



Affiliated to the Federation Internationale de l'Art Photographique

THE SECOND AND (HOPEFULLY) FINAL COPYRIGHT SPECIAL ISSUE

Audio Visuals and Soundtrack Copyright

This subject has proved to be much more difficult to research than we thought and the more we read the more confused we become. This issue reprints an article from the RPS AV News and also some news of legislation and possible changes – if you can understand any of it. I hope this is the last **e-news** word on copyright but

PAGB RECOMMENDATION

No-one on the PAGB Executive has the expertise to make definitive statements about Copyright law but these, and previous, articles reflect our limited understanding. We hope it may be helpful. However, Copyright law is very complex and neither the PAGB nor any of the authors accept any responsibility for inaccuracies or misunderstanding that may result from their use.

So far as we can understand it there are three licenses, which are required in order for you to use commercial music in your AV shows – and even then you should be careful about charging a performance fee or an entry fee. Expenses or a contribution to costs seems to be permissible.

British Phonographic Industry (BPI).

Protects the copyright of the Record Company who made the recording.

Mechanical Copyright Protection Society (MCPS)

Protects the copyright of the Composers of the music.

Phonographic Performance Limited (PPL)

Protects the copyright of the Performer or Performers.

It is the strong recommendation of the PAGB that producers of AV shows should purchase all three licenses to ensure that they are not breaking the law. Not everyone in the AV field shares this view but surely it is better to be safe, at a relatively modest cost, rather than risk legal action?

For IAC members* the cost of the three licences (MCPS, BPI, PPL) is £7.17. For members of the PAGB and the RPS the cost is £8.54 for the MCPS and the BPI licence whilst the PPL license is only available to IAC members.

*Annual Club membership of the IAC is £40.50 and for Individuals it is £37.50, with reduction for over 65's. (IAC Membership has other benefits including access to their music library.)



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Copyright. John Smith APAGB CPAGB

First published in AV News 177 - August 2009

For AV makers obtaining the copyright clearance and licences required for any public show might feel a real pain in the ... until you wonder what it would be like if someone else exploited your work for profit without permission or payment.

The laws of copyright allow artists, writers and composers to treat their work rather like possessions which they can sell or rent out to others. They can also refuse anyone else the right to use it. Few AV's are without some form of background or supporting music and to use this legally involves obtaining the necessary permissions and licences, of course anyone can try to buy the rights to use a piece of music from music publishers but at a very high price.

For amateurs not willing to spend a fortune you could:-

- **Write and play your own music** or maybe find someone to do it for you.

- **Use "royalty free" music** - this comes either in CD collections or as tracks you download from a company's website. These CDs typically cost around £30 - 35 - far more than normal music CDs - but for this you get a whole set of rights to use the music in your work without further charge. (It is important to check carefully exactly what rights each company offers.) Many of the suppliers also let you buy individual tracks to download at various prices. The catch is that a great deal of this music is synthesised rather than played on real instruments - and you can hear it. There are also sources of royalty free music which can be downloaded for nothing

- **Use 'library music'** - this is what a great many professionals use for television and film with a vast range of recordings offered by specialist companies. Most are played by real musicians on real instruments and many well-known classical music tracks are available this way. These firms do not normally sell to the public but IAC members can get advice on what is available and buy this music through their Music Advisory Service. If you are not an IAC member you need the two clearances in the IAC Copyright Scheme to use library music and also you must then obtain written permission from the Musicians Union.

NEGOTIATIONS WITH THE IAC

In his article published here and on the following pages by kind permission of AV News John Smith concludes that, unless the RPS and the PAGB were willing and able to negotiate a new agreement with the IAC on behalf of their respective memberships to include the PPL Licence, then to ensure that they are fully covered, individual authors and AV makers should become IAC members.

Robert Albright takes up the story "Well... The RPS and The PAGB were willing, but unfortunately not able, to negotiate a new agreement. The RPS Council and The PAGB Executive agreed that Peter Brown and I should approach the IAC on this subject.

