

ASCAP—WHICH LICENSES PERFORMANCE RIGHTS ON BEHALF OF MEMBERS, COLLECTS LICENSE FEES AND DISTRIBUTES ROYALTIES—COULD HAVE CHANGED THE STEPHEN FOSTER STORY.

Today's songwriters and publishers owe their livelihoods to ASCAP and the 300,000 plus businesses and organizations who are licensed to use their music. Over 86% of those licensing fees are distributed to the creators and owners of the music, which allows them to keep writing and composing.

Because businesses use the music in different ways—from Jazzercise music to telephone on-hold—there is no single license structure that covers every application. In fact, ASCAP has worked with various types of businesses and other organizations to create over 100 different ASCAP licenses to cover your specific musical uses.

If you're not sure about your responsibilities according to the copyright law, or if you're not sure whether you need a performing rights license, please don't hesitate to contact our General Licensing Department at (800)505-4052. A list of the questions we're most often asked is included here for your review. You can also visit our website at www.ascap.com for additional information.



What is a copyright?

A copyright is property owned by a person or group of people. Books, records, movies, computer software and music are all copyrighted works.

Why do businesses and organizations need to be licensed to play music?

Music is like all personal property—when you want to borrow it from someone you must ask permission. All public performances, even most non-profit ones, must be licensed (with a few exceptions, such as performances in the course of a religious service at a place of worship, or face-to-face teaching in non-profit educational institutions).

What is a "public" performance?

According to the copyright law, a public performance occurs at any place open to the public, or where a substantial number of persons (outside the normal circle of family and friends) is gathered.

Does my ASCAP license cover every music copyright?

ASCAP represents over 400,000 writers, composers and publishers in the U.S. alone, and tens of thousands more from all over the world. Our repertory contains more than 8.5 million copyrighted works, and that number increases daily. Although ASCAP is the oldest and largest performing rights organization in the world, not all copyright owners are represented by ASCAP.

What does my license cover?

Depending on the type of business, your license might cover nondramatic performances by live musicians, videotape, large screen televisions, multiple screen televisions, CD/DVD players, record or tape players, radio over loudspeaker systems and telephone on-hold music.

How is the licensing fee determined?

The rate for your business is based on a number of objective factors established for similarly situated licensees. This means that you can be assured that businesses which use music in the same way you do, pay the same fee. Factors might include the size of the audience, admission cost, frequency of performance and whether the music is live or mechanical.



I bought the record. Didn't the purchase price include the right to play it in public?

A copyright owner enjoys several different rights, including the right to make and distribute recordings, as well as the right to perform the work. The right to play a song publicly is not included with your CD purchase. The price covers only your personal enjoyment of the music. You must have permission to use a work publicly.

What happens if I use ASCAP music without permission?

If you choose to use another's property without permission, a court can assess damages, generally ranging from a minimum of \$750 to \$30,000 for each song "infringed," and can require you to pay attorney's fees and court costs. As an ASCAP customer, you are entitled to use any of the music we represent.

How do I know what writers and songs you represent?

If you would like information on our members or repertory, please write us at please write us at ASCAP, P.O. Box 331608-7515, Nashville, TN 37203-9998, or call toll free 1-800-505-4052. You can also electronically access ASCAP'S database of songs online at www.ascap.com (click on "ACE/Repertory Search").

What are the benefits of the ASCAP license?

Although you can obtain permission directly from the copyright owner, it is generally less expensive and more convenient to obtain it through ASCAP. Besides giving you the right to perform all of the works in our repertory, as often as you like, an ASCAP license saves you the paperwork, trouble and expense of locating numerous writers and publishers to negotiate separate licenses for their works. ASCAP is a one-stop supplier for you, giving you access to millions of musical works of every kind, from all over the world with works being added to our repertory from the moment of conception at no additional cost to you.



Almost fifty years after Stephen Foster's death, the American Society of Composers, Authors and Publishers was created by nine illustrious songwriters to uphold the copyright law. John Philip Sousa, Jerome Kern, Irving Berlin, and Victor Herbert were among the first members of ASCAP, now the world's largest performing rights organization. Stephen Foster didn't have ASCAP, but today more than 400,000 beautiful dreamers do.

ASCAP represents every kind of music. ASCAP's repertory includes pop, rock, alternative, country, R&B, rap, hip-hop, Latin, film music, television music, folk, roots, blues, jazz, reggae, gospel, contemporary Christian, new age, theater, cabaret, dance, electronic, symphonic, chamber, choral, band, concert, educational and children's music—the entire musical spectrum.

