

# 6 :: Music & recordings

If your organisation uses any music or recordings, it will have copyright compliance issues to deal with. This could be the case if you're playing music or any recording, or making copies or using music when people are put on hold on the telephone.

These issues don't just arise if you're using live music (such as when you hire a band), but also if there are TVs or radios on in your organisation, and even if your organisation simply plays background music (for example in lifts, foyers, waiting rooms and offices).

## Playing music: live music, CDs & radios

### Education & training

There are two provisions in the Copyright Act that are generally relevant to education and training:

- section 28, which covers playing, screening or performing any type of copyright material during class, provided the class isn't run for profit; and
- section 106, which, among other things, generally relieves non-profit organisations established for educational purposes of the need to get a licence for playing sound recordings.<sup>33</sup>

Your organisation will, however, need to be covered by a licence from the Australasian Performing Right Association (APRA-AMCOS)<sup>34</sup> to play music outside the classroom – for example, in foyers, and at concerts, sports days and assemblies.

Primary and secondary schools are usually already covered by this licence, through arrangements made by the departments of education, peak organisations such as the Catholic Education Offices, and the various associations representing schools in the private sector.

Other educational institutions, such as universities, TAFEs, registered training organisations and other organisations where training takes place, should contact APRA-AMCOS direct to make relevant arrangements.

If you work in a **for-profit** educational institution (such as a private for-profit language college), you'll generally need licences from both APRA-AMCOS **and** the owners of copyright in the sound recordings, including for use of music and recordings in class.<sup>35</sup>

### Government

The provision for governments discussed in Part 3 is also available to governments when they are playing music and recordings. In practice, however, governments can comply with their obligations relating to playing music, CDs and the radio by taking out licences with the two relevant collecting societies, APRA-AMCOS and PCCA (discussed in more detail later in this Part).

At the Commonwealth level, departments and agencies deal with the collecting societies on a department-by-department, agency-by-agency basis. However, they should download the model agreement and information sheet relating to APRA-AMCOS, available on the Copyright Law Branch homepage of the Attorney-General's Department website, at [www.ag.gov.au](http://www.ag.gov.au).

If you work in a State or Territory department or agency, contact your government's copyright adviser to find out if your government has made any "whole of government" arrangements with APRA-AMCOS and/or in relation to sound recordings (for example, with PPCA), or whether you need to take out a separate licence.

## Other organisations (including libraries & businesses)

Organisations other than government and educational institutions will generally need a licence from APRA-AMCOS if they are playing music.

Note, however, that APRA-AMCOS gives complimentary licences for:

- :: organisations that have fewer than 20 employees, provided the music is heard solely by staff and not by clients;
- :: health professionals and businesses such as medical and dental practices, chiropractors, physiotherapists and acupuncturists, but only for the use of music in consulting rooms, not for the use of music in waiting areas or foyers; and
- :: churches, but only for the use of music during services, not for other uses of music, such as at fêtes or concerts.

Organisations other than government and educational institutions will also generally need a licence to cover the sound recordings if they are using sound recordings to play music (for example, playing CDs rather than the radio).<sup>36</sup> However, you won't need a licence in relation to the sound recordings if:

- :: your organisation was established for charitable, religious or educational purposes and any charge to listen to the recordings only goes to the purposes of the organisation; or
- :: the recordings are only being heard by inmates or residents.<sup>37</sup>

(In each of these cases, you'll still need an APRA-AMCOS licence.)

### Compliance checklist for this section

- :: **Assess the extent to which music and sound recordings are being played in your organisation.**
- :: **If music is being played, assess whether or not your organisation is able to rely on one of the free licences offered by APRA-AMCOS or on the "performance in class" exception in the Copyright Act.**
- :: **If music is being played outside the scope of the APRA-AMCOS free licences or outside the scope of the "performance in class" exception, get the relevant licence from APRA-AMCOS.**
- :: **If your organisation is playing music by means of tapes, CDs, MP3s or other sound recordings – and unless your organisation was established for charitable, educational or religious purposes or is only playing recordings for inmates or residents – get the relevant licence. Usually, this will be easiest to get from PPCA rather than from individual copyright owners such as all the relevant record companies.**

## Music on hold

Using music on hold on telephone systems raises copyright issues. This is because this constitutes a "communication" of the music and of any recording being used.

For music on hold, it doesn't matter whether your organisation is government, an educational institution, a non-profit organisation or a business.