I spoke to the Chairman of the IAC who took time to consider the matter, including the possibility of an Associate Membership for RPS and PAGB members perhaps without all the frills such as the bi monthly IAC magazine.

Unfortunately, after the IAC Executive met, he came back to me to say that no agreement was possible. This he attributed mainly to the fact that when the IAC negotiated the licensing arrangements many years ago, it was made a condition that only IAC Members qualified for the PPL Licence. The IAC also believe that they would lose more income than they would gain."

- Use Commercial Music taken from a CD purchased from a retail outlet in this country - to be able to use this you must join the IAC and then buy all the licences in their Copyright Clearance Scheme

What is their Copyright Clearance Scheme?

Before we start, please note most of the information in this section is UK specific - laws and customs may be different in other countries and that copyright law is very complex and although great care has been taken in compiling these notes which are of particular interest to amateurs, neither we, the IAC, nor the compilers accept responsibility for any inaccuracies or misunderstanding that may result from their use.

The IAC has negotiated special arrangements with the various licensing bodies allowing the use of both Library music and Commercial recordings in members' sound tracks, for their video, film and audio visual presentations

Copyright is recognised by Acts of Parliament - the main legislation being the Copyright, Designs and Patents Act of 1988 and subsequent amendments. The Law is designed to protect the ownership of the work of writers and composers and others to whom the creators of the work have assigned their Rights, as well as the manufacturers of sound recordings and broadcasting authorities.

Current legislation extends the protection period to SEVENTY years after the death of the creator and an infringement of its provisions can give rise to legal action.

The Rights to be cleared cover:

- The Rights of composers and arrangers
- The recording from which a sound track is made
- The performer(s)
- The public performance

It is an offence:

- To make a recording of Copyright music, even if that recording is not played back
- To record, or copy, any recording without the consent of the maker and or performer(s)
- To play or reproduce Copyright music in public without the appropriate permissions

There are four copyright bodies in Great Britain from which copyright clearance must be obtained:

- **The Mechanical Copyright Protection Society (MCPS)** which protects the **rights of the Composer of a piece of music** for up to 70 years after their death. It permits the licensee to record (dub) musical works owned by its members which have previously been released as a sound recording on condition that the recordings are privately used only:

- a) For exhibition to friends and relations in private
- b) On amateur movie, photographic or video club premises where admission is free or where a charge is made for club funds
- c) For public exhibition when such is promoted for the raising of club funds or for bone fide charitable causes
- d) For not more than TWO public exhibitions held annually in addition to those in (a) and (b) above
- e) For exhibition at annual amateur movie, photographic or video festivals attended by competitors and friends
- f) Exhibition to judges in amateur film, photographic or video competitions. Remember that this is only the Composers' clearance and that to show your sequence on any of the above occasions you will also need to be in possession of the Phonographic Performance Licence (PPL) licence.

Opinions expressed are not necessarily the opinions of The Photographic Alliance of Great Britain and the PAGB accepts no liability for any content. Please forward e-news to anyone who would be interested and we would be delighted if you print it for your club notice board, etc.

Anyone who would like to receive e-news may register by e-mail to rod@creative-camera.co.uk
e-news editor - Rod Wheelans, 43 Lovers Walk, DUMFRIES, DG1 1LR tel :01387 257906

- **The British Phonographic Industry (BPI)** which permits the **Copying** of the whole or section of a piece of music made by leading manufacturers.

- a) The original recording used by the licensee must be his/her personal property and purchased through regular retail channels
- b) The **names** of all instrumental groups, bands, orchestras, choruses, solo artists and/or performers shall **NOT** be identified in subtitles or credits etc.
- c) All other Copyrights e.g. Composer, Performer, shall be cleared before the recordings are copied or dubbed
- d) That no copies of the sound tracks on which the recordings reside be used for any other purposes whatsoever.

- **The Phonographic Performance Ltd (PPL)** which covers the **Reproduction in PUBLIC** of sound tracks that have been created from **COMMERCIAL RECORDINGS**.