ASCAP is home to the greatest names in American music, past and present, as well as thousands of writers in the earlier stages of their careers. ASCAP members include Irving Berlin, Stevie Wonder, Bruce Springsteen, Leonard Bernstein, Madonna, Wynton Marsalis, Stephen Sondheim, Mary J. Blige, Jay Z., Michael W. Smith, Duke Ellington, Rodgers and Hammerstein, Alan Jackson, Tito Puente, the Dixie Chicks, Dave Matthews, Beyonce, Henry Mancini—just to name a few.

Among the works in the ASCAP repertory are: "Appalachian Spring," "Purple Haze," "Boulevard of Broken Dreams," "Ain't No Mountain High Enough," "How Do I Live," "Oh Happy Day," "Beautiful," "I Swear," "A Night in Tunisia," "Moon River," "Crazy," "Just the Way You Are," "I Shot the Sheriff," "My Girl," "Hello Dolly," "When Doves Cry," "Jailhouse Rock," "Not Ready To Make Nice," "Like A Rock," "Like A Virgin," and "Born in the U.S.A."

Information about specific works and ASCAP members can be obtained in a variety of ways. Separate data bases of works in the ASCAP repertory that have been registered with ASCAP since January 1, 1991, or identified in ASCAP's surveys of performed works since January 1, 1978, are available online at the ASCAP website, www.ascap.com (click on "ACE/Repertory Search"). The ACE database can also be used to determine whether a particular songwriter or composer is a member of ASCAP. The same data contained in the ACE database is also available on DVD and can be purchased at a cost of \$5.00 by written request to: ASCAP, One Lincoln Plaza, New York, NY 10023, attn: Director of Repertory. More comprehensive records of the titles, dates of U.S. Copyright registration (if any), writers and current publishers or other copyright owners of all known works in the ASCAP repertory are available for public inspection at ASCAP's offices in New York City during regular business hours. You can also write or call ASCAP for information as to specific works: (866) 238-8997 or ASCAP, One Lincoln Plaza, New York, NY 10023 attn: Repertory Dept. - Clearance Section.



ASCAP

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(800) 505-4052 • www.ascap.com

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ASCAP

**keeps you
in tune**

**with the
copyright
law**

The Legend **BEHIND THE LAW**

Stephen Foster was a great songwriter. The creator of more than 200 American ballads including My Old Kentucky Home, Beautiful Dreamer, and Oh! Susannah. And even though Foster's musical legacy is rich in color and tradition, he died with only a few pennies to his name. During Stephen Foster's day, there was no effective way to protect musical compositions and no way to provide songwriting royalties or income.

An ASCAP License
is just...

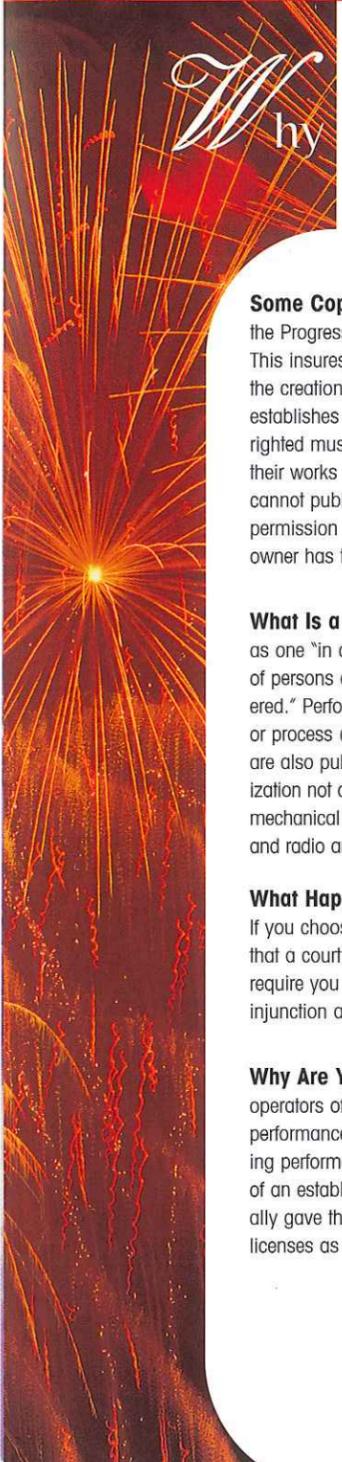
SOUND *P*OLICY

**THE ASCAP
LICENSE AGREEMENT
FOR LOCAL GOVERNMENTS**
Developed with the International
Municipal Lawyers Association

**A COMPREHENSIVE SOLUTION TO
MUSIC PERFORMANCE LICENSING**



Music
turns public
places into
community
Spaces



Why A Local Government Needs A License to Play Music

Some Copyright Law Basics: The Constitution authorizes Congress "to Promote the Progress of Science and the Useful Arts" by granting *exclusive* rights to authors. This insures that creators can earn a living from their work and provides incentive for the creation of more works. The Copyright Law of the United States, Title 17 USC, establishes property rights in musical works and grants creators and owners of copyrighted musical works the exclusive right to perform or authorize the performance of their works publicly (17 U.S.C. 106(4)). This means that, generally, other parties cannot publicly perform or authorize others to perform copyrighted works without the permission of the copyright owner. Also, as the case with other property rights, the owner has the right to be paid for the use of his property.

