishment in the shared quest for increased transparency and accountability of royalty systems – a topic that is vibrant in the music rights and royalty debates today.

“BMI Live” allows performing songwriters to input up to six months of performance data to be considered for payment, and receive royalty payments quarterly. Both headliners and opening acts may input, and the program is open to all BMI affiliates. Performance data is entered by logging on to BMI Online Services from a desktop computer, a supported mobile device or through the BMI Mobile app for Android and iOS.

More info at BMI’s website: www.bmi.com/special/bmi_live
FAQ: http://www.bmi.com/faq/category/bmi_live
Information for presenters: http://www.bmi.com/licensing/entry/venues_and_music_clubs

**SESAC**

SESAC is a little different from ASCAP and BMI – it is considered more of a “boutique” PRO, and writers are personally invited to join. It is a privately held for-profit company, not governed by consent decree, which means they are permitted to distribute advances against future royalties and technically have some liberties in negotiation with writers.

Like ASCAP and BMI, writers report their live performances online in a system they call “Affiliate Services” and are paid based on actual performances and set lists. Payments are issued quarterly.


**SOCAN**

SOCAN represents Canadian songwriters. When you affiliate with SOCAN, you can choose which American PRO will collect on your behalf in America. So you might be a SOCAN writer with ASCAP, BMI or SESAC as your American affiliate.
SOCAN presenters pay royalty for individual events, and members are paid that royalty when their music is performed live in concert – whether or not they are the performer. Anything from a large outdoor music festival to a small club/bar performance can be considered a live performance that may be eligible for a concert distribution, if the venue or promoter is licensed by SOCAN. (A $6 per person minimum cover must be charged for any club performance in order for it to be eligible for payment by SOCAN.)

To receive concert royalties, SOCAN members submit a “Notification of Live Music Performance (NLMP)” form with details about their performance. Evidence of the performance (eg. ticket stub, newspaper clipping, program book, contract, or letter/email from the presenter) is also required to prove that it took place. You have up to one year from the date of performance to submit this information to SOCAN.

Generally, members can expect royalties to be paid nine months after a live performance; however, this is pending SOCAN’s receipt of your information as well as the payment of the license fee from the presenter.

More info at SOCAN’s website: [www.socan.ca/creators/about-royalties](http://www.socan.ca/creators/about-royalties)

**SODRAC**

The Society for Reproduction Rights of Authors Composers and Publishers in Canada is a non-profit member organization that represents composers and publishers by granting reproduction licenses – one component of copyright – enabling the reproduction of music on any physical audio or audiovisual media (example: CDs, DVDs). This includes private copying for personal use (royalties attached to the types of blank media that are commonly used for copying) – a tariff approved by the Canadian Copyright Board in 1999.

Royalty rates in effect according to the 2008-2009 private copying tariff are as follows:

- Audio Cassette at least 40 minutes long
  - $0.24 per unit
- CD-R, CD-RW, CD-R Audio, CD-RW Audio and MiniDisc - $0.29 per unit

Royalties are paid to members quarterly based on reports submitted by users (label companies, TV and radio broadcasters, on-line music services, DVD distributors, etc). SODRAC funds operations by charging a commission on the royalties it collects.

More info at SODRAC’s website: [www.sodrac.ca](http://www.sodrac.ca)

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**How Do You Pay if You are a Presenter?**

You can pay either online through the PRO websites, or by downloading the license agreement, filling out the paperwork, and sending payments to each PRO.

**What Do You Do if a PRO Collector Contacts You?**

**How Do PROs Determine Blanket License Rates?**

If a PRO collector contacts you or sends you a bill, it is not an immediate cause for alarm. The language you use speaking with them is important. Know your rights and the lingo. It doesn’t have to be a fight!

**First and foremost: DON’T PANIC!** A PRO’s mission is to collect royalties in order to pay songwriters. And that is a good thing. Writers need to make a living. A lot can be done to ensure the fees you pay are fair and equitable. If you are presenting a public concert (not in your private home), you are obligated to pay performance licensing fees, whether or not you sell tickets or ask for a donation, and whether or not the artist plays “all their own songs.” (Artists still get paid public performance royalties even when they play only their own songs.) The question is not IF you’ll have to pay, but how much.
The best thing you can do is voluntarily submit for a license with each PRO.

