

Music Licensing Information

Q: I am fed up with those music licensing companies and now someone told me that there is a new one. Is this true?

A:It is indeed true, but don't shoot the messenger! We get many calls from concerned members about music licensing, so you're not alone. Global Music Rights joins ASCAP, BMI and SESAC as a Performing Rights Organization (PRO). Their acronym is GMR. Here's a little bit about them and a reminder about music licensing laws.

Global Music Rights, helmed by Irving Azoff who has been a longtime manager for groups like the Eagles, Van Halen and Fleetwood Mac, was established in 2013 with the promise of paying the songwriters it represents higher royalties than ASCAP and BMI. If you are playing music in your restaurant, chances are that you need to be paying for the privilege, unless you are covered by the exemptions for radio and TV, use the commercial version of a music service like SiriusXM or have a jukebox with a separate license. ASCAP, BMI and SESAC and now GMR are the four PROs that serve as clearinghouses between the creators and owners of copyrighted music (think Bruce Springsteen, Beyoncé or Ol' Blue Eyes) and the people who want to publicly perform this music (you). The music you play in your restaurant (whether it's played on an iPod, CD or by a live band) is a product created by composers and owned by music publishers. Copyright laws require you to obtain advance permission to play their music (or use their product). It would be virtually impossible for a restaurant owner to negotiate separate licenses with copyright owners. Consider all of the different songs that get played during just one evening at your restaurant. Blanket agreements with the PROs allow you to play the music from the companies' repertoires. The PROs then pay royalties which are the compensation that composers and publishers are entitled to.

The price you paid for songs on iTunes (or for a CD you purchased back in the day) only covers the right for you to listen privately to the music. When you play a song in a public venue, federal copyright law dictates that it is a public performance.

You may not like this... keep in mind that each organization represents different songwriters, composers, music publishers and copyright holders. A license with ASCAP doesn't authorize you to play music in GMR, BMI or SESAC's repertory. Remember, WRA members are entitled to a discount with BMI. For more information, call BMI at 800-925-8451.

For more details on this topic, call or email the Hotline Team or check out the Better Business Bureau's helpful article, "Music in the Marketplace," available at www.bbb.org/council/for-businesses/toolkits

Q: What do the music licensing companies do?

A:ASCAP, BMI, and SESAC are the three performing rights organizations (PROs) that were created as clearinghouses between the creators and owners of copyrighted music and the people who want to publicly perform or play this music. Most songwriters, composers, lyricists and music publishers join one of these organizations and the organizations then collect and distribute fees on their behalf. Think of the music you play as the product created by composers and owned by music publishers. Copyright

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laws require that you obtain advance permission to play their music (or use their product). Royalties are the compensation that composers and publishers are entitled to. All three companies explain that over 80 percent of fees collected are distributed to the copyright owners. Because it would be virtually impossible for a restaurant owner to negotiate separate licenses with the copyright owners (composers or publishers), blanket agreements with these companies allow restaurant owners to play music from the companies' repertoires.

Q: Is there an alternative to using these companies?

A: Some alternatives might include the following:

- Attempt to negotiate separate licenses with the copyright owners for each piece of music you want to use (not really a reasonable option).
 - Limit the music performed to works in the public domain (difficult to determine).
 - Use a jukebox, but remember that you must have a Jukebox License Agreement from the Jukebox License Office. You would still need licensing agreements with the PROs if you charge admission, if the jukebox is activated in any way other than through coin operation, or if other music is played in addition to the jukebox.
 - Use a commercial music service like Sirius XM, Muzak or DMX. They pay the licensing fees for you, but you would still be responsible for any other music played which is not supplied by the commercial music service.
 - Play only radio or television if you meet the exemptions outlined later in this article.
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Q: I got a call from a company called SESAC and I never heard of them. Are they a legitimate operation?

A: While most people have probably heard of ASCAP and BMI, SESAC is another lesser known but still legitimate music licensing company.

Q: How do these companies calculate the fees they charge?

A: The companies will ask how music is played in your establishment, how often it is played, and the occupancy of your business. Some of the questions asked when calculating the fee: Do you play live music? Is it performed by multiple singers or a single singer? Do you play recorded music -- CDs, tapes, records, jukebox, DJs, karaoke, or video tapes? Do you charge admission or a cover? Is there dancing to live or recorded music? Do you play tv or radio?

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Q: If I have an agreement with one company do I need one with each of them?

A: Each organization represents different songwriters, composers, music publishers and copyright holders. Subsequently they license only the works from their copyright holders. For example, a license with ASCAP does not give you the authorization to play music in BMI or SESAC's repertory. You can't assume that you are only playing music from one company.

Q: I already pay the band (or DJ); why do I have to pay these companies?

A: The law states that the owner of the establishment where the music is being played is responsible for obtaining the required authorization. Paying a band or DJ doesn't mean you have satisfied this requirement.

Q: What happens if I ignore these companies and continue to play music without a licensing agreement?

A: When you play any copyrighted music in your restaurant without proper authorization you are breaking the law. If you are caught, the fines you face can be much higher than the cost of the licenses. Infringers of copyright law are subject to a civil suit in federal court with damages ranging as high as \$100,000 for each song performed without proper authorization. If you are found to have infringed on a copyright for commercial advantage or private gain, you face criminal sanctions.

Q: I only play CDs from my personal collection. Why should I pay these companies when I already paid for the music?

A: The price you pay when you purchase a CD only covers the right for you to listen privately to the music. When you play records, tapes, MP3 files or CDs in public it becomes a "public performance." The copyright owners of the music have the exclusive rights to public performances.

Q: Are there any exemptions that I might qualify for?

A: Possible exemptions include the following:

- If your restaurant is 3,750 square feet (including the kitchen, storage areas, bathrooms, etc., but excluding the parking lot) or smaller, you do not have to pay royalty fees for playing radio and television music.
 - Restaurants over 3,750 square feet may be exempt from fees if they have four or fewer televisions (no more than one per room, diagonal screen sizes of 55 inches or smaller) and six or fewer speakers (no more than four per room).
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Q: How do I know which songs are included in the repertoires of these different companies?

A: All three companies have searchable databases on the Internet. Their websites are: www.ascap.com, www.bmi.com, and www.sesac.com.

Q: I remember reading about a discount available to WRA members with BMI -- what's this about?

A: Members of WRA are entitled to special savings of up to 20% on BMI Music Licensing for eating and drinking establishments. This program provides the following discounts for each individually licensed restaurant member.

- 5% discount on BMI licensing fees just for being a member
- 5% association online discount on licensing for being a member and paying @ www.bmi.com/ede
- 10% timely payment discount for paying your fee in full within 30 days of invoice

Contact BMI at 800.925.8451 or email cmurphy@bmi.com for more information.