What is a Public Performance? The Copyright Law defines a public performance as one "in 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." Performances transmitted or otherwise communicated by means of any device or process (for example via broadcast, telephone wire, or other means) to the public are also public performances (17 U.S.C. 101). The law requires users to obtain authorization not only for performances by live musicians, but also for performances by mechanical means including DVD's, CD's, tapes, music on hold, karaoke, jukeboxes and radio and TV reception.

What Happens If You Play Copyrighted Music Without Permission?

If you choose to use someone's musical property without permission, the law provides that a court can assess damages from \$750 to \$30,000 for each work infringed, require you to pay the copyright owners' attorney's fees and court costs, and enter an injunction against you.

Why Are You Responsible for Obtaining a License? Under the law, owners or operators of facilities or presenters of concerts and other events are responsible for performances on their premises. Technically, everyone who participates in an infringing performance is liable and copyright owners can sue the event presenter or owner of an establishment as well as the members of the band or the disc jockey who actually gave the unauthorized performance. In practice, the owners and presenters obtain licenses as a cost of doing business.

ASCAP and the International Municipal Lawyers Association

How Do You Obtain a License? It is impossible for copyright owners to know of every conceivable use or performance of their works, and it would also be difficult for users of music to locate all the copyright owners and negotiate licenses for all of the works that might be used. So, composers and publishers of musical works authorize collective licensing organizations like ASCAP to locate and license public performances of their works. ASCAP, the American Society of Composers, Authors and Publishers, makes giving and obtaining permission to perform music simple, providing a valuable service to businesses and creators alike. ASCAP is the largest performing rights organization in the world, made up entirely of composers, songwriters and publishers.

Why Should You Obtain the ASCAP License Agreement for Local Governments? Local governments have obtained many different licenses from ASCAP for decades, but IMLA and ASCAP found the current licensing system was burdensome and left local governments vulnerable. Under the old system, each potential use of music (and you can see from this brochure there are many!) needed to be identified and separately licensed. One local government might have many different licenses each with different reporting and payment requirements, fee structures, levels and types of coverage, and effective dates. And there may be significant gaps in coverage raising the potential for copyright infringement liability.

What Are the Benefits of the Agreement? The ASCAP License Agreement for Municipalities and Governmental Entities – the product of negotiation between IMLA and ASCAP – provides simple, fast, comprehensive and affordable access to every variety of music you need to attract, entertain, enlighten and educate your citizens and visitors.

- Access to, and the right to perform, any or all of the more than 8 million works of the more than 300,000 ASCAP composer, lyricist, songwriter and publisher members and the repertoires of nearly 80 affiliated societies worldwide.
- Immediate access to contemporary music as soon as it is written or published...At no additional cost!
- Saves the time, expense, paperwork and trouble of contacting and negotiating separate permission for each musical work that may be performed during the year.
- Helps prevent even inadvertent infringements on the rights of ASCAP members and foreign affiliates.



The ASCAP License Agreement

What Is Covered? The license agreement covers almost all non-dramatic performances you present both on government property and at functions and events at other locations. These include live performances, recorded performances (CDs, tapes, radio and television over loudspeakers), and music on hold (ASCAP's licenses with radio stations do not cover your music on hold transmissions).

Does the License Cover All Uses of Music By Our Government? The license provides broad coverage for just about any public performance. But copyright owners enjoy a number of separate rights, including performing rights, recording rights and the right to reproduce (print) and distribute copies of their works, so rental or purchase of music does not authorize its public performance. Also, ASCAP members only grant ASCAP the right to license non-dramatic public performances of copyrighted music in the ASCAP repertory, so "dramatic" or "grand rights" performances are not covered.

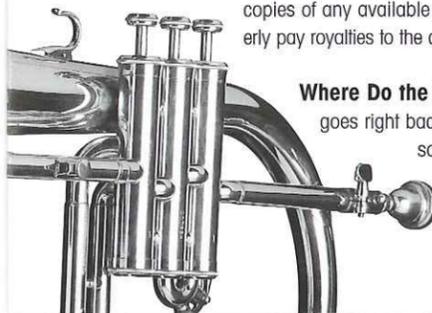
As it did with IMLA, ASCAP has negotiated comprehensive licenses with representatives of other industries. Those licenses should cover your performances in those areas – so to avoid duplicative coverage, the Local Government license excludes those performances. For example, ASCAP and the American Council On Education and the National Association of College & University Business Officers negotiated a model agreement which almost all U.S. colleges & universities have obtained. Similarly, radio and television broadcasts, cable, satellite and Internet transmissions are also separately licensed (although some of your closed circuit or intranet transmissions are covered by the new license). Finally, performances at theme and amusement parks, by professional sports teams or at professional sports events, and by symphony orchestras, are licensed separately.