In the USA...
- BMI: [www.bmi.com/licensing](http://www.bmi.com/licensing)
- SESAC: [www.sesac.com/Licensing/obtainlicense.aspx](http://www.sesac.com/Licensing/obtainlicense.aspx)

In Canada...
- SOCAN: [www.socan.ca/licensees/apply](http://www.socan.ca/licensees/apply)

If you do not set up agreements proactively, your first exchange with a PRO field agent may be a letter, sometimes including a bill for estimated license fees based on what they know about your organization. This is not unusual.

Keep in mind that a PRO representative cannot possibly know all of the details of your business from afar. They base their initial figures on what they glean from your website, what they may know from personally attending a show in your venue, or other sources. While the bill may look final, rest assured it can be negotiated if you believe they may not understand everything they need to know about your presenting activities.

1. **THE LETTER, THE PHONE CALL.** The first step is to read what the letter says and ask questions if you do not understand anything. The best way to get your questions answered is to call and talk to an agent or manager at the PRO. Usually a local agent's contact information will be included in your letter. If that representative is unable to answer your questions, or you need more help with negotiations, ask to speak with a manager to review your case. If you do not see an agent listed in your letter, contact us and we will put you in touch with a representative to help you.

2. **THE LANGUAGE.** In your conversations with PRO representatives, they may use terminology specific to copyright law, licensing, and the way PROs categorize and classify venues to collect royalties. At times that language differs from language we use regularly in our Folk community, so it's important to understand the elements an agent considers to factor your royalties due, and what some key terms mean.

3. **PRIMARY FACTORS.** Ask the agent EXACTLY how they came up with the fees they say you owe – how your venue is classified, how many seats they have as your venue capacity, how many nights you have concerts, at what ticket price, etc. Determine the accuracy of the calculations and ask them to revise if any of it is inaccurate.

   a. **Classification:** PROs have categories they use on their end – these differ from PRO to PRO, but are similar – that help them determine the type of license they are negotiating when they talk to you. How you are classified can affect what you pay. Let the PROs know the size and nature of your organization and programming. Let them know if you are a non-profit, as that may play a role in your classification.

   **Example:** ASCAP's list of types of licenses might give you a good idea of categories you could fall under [www.ascap.com/licensing/licensefinder](http://www.ascap.com/licensing/licensefinder)
b. **Seating:** PROs often go by the fire code maximum number of allowable people in your space by default. In our community we often present shows in spaces that are used for other purposes on other days/nights, and may be larger than the portion of the space that is used for concerts. Make sure the PROs know what your true seating capacity is. If you have actual historical numbers of concert attendees over time, you may use that average as the number for the PROs calculations.

c. **Concerts:** PROs may not know by default if you only program once a week, once a month, or twice a year. Sometimes it is hard to tell that by looking at websites, depending when a person looks. Make sure the PROs know how many times per week, month or year (whichever is applicable) you present shows.

d. **Ticket Price:** Sometimes portions of hard ticket price not attributable to music can be deducted from the per ticket amount. For example, if a festival has camping, the portion of the ticket that relates to camping can be deducted for purposes of determining licensing fees. For example, ASCAP’s concert blanket license fee specifically states, “Gross revenue shall not include per ticket entertainment, amusement, or sales taxes, commissions or fees paid to automated ticket distributors, such as Ticketmaster, per-ticket theatre restoration or other facility fees, or parking fees when included in the ticket price.”

e. **Municipality Licenses:** If you are presenting music in a city or county facility, check to make sure that facility isn’t already covered under a municipality license. Usually you can determine this by inquiring with your city or county attorney’s office.

2. **TYPES OF LICENSES.** Determine whether a blanket license or a per-concert license is best for you.

Blanket licenses cover the entire catalog for that PRO - for both performance and “piped in” music - so if you play CDs over the PA prior to the concert and during breaks, and if you present shows often, this might be the way you want to go.