It is important to note the wording and definitions within the above statement:

PUBLIC has been defined by the courts as any group of persons outside the immediate family circle.
COMMERCIAL RECORDINGS are defined as recordings purchased by the producer of the sequence through normal retail channels within the United Kingdom.

Also please note that whilst two of the necessary licences are available to members of the Royal Photographic Society and the Photographic Alliance of Great Britain **this important licence is only available to IAC members and IAC Affiliated Clubs**. A licence in a club's name applies only to productions made by the club nominated. It does not cover any productions made by individual members on their own behalf. Similarly, licences in the name of an individual clear that person's work only

- **The Musicians' Union** has to be contacted to obtain the **performers consent** to having a recording of any part of their performances incorporated into a sequence and in addition the author must hold the MCPS, BPI and PPL licences.

From August 2005, however, it has been no longer necessary for IAC members to apply for this consent provided that it is for PRIVATE use and/or for exhibition to a NON-PAYING AUDIENCE. Commercial exploitation will still require prior consent of the Union. Non IAC members would have to seek written permission from the Musicians' Union to be able to use Commercial recordings. This would be in addition to all clearances and consents that would have to be obtained with regard to Composer and Recording Rights.(MCPS and BPI).

So to try and simplify things what does all this mean to the producer of an audio visual sequence who wishes to use a piece of music from a CD that they have purchased from a shop in this country?

If they are a member of the Royal Photographic Society or the Photographic Alliance of Great Britain they might have gone out and purchased the MCPS and the BPI licences - the only ones that are available to non IAC members at a cost of £8.54, believing that this is all they need. Unfortunately what this really means is that the producer can add a part or the whole track of a commercial recording to their project - but then they do not have the necessary permission to show their beloved work of art to anyone deemed to be the 'PUBLIC' - by definition that is to no-one outside their immediate family!!! How many authors would just want to do that?

There are even more complications with those authors who wish to purchase the two available licences as members of PAGB affiliated clubs.

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The constitution of the PAGB states 'Clubs are affiliated to the Photographic Alliance of Great Britain through their 'area' Federation - so the clubs are members of the Federation - but it is the 15 Federations that are the actual members of the PAGB. This means that individual members and possibly even clubs may not be legally covered by these licences. Royal Photographic Society members are different in that they are actual members of that Society (*e-news Editors Note: John's description of Federations as "members of the PAGB" is accurate but it seems to me that if the IAC sell individuals or clubs a licence under our agreement then that licence will be valid even if they misunderstood the membership arrangement. We believe our agreement extends to clubs and club members otherwise it is almost valueless.*)

In conclusion you can see that this is a legal minefield. Unless the RPS and the PAGB are willing and able to negotiate a new agreement with the IAC on behalf of their respective memberships, then to ensure that they are fully covered, individual authors should maybe become members also of the IAC. With the subscription members also receive their bi-monthly copies of 'Film and Video Maker', the IAC 'in-house' magazine. Once they become members they will also have to purchase the three licences and then it is just a matter of abiding by all the conditions that are attached to each licence and they should be fully protected from any legal action.

I hope that this article has made things a little clearer and I thank Pam Harrison Administrative Secretary at the IAC and Gerald Mee FACI ARPS, the IAC Music Copyright Adviser, for all their help. John Smith CPAGB APAGB

AV NEWS * AV NEWS * AV NEWS * AV NEWS

The AV News magazine is provided to all members of the RPS AV Group and is now also available, by subscription, to non-members. The cost of the magazine is just £20 per year for four, 56 page, full colour issues and it can be ordered from subscriptions@avnews.org.uk

The magazine reports on all that is happening within the AV world both at home and abroad. The Editors Jill K Bunting CPAGB and John Smith APAGB CPAGB are always pleased to receive reports from photographic clubs and societies around the country that may have even a small AV section - please send all your AV news to editors@avnews.org.uk

There is also an AV News website at www.avnews.org.uk which has all the latest news and pictures, an up to date events diary and useful links to most of the various download and information sites that you might need. Please have a look!

