

## MUSIC FOR DJS – ARE YOU DOING THE RIGHT THING?

**As a DJ, your creativity and livelihood depends on music. This guide has been created to educate you on the dos and don'ts of using music as a DJ.**

### Some simple facts

#### *What's copyright?*

When someone creates a piece of music (or a piece of text, a graphic, a photo, a film or anything else that is protected under copyright laws), a whole system of legal rights and obligations comes into play. These rights and obligations outline what someone can and can't do with the material.

#### *Who owns the copyright in a piece of music?*

There is generally more than one owner of copyright in any given musical track. The composer who wrote the music owns copyright in the musical works. The lyricist who wrote the lyrics owns copyright in the literary works. The artist who performed the music owns copyright in a sound recording of their live performance. Finally, the maker of the recording (typically a record company) owns copyright in the sound recording.

#### *What rights do the copyright owners have?*

The copyright owners (i.e., the owner of the work and the owner of the recording respectively) have a number of exclusive rights, including the right to:

- make copies of the tracks;
- perform the music in public; and
- communicate the tracks to the public.

### How do I know if I am doing the right thing?

#### *Can I copy legitimate CDs I own onto "compilation CDs" or my computer to play at gigs?*

The purchase of a CD only gives you the right to own the physical disc, to play it privately, and to pass on the same physical disc to another person. This means that copying music from a CD, without the permission of all relevant copyright owners, is an infringement of copyright except in limited circumstances. The same applies to digital music. Changes to the Copyright Act allow you to copy music legitimately obtained for your **private and domestic** use on another device that you own e.g., from CD to your computer or from digital format to CDs. **However, this does not extend to copying music for use at your gigs.**

If you want to copy your legitimate CDs or digital files into a more convenient format or onto another device for playing at a gig, you must get:

1. permission or a licence from the record company that controls the copyright in the sound recordings (contact the Licensing Department of the relevant record company). ARIA offers a "blanket" licence which allows you to be covered for the electronic reproduction of the ARIA Licensors' repertoire (which includes the major record companies and many smaller labels) onto a primary and back-up hard-drive system for the purpose of providing a DJ service; and
2. a licence from AMCOS for the reproduction of the music. Generally, AMCOS will offer a "blanket" licence which allows you to be covered for all reproduction of musical and literary works for certain purposes.

#### *What about sampling music in a mix CD?*

Sampling is the taking of a 'substantial' or recognisable portion of another artist's work – including lyrics, melodies, rhythms and even the recording itself. You have sampled an artist's work if it is still recognisable as that work, regardless of whether you have altered the original excerpt or placed it into a new context. Like copying music, sampling is only legal if you have been granted permission from both the owner of the sound recording (generally through the Licensing Department of the relevant record company) and the owner of the musical work (through AMCOS).

#### *Is it illegal for me to copy music from the internet?*

The basic legal principle is that you cannot copy or distribute music including from the internet without the permission of all relevant copyright owners. There are a number of legitimate download sites in Australia which are listed on the MIPI website under Links. If you are unsure of whether a particular website is appropriately licensed, you can contact MIPI.



***What about using music obtained by file sharing?***

Unless authorised, the vast bulk of P2P 'file sharing' is considered illegal copying and transmission of copyright material. This activity hurts sales of music and the livelihoods of people in the business.

***What if I download music from a site overseas where the law might be different?***

Internet activities of this sort typically involve acts of copying, transmission, or distribution in both the 'receiving and sending' countries and the laws of each will apply. Be aware that if you download music files to your PC located in Australia, without the copyright owners' permission, you are committing an infringement of copyright under Australian law.

***Why should I bother to ask for permission to use samples or to copy music?***

Not bothering to ask for permission may seem like the quickest and cheapest option when you decide to copy or sample, however there are a number of other reasons why you might want to think twice:

- As a DJ you will appreciate that musicians deserve to be compensated for their hard work;
- If people aren't willing to pay for the music they love, the music industry will find it increasingly difficult to commit the kind of resources it takes to discover and develop new Australian talent;
- Under the Copyright Act, infringement of copyright by illegally copying (including over the internet), selling, distributing, importing, performing or having in your possession illegal discs, attracts maximum penalties of up to \$60,500 or 5 years imprisonment for each infringement; and
- It is wrong. You wouldn't steal a mobile phone, so why would you steal music?

***What if my 'mix CD' is going to be distributed for free?***

Regardless of whether you are making a profit or not from your CD, copying or sampling music without the permission of the copyright owners breaks the law.

***Do I need any licences to DJ at a club or other venue?***

Yes, generally the venue (for example, the club, hotel, nightclub or restaurant) needs a public performance licence from APRA and PCCA (or the relevant copyright owner) in order to allow you to play legitimately obtained music in public. However, in circumstances where you are performing at a venue that would not ordinarily require a licence, you may need to get public performance licences from APRA and PCCA (or the relevant copyright owner) in your own right.

***I own a bar. Can I be responsible if the DJ is playing pirate discs or illegal MP3s?***

As the owner or operator of premises you may be held liable for authorizing copyright infringement at your premises by allowing the DJ to use pirate discs or illegal MP3 files. So it's worth checking that they are using legitimate music at your venue.

**Respect copyright in music**

Music piracy has a major effect on the music industry. The makers of the music, the composers, lyricists and all the other people involved in the music industry are paying the price with less legitimate music being sold. People's livelihoods are affected. Honest DJs may be forced out of business because they can't compete with the pricing of the pirate DJ. As a result of piracy there is less money to be invested in making new music discs, which ultimately means less music for your next gig.

**Need more information?**

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