Individual licenses cover a particular show, and break out live performance royalties separately from broadcast of recorded music. If you present in a space that already pays blanket licenses for recorded music to be performed, and/or you present infrequently, you might only be negotiating for live performance licenses and wish to do so individually.

You can run the numbers and see what works best.

A friendly bit of advice...

Difference in language or understanding can be frustrating - stay calm, present the facts, stick to the numbers. Most often, when we hear from members who are having challenges with these conversations, it is happening as a result of misunderstandings that can be remedied. When that happens, we are happy to help.
What is SoundExchange? Is it a PRO, Too?

PROs and SoundExchange both collect royalties, but on behalf of different parties who own interest in a song or recording and from different channels. Remember earlier when we talked about the “sides” of a song? PROs collect royalties on behalf of writers and publishers for the writer’s interest in a music composition. SoundExchange collects digital performance royalties on behalf of the master owner - sometimes labels, sometimes the artists themselves - and for the “featured artist” who appears in the recording of the song. They also hold a small percentage aside for the accompanists ("non-featured artists") who played on the recording, which is paid back to those people through the musician’s union.

There’s a great video on the SoundExchange website about how this works. www.soundexchange.com/about

In Canada, an organization called MROC is similar to SoundExchange. Like SoundExchange, MROC also represents both featured artists and background musicians and backup singers. www.musiciansrights.ca

SoundExchange also has international partnerships to collect certain royalties generated by the performance of sound recordings in other countries. A list of those partnerships are available here: www.soundexchange.com/about/international-partners

Master performance royalties are paid to labels and performers

- **Featured Artist**: 45%
- **Label**: 50%
- **Non-featured performers**: 5%
How Do You Get Paid If You Are a Performer?

If you are a featured performer, all you need to do to get paid is sign up on SoundExchange’s website. There is no cost to sign up. Their royalty collection happens whether or not you are enlisted, so they may have collected money for you already:

soundexchange.com/artist-copyright-owner/does-soundexchange-have-royalties-for-you

Intellectual Property Rights Distribution Fund  
www.raroyalties.org

If you are a non-featured performer on a recording or series of recordings, you should speak with your union representative to see if you are eligible to receive royalties. SoundExchange sends the 5% withheld for non-featured performers to the American Federation of Musicians (AFM) and the Screen Actors Guild and American Federation of Television and Radio Artists (SAG-AFTRA) to be dispensed. You will need to be a member of one of these unions to take advantage of these funds. Your representative at either AFM (CFM in Canada) or SAG-AFTRA will be able to help you determine how to collect.

The fund keeps a list of unclaimed sound recording royalties:
www.raroyalties.org/unclaimed-royalties_SR.php

If you find your name, fill out this form:

Film Musicians Secondary Markets Fund  
www.fmsmf.org

The Film Musicians Secondary Markets Fund is a non-profit organization that collects and processes residual payments from producers and distributes them to film and television musicians and session players who work on union productions. The fund was established as part of a collective bargaining agreement between the AFM and the Alliance of Motion Picture and Television Producers. Producers and/or right holders in the film/tv production pay one percent of their gross receipts into the fund, for the life of the motion picture. Each July, the fund makes an annual distribution of residuals received throughout their fiscal year to participating musicians.

So, for example, if a musician performs in a session or works on a film or television project scored under an AFM agreement, the musician will get paid AFM scale fee for their work at the time of these session, but as the movie moves from screen, to cable television, to DVD, there will be additional residual payments made to musicians.

You can search to see if the film you worked on is covered here:
www.fmsmf.org/filmtitles/paidfilms.html

More info:
The Recording Artists’ Collecting Society (RACS) is a division of ACTRA that collects and distributes equitable remuneration (neighbouring rights and private copying) to eligible recording artists.