We are very grateful to AV News for allowing us to publish their articles and, if you have an interest in AV, we thoroughly recommend that you subscribe to the magazine.

AND IT GETS BETTER

The last Government through the Intellectual Property Office (IPO) called upon Phonographic Performance Limited (PPL) and the Performing Rights Society for Music (PRS) to get together to produce a simpler system for “the Third Sector” to get themselves licensed to play commercially recorded music at public venues. This seems to be more aimed at Village Discos and Church Fairs but probably covers camera clubs. It is assumed that this consultation will continue under our new better-hung parliament. See what you make of this IPO Press release.

**Government announces change in copyright law for
Third Sector and not-for-profit organisations**

The Government today announced its response to the consultation on changes to exemptions for charitable, not-for-profit and other Third Sector organisations in relation to licences required for the public playing of sound recordings and broadcast music.

The changes involve repealing existing exemptions. This will simplify the law and help greater understanding of the rights of music users and those who own the copyright.

Following the consultation, Phonographic Performance Limited (PPL), the collecting society whose members this affects, have agreed a number of initiatives, working with *PRS for Music* to help Third Sector organisations that will require PPL licences when the repeals take effect next year. They aim to ensure a joined up approach from PPL and PRS for Music

The key initiatives are:

- **A new joint licensing scheme:** this aims to simplify the process for a Third Sector organisation obtaining a licence for playing sound recordings and broadcast music. This will cut down on administration costs for both users and collecting societies.
- **A code of practice and independent complaints mechanism:** The code will detail the service customers can expect. Where disagreements do occur, music users want an independent, quick and affordable complaints mechanism. With PRS for Music already having implemented this in July 2009, PPL will also develop a code of practice linked to an independent complaints reviewer.
- **PPL consulting Third Sector organisations with the Community Sector Law Monitoring Group (CSLMG)** to agree affordable tariffs.

I’m not sure how much difference this makes to people making AVs for camera clubs and competitions and the Editors of AV News have given me the following opinion.

“The ‘further developments’ (*described above*) may be the suggestion that if the venue has a PPL licence and the author has the other licences then they might be OK. Our view is that, whilst the venue might have a public performance licence, it might not allow anyone, other than the venue owners themselves, to play music and the onus would be on the author to find this out.”

They conclude “that to ensure you are covered you need the three licences and the only way to obtain these is to join the IAC.” The PAGB agrees with this opinion.

MUSIC LICENSING AND NOT-FOR-PROFIT

(Press release by the PPL)

Following a consultation, the Government has announced that the licensing rules surrounding not-for-profit organisations will change.

This sector comprises, amongst others, government buildings, student union nightclubs, charities, community halls, voluntary organisations and social enterprises. These changes will bring licensing in this sector in line with the rest of Europe and will take effect in April 2010. From then on, not-for-profit organisations using recorded music will need a licence from PPL. Responding to these changes, PPL and *PRS for Music* will develop a pilot joint licensing scheme in conjunction with charity representatives. The benefits of this will be that it offers a simple 'one-stop shop' for charities with certainty about the costs involved.

As well as developing plans for licensing public sector establishments, PPL is in detailed discussions with the CSLMG representing community buildings, the ACS representing charity shops and NCVO representing charities generally. These discussions are focusing on how to bring in these changes in a way that is fair and equitable to charities and community groups. In particular, there is a desire to keep the administrative burden to a minimum.

To support these discussions, PPL is inviting comments and contributions from those affected by the changes in music licensing. If you would like to input to this consultation, please email your comments, with a brief description of your organisation and activities using recorded music, to

notforprofit@ppluk.com

ABOUT PPL

PPL is the music licensing company which, on behalf of 42,000 performers and 5,000 record companies in the UK, licenses recorded music. This enables TV and radio stations, online streaming services and hundreds of thousands of shops, pubs and other establishments, large and small, using music in their business, to obtain a single licence which gives them legal access to literally millions of recordings.