When and How Are Fees Paid? A base annual fee based on population covers almost all government sponsored or presented performances. In addition, a separate Special Event fee is paid 90 days after major events that have very high ticket revenue. ASCAP and IMLA agreed on this dual fee to keep the base license fee low and reasonable for all government entities. Only those local governments that present major events pay additional fees for those events.

How Does the Special Event Fee Work? You pay license fees, based on "gross revenue" for all "special events" you present. Special events are those with "gross revenue" in excess of \$25,000. "Gross revenue" means all monies you receive or is received on your behalf from the sale of tickets for each special event. If there are no monies from the sale of tickets, "gross revenue" means contributions from sponsors or other payments received.

You are not required to keep track of the music performed at each special event, but you should send copies of any available programs. The program information you furnish helps us properly pay royalties to the composers and publishers whose works you have presented.

Where Do the License Fees Go? Over 86 cents of each dollar we collect goes right back to our members and to the members of affiliated foreign societies whose works are represented by ASCAP in the U.S.



Who Reports and Pays For Co-Promoted Special Events? If you present, sponsor or promote a special event with someone who is licensed under an ASCAP License Agreement, you will still need to report that event and provide the name, address, phone number and ASCAP account number of the other party. You must also let us know who will be responsible for payment. If the other presenter is not licensed by ASCAP, then you will be responsible for paying the license fee due – even if you have an agreement to the contrary with the other party.

Must You Sign an ASCAP Local Government License Agreement? No, but you must obtain authorization to perform our members' music. You can also obtain permission directly from the copyright owner. But ASCAP provides a valuable service to governments, businesses and organizations that use copyrighted music—by helping you easily meet your obligations under the Copyright Law. In short, the ASCAP license is music to everyone's ears.

Are Changes to the Model License Agreement Permitted? The provisions of ASCAP's license agreements are uniform and do not vary for licensees making similar use of ASCAP's members' music. The reason for this is that ASCAP's licensing activities are largely governed by a consent decree entered in a federal antitrust action, *United States v. ASCAP*, and one provision of that decree prohibits ASCAP from "[e]ntering into, recognizing, enforcing or claiming any rights under any license . . . which discriminates in license fee, or other terms and conditions between licensees similarly situated . . ."

Simply put, modification of the license agreement may well expose ASCAP to a claim of discrimination asserted by other licensees with whom we have executed the same form of license agreement. However, we recognize the special legal requirements of municipalities and other governmental entities, therefore, the agreement permits modifications such as the inclusion of equal employment opportunity statements and other provisions that are required by local or state law.

What If You Believe ASCAP's Fees Are Unreasonable? Any music user who thinks the fee for an ASCAP license is unreasonable may ask the U.S. District Court for the Southern District of New York to determine a reasonable fee by instituting a proceeding in that court. For more information on this process, your attorney should contact ASCAP's Legal Department in New York.





Festivals • Concerts • Arts & Crafts Fairs • Parades

First Night and New Year's Celebrations • Fireworks

Carnivals • Swimming Pools • Community Centers

Dances • Aerobics classes • Golf and Tennis Centers

Snack Bars • Parks & Recreation Facilities • Music

on Hold • Background Music in Municipal Buildings

Employee Functions and Parties • Municipally Owned

Shops • Hospitals • Non-Exempt School Performances

City Hosted Conventions • Employee Training Sessions

Ice Skating Rinks • Roller Skating Rinks • In Line

Skate Parks • Amateur Athletic Leagues and Events

Buses, Trains and Subways • Carnivals • Airports

Museums • Laser Shows • Aquariums • Zoos



ASCAP's repertory includes pop, rock, alternative, country, R&B, rap, hip-hop, Latin, film music, television music, folk, roots, blues, jazz, reggae, gospel, contemporary Christian, new age, theater, cabaret, dance, electronic, symphonic, chamber, choral, band, concert, educational and children's music — the entire musical spectrum.

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Founded in 1935, the International Municipal Lawyers Association (IMLA) is a nonprofit organization consisting of over 1,400 local governments and their attorneys throughout the United States and around the world. For more information on IMLA and the ASCAP Local Government License Agreement, please visit our website at: www.imla.org.



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