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## Playing Music at Your Club?

### Live and Recorded Music Requires Proper Licensing

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If music is performed at your club, you will need to obtain a public performance license in order to avoid copyright infringement liability. Whether the music is live or recorded, performed on a regular basis or as part of a one-time special event, proper licensing is required for the public performance of copyrighted music.

The requirement to obtain a license to publicly perform another's copyrighted song stems from Title 17 of the United States Code (17 U.S.C. §§ 101 et seq.). In short, U.S. copyright law affords the owner of a copyrighted musical composition the exclusive right to perform, or to authorize another to perform, the work publicly. As such, the unauthorized public performance of a copyrighted musical composition is a violation of the owner's rights.

Further, even if you operate a private club, you still need a license to perform copyrighted musical compositions. Specifically, the law states that "[t]o perform or display a work 'publicly' means ... to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered." Therefore, a private club is considered a semipublic place if its members are comprised of more than just a particular family and a tight circle of that family's social acquaintances. Whether a song is performed in a public or private club, it is still considered a "public performance" of the work under U.S. copyright law, and is subject to copyright control and licensing.

A common misconception is that clubs where only live music is performed do not need to obtain public performance licenses. Often these club operators mistakenly believe that the band or live performers have the proper licenses in place to publicly perform their repertoire. However, this is generally not the case—in fact, in most scenarios a band will rely on the venue to obtain the necessary public performance licenses. Unless the licensing responsibility is shifted by contract, it is a best practice for the host venue to have the proper public performance licenses in place.

Fortunately, obtaining the proper licensing is relatively easy. However, the license fees will vary depending on your specific needs. There are four main Performing Rights Organizations (“PROs”) that administer public performance licensing for the majority of popular music in the United States. Of these PROs, ASCAP ([www.ascap.com](http://www.ascap.com)) and BMI ([www.bmi.com](http://www.bmi.com)) are by far the largest, followed by SESAC ([www.sesac.com](http://www.sesac.com)) and a relatively new PRO called Global Music Rights (or GMR) ([www.globalmusicrights.com](http://www.globalmusicrights.com)). However, since each PRO administers the rights to different songs, it is often necessary to obtain multiple licenses to be sure your venue is adequately covered. While each PRO generally offers various licensing schemes and fees depending on your needs, a common solution for broad coverage is to acquire a “blanket license” to perform the particular PRO’s entire catalog. More information about obtaining the licenses you may need can be found on the PROs’ respective websites. In any event, if copyrighted music is performed at your club, obtaining proper licensing from these PROs is a best practice to avoid copyright infringement.

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