As an industry service, PPL does not retain any profit for itself. The costs of collecting, processing and distributing the licence fees are taken from the gross revenues that the company collects. All these revenues are distributed and paid to all PPL's record company and performer members. These include featured artists as well as session musicians, ranging from orchestral players to percussionists and singers, 90% of whom earn less than £15,000 per year.

ABOUT PRS FOR MUSIC

(Performing Rights Society)

PRS for Music is the leading copyright and royalty collection society representing 60,000 songwriters, composers and music publishers. A not-for-profit organisation, it ensures music creators are paid whenever their music is played.

PRS for Music provides business and community groups with easy access to 10m songs through its music licences. These licences provide royalties which create a future for music by supporting creators while they continue to write.

PRS for Music has been at the heart of the music industry since 1914.

More information is available at
www.prsformusic.com/charityandcommunity

A FINAL NOTE

If you are infringing copyright and threatening the way that someone else makes a living you can expect an adverse reaction. However, with a little commonsense, there is no reason why you need be handicapped in your hobby for lack of suitable music. Be careful and ENJOY your AV!

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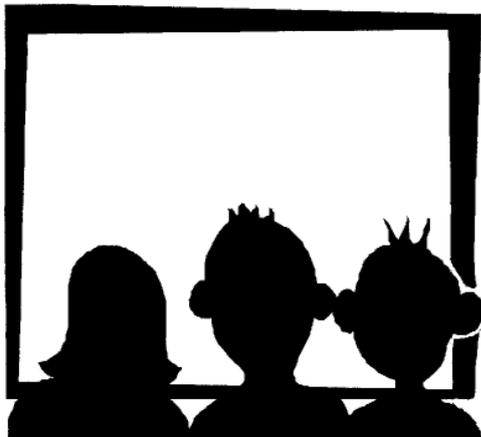
The tour will cater for all levels of photographic skill from novice to advanced. There will also be plenty of time to relax, to enjoy Turkish food plus a range of optional day excursions including trekking, scuba diving, sea kayaking and visiting sites of historical interest – or you can just chill out or go shopping.

Photo leader Rod Wheelans FRPS FIPF MFIAP MPAGB, one of the most successful exhibition photographers in the UK will be on hand to help you get “exhibition” pictures with advice, workshops, discussions, reviews of your work and practical photo taking sessions.

Contact Journey Anatolia for more information;

t: 020 7617 7875 e: tours@journeyanatolia.com

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INTER-CLUB PDI CHAMPIONSHIP

**The Arts Centre
University of Warwick**

**Saturday
17th July 2010**

**Commencing
at 10.15am**

The **PHOTOGRAPHIC ALLIANCE OF GREAT BRITAIN** invite all interested in **PHOTOGRAPHY**, whether members of a competing club or not, to attend the 2010 PAGB Inter-Club PDI Championship.

This exciting and stimulating event is held in the 550 seat tiered theatre within The Arts Centre complex of the University. The University is just a few miles south west of Coventry, off the Coventry-Kenilworth Road (A429). There are Bar and Catering facilities within the building and ample free Car Parking.

Two Clubs from each of the 15 Federations, together with the top 9 placed clubs from the 2009 Championships will compete to find the Champion Club for 2010.

Admission is by prepaid ticket only. These can be purchased by completing the form below and sending it with the correct remittance and a SAE. Wheel-chairs can be accommodated, but this requirement must be notified on the ticket application form.

Mrs Carol J Cheetham APAGB 6 Twentylands, Rolleston-on-Dove, Staffs. DE13 9AJ

or

Mrs Margaret Collis ARPS DPAGB APAGB HonFIAP 13 Sedgemoore Close, Nailsea, Bristol BS48 4YR

Please send me.....Admission Tickets at £10.00 each. Total remittance £.....

Please make cheques payable to the 'PAGB'

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I/We are members ofClub/Society.....Fed.

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Please include a Stamped Address Envelope
Please note that tickets booked and paid for are non returnable