While its members are primarily Canadian, artists from all over the world have registered with RACS. A sound recording is eligible if the maker is a citizen or permanent resident of Canada or a Rome Convention country, or is a corporation headquartered in Canada or a Rome Convention country, or if the sound recording was made in Canada or a Rome Convention country. Artists who performed on an eligible sound recording are eligible for neighbouring rights, as is the record company who made the recording. In most cases, a recording is eligible if it is recorded outside of the US, or, if the maker is headquartered a country other than the United States. If the maker of the recording is a person, that person must be a citizen of a country other than the US. The eligibility for monies derived from private copying are based solely on your citizenship. You must hold a Canadian or Permanent Resident citizenship at the time of the recording in order to be eligible.

RACS distributes 80% of the monies to the featured performer(s) on a recording and 20% of the monies to the non-featured performer(s). They pay retroactively to the date the first tariffs were established in 1998. If you are on an eligible recording that has been receiving airplay since 1998, RACS may have money for you.

In cases where a recording artists’ performance may have been missed or there is a dispute, RACS generally asks that the recording artist submit proof of their appearance on the recording. Proof of performance can come in a variety of forms, but the most common examples include label copy, liner notes, recording contract, or a confirmation from some of the other recording artists on the recording. If you are unable to recall all the recordings you have performed on, they ask that you submit as much information as you can. It is possible that they may have received information on the recordings that you cannot remember from other sources.

It’s important here to mention that you can join most of these organizations directly. When it comes to the musician’s union – the AFM/CFM – you can join your local, or you can join the Local 1000. You will find more information about all of these organizations here:

**AFM (USA) —** [www.afm.org](http://www.afm.org)

**CFM (Canada) —** [www.cfmusicians.org](http://www.cfmusicians.org)

**Find A Local Near You** - [www.afm.org/locals](http://www.afm.org/locals)

**LOCAL 1000** (for traveling musians) - [www.local1000.org](http://www.local1000.org)

**SAG-AFTRA** - [www.sagafrica.org](http://www.sagafrica.org)
How Do You Get Paid If You are a Label?

Labels simply need to register with SoundExchange (or MROC or similar) to collect royalties, in just the same way featured performers register. There is no cost to sign up. (And remember, if you are both the featured performer and are releasing recordings on your own label, you need to set up both accounts with SoundExchange!)

For features performers and labels alike, SoundExchange distributes royalties monthly for accounts that earn more than $250/month or quarterly (March, June, September, December) for those that earn at least $10 for direct deposit, $100 for paper checks in royalties before a scheduled distribution. If you are under the threshold, SoundExchange will hold your royalties until you accrue these thresholds. You will receive an email with links to your reports whenever they become available, and you can be paid by check or direct deposit. There is no login to access past reports, but you do receive reports in both PDF and Excel, which can be accessed at any time if you have the links.

SoundExchange offers labels access to historical data at https://sxdirect.soundexchange.com

Connect Music


AARC

AARC is the non-profit US royalty collective protecting the worldwide home taping (private copy), rental, and lending rights for featured artists and master owners (record labels). Although a US organization, AARC represents featured artists and copyright owners residing all over the world. AARC provides a music royalty, generated by the sales of automobile infotainment systems, blank CDs, personal audio devices, media centers, and satellite radio devices that have music recording capabilities, to its 300,000+ members worldwide. http://wp.aarcroyalties.com
Synchronization & Master Use Rights

What If Someone Wants to Put My Music in a Movie or TV Show?

What If I Want to Include Music in a Video I’m Making?

Remember that part above about the difference between © and ℗ – and how there is a “Recording side” and a “Composition side” of every work – and sometimes the same person owns both sides, and sometimes the sides are owned by different people? Well, it is important to understand that in order to understand what licenses are necessary when music is put in a movie, tv show, advertisement, YouTube, or other video.

Whether you are being asked for permission to use your music in a video, or whether you are a person seeking permission to use an artist’s music in a video, the way it works is the same...

Two licenses need to be secured anytime music is “synchronized” with moving picture of any kind:

- **Synchronization License**: Granting permission from the writer or publisher (whoever owns the ©) for use of the musical composition
- **Master Use License**: Granting permission from the artist or label (whoever controls the ℗) for use of the recording

What is a Fair Price to Pay for a License?

