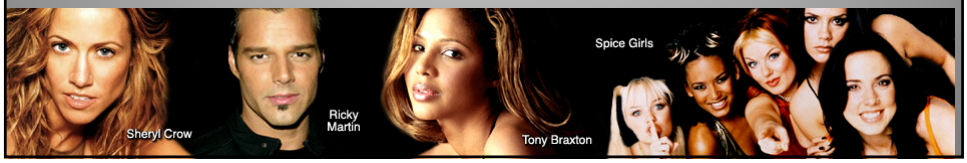
BMI®

Music Licensing & Your Local Government



Overview

- Copyright Basics
- Public Performance
- BMI Local Governmental Entities Agreement
- Herbert versus Shanley
- Obtain A License Online



Copyright Basics

A copyright is a form of protection for intellectual property provided by the laws of the United States (Title 17, U.S. Code) for the creators of "original works of authorship," including literary, dramatic, musical, artistic and certain other intellectual works.



Life of a copyright....

Copyrights last until 70 years after the death of the owner (author, composer, etc.). After that, the work may go into "public domain" and may no longer requires a license.

As in "real" property (buildings, land, etc.), intellectual property cannot be used without permission from and payment made to the owner.



Exclusive Rights of Copyright Owners

- reproduce the work in copies or phonorecords
- prepare derivative works based upon the work
- distribute copies or phonorecords of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending



Exclusive Rights of Copyright Owners

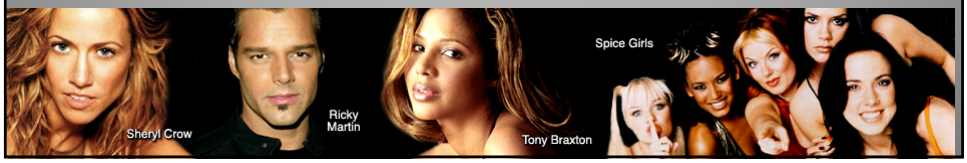
- perform and display the work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work
- In the case of sound recordings, to perform the work publicly by means of a digital audio transmission.



Public Performance

The “all rights reserved” notice on DVDs lets you know that the copyright owner has granted permission for *private* use, and playing them before a public audience (such as in a business) is prohibited.

The same restriction applies to the purchase of CDs, MP3s and other digital audio files. The copyright owner has granted permission to listen to or perform the music privately (at home or in the car).



To Perform Publicly Means

- To perform at a place open to the public or at any place where a substantial number of persons outside of a normal circle of family and its social acquaintances is gathered;
- To transmit or otherwise communicate a performance to a place specified above by means of any device or process.



Public Performances by:

- Live entertainment
- Recorded music
  - –CDs, Karaoke, MP3s and other digital audio files, DVDs, Radio & Television
  - –Music-on-hold



BMI's Local Governmental Entities Agreement covers Public Performances at:

- Facilities:

  Buildings, hospitals, airports, zoos, museums, athletic & recreational facilities, community centers, parks, swimming pools, skating rinks, etc.
- Events:

  Aerobic & exercise classes, athletic events, dances and other social events, festivals, arts and crafts fairs, and parades.
- Special events:

  Musical events, concerts, shows, pageants, sporting events, festivals, competitions and other events of limited duration.



BMI's Local Governmental Entities Agreement covers Trade Shows in the following circumstances:

- Trade shows, expositions, conventions, conferences, industrial shows or similar activities are covered provided that the event is presented or sponsored solely by and under the auspices of the local government. The event must *also* be presented entirely at one of its locations and it must *not* be open to the general public.



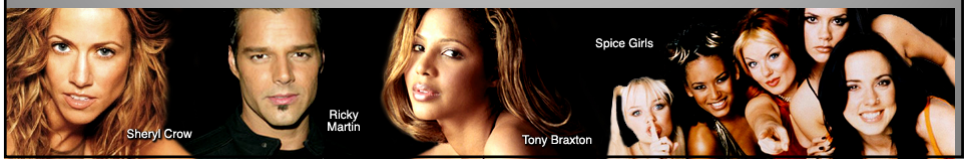
BMI's Local Governmental Entities Agreement does not authorize Public Performances at:

- colleges or universities, professional sports events or games played on the premises, permanently situated theme or amusement parks owned or operated by the local government, symphony or community orchestras, or by means of a coin-operated jukebox.



Herbert v. Shanley
242 U.S. 591, 594-5 (1917)

"They [music performances] are part of a total for which the public pays… , It is true that the music is not the sole object [of a patron's visit to a restaurant], but neither is the food which probably could be gotten cheaper elsewhere. The object is a repast in surroundings that to people having limited powers of conversation or disliking the rival noise give a luxurious pleasure not to be had from eating a silent meal. If music did not pay it would be given up. Whether it pays or not, the purpose of employing it is profit and that is enough."



Copyright Infringement Remedies

- Damages ranging from $750 to $30,000 for each infringement of each work;
- Willful infringement results in damages of up to $150,000 per infringement;
- Costs and attorneys' fees;
- Injunctive relief



How Do I Obtain A BMI License?

www.bmi.com/lge



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