Production budgets vary greatly – from first time undistributed independent films to network-produced prime time television shows. Every show has a different budget for music – sometimes by series, sometimes by season, and sometimes by episode. So, there is no right or wrong price, or standard rate. License fees are negotiated between the parties involved. The process generally moves very quickly – as by the time a music supervisor is trying to “clear” music, they are probably under the heat of pressing deadlines. Most often the master and sync sides are equal amounts, but sometimes they will differ based on the leverage of the copyright owner/controller.

Will I Get Royalties After It Airs? How?

There are multiple types of royalties that can happen after a song is placed. While the synchronization and master use royalties are paid at the time of license, public performance and residuals may be paid if the show is rebroadcast, goes into syndication or is available on demand after its first air date. Depending on where the program airs, and how your deal was designed, you may earn royalties from the broadcaster/network for performance of your music on television.

To ensure that the show/film producer(s) reported your synchronization correctly, ask for the “cue sheet” after the episode airs. The cue sheet includes information like: Song Title, Writer(s) names and % control, Publisher(s) names and % control, PRO affiliation of both writers and publishers, Duration of music used, Type of usage (example: instrumental, vocal, background, visual). Verify that all information on the cue sheet is accurate, and forward it to your PRO representative to ensure the cue is in their system.
Getting Tracked

Make sure all recordings you release have ISRC codes: isrc.ifpi.org
And make sure they are properly indexed in the following databases...

CDDB/Gracenote - www.gracenote.com/company/faq/owner
Mediabase - www.mediabase.com/mmrweb/NewMusic.asp

Organizations For Organizations

Don't let all the organizations confuse you! While as a writer, performer, publisher, label or presenter, you are unlikely to interact with the following organizations directly, it is good to know some that exist, as they are actively advocating, sometimes indirectly, on your behalf. There are “B2B” collectives that exist to help rights organizations carry out their work in ever changing times. Some represent organizations in different countries that grant the same kind of licenses. Some represent organizations within a region or country that grant diverse kinds of licenses. Examples include:

American Association of Independent Music – www.a2im.org
International Confederation of Authors and Composers Societies (CISAC) - www.cisac.org
International Office for Mechanical Reproduction Rights (BIEM) - www.biem.org
Copyright Alliance – www.copyrightalliance.org
Canadian Private Copying Collective - www.cpcc.ca

One Canadian licensing company of particular interest is ReSound – an organization that represents a collective of organizations that represent kindred rights to streamline licensing, collection and distribution. www.resound.ca

Artists: RACS, MROC, ARTISTI
Labels: Connect Music Licensing, SOPROQ

For Publishers

Music Publishers Association (NMPA) - www.mpa.org
Association of Independent Music Publishers (AIMP) - www.aimp.org

For Songwriters

The Songwriters Guild of America (SGA) - www.songwritersguild.com
Nashville Songwriters Association International (NSAI) - www.nashvillesongwriters.com
Society of Composers and Lyricists (SCL) - www.thescl.com

For Recording Professionals

National Academy of Recording Arts and Sciences (NARAS) - www.grammy.com

For Labels

The Recording Industry Association of America (RIAA) - www.riaa.com
The International Federation of the Phonographic Industry (IFPI) - www.ifpi.org
There’s a great chart that shows how royalties are collected and paid on the Future Of Music site. [futureofmusic.org/article/article/music-and-how-money-flows](http://futureofmusic.org/article/article/music-and-how-money-flows)

They also made some great quizzes that help you test your knowledge! [futureofmusic.org/music-and-money-quizzes](http://futureofmusic.org/music-and-money-quizzes)

The United States Copyright Office is undertaking a study to evaluate the effectiveness of the existing methods of licensing music, and will use the information gathered in the study to report to Congress. On the website about the study, they have posted a helpful chart. [copyright.gov/docs/musiclicensingstudy](http://copyright.gov/docs/musiclicensingstudy)

Recently, the Copyright Office also published a comprehensive report of the register of copyrights entitled “Copyright and the Music Marketplace” you may also find useful: [copyright.gov/docs/musiclicensingstudy/copyright-and-the-music-marketplace.pdf](http://copyright.gov/docs/musiclicensingstudy/copyright-and-the-music-marketplace.pdf)