USING COPYRIGHT MUSIC AT ECU

In mid-2005 ECU became signatory to a blanket music licence which had been negotiated between the Australian Vice-Chancellors’ Committee (AVCC) and the various music collecting societies. The licence allows participating universities (subject to certain conditions) to perform, copy or communicate copyright musical works and sound recordings for their educational purposes and for university events.

Under the agreement ECU pays an annual licence fee to the four music collecting societies. The four societies between them control about 95% of recorded music available in Australia. The four societies are:

- Australasian Performing Right Association (APRA)
- Australasian Mechanical Copyright Owners' Society (AMCOS)
- Phonographic Performance Company of Australia (PPCA)
- Australian Record Industry Association (ARIA).

Participation in the licence agreement means that ECU staff are able to reproduce, communicate and perform an extensive repertoire (AMCOS, ARIA and PPCA) of musical works without having to obtain prior permission from the individual copyright holders.

SUMMARY OF PROVISIONS

There still seems to be some uncertainty amongst staff about whether they’re allowed to use copyright music in particular situations. It therefore seemed worthwhile to prepare this brief summary of what is or isn’t permissible under the Copyright Act 1968 and the new music licence agreement.

Copying or performing for teaching purposes

It’s OK to play a commercial music tape/CD in class because this isn’t regarded as a "public performance".

It’s OK to incorporate extracts of copyright sound recordings into ECU teaching materials, subject to certain conditions:

- the copying must be for educational purposes associated with a course of study and/or research;
- the materials containing copyright music can only be made available to ECU students or staff;
- the materials must carry the required warning notice and label (see “Marking and Labelling requirements” below).

Communicating for teaching purposes

It’s OK to communicate teaching materials containing copyright music to ECU students via a password-protected Intranet or online teaching system (e.g., WebCT, Blackboard), but not via the Internet or email. The following conditions apply:

- students aren’t allowed to download the music;
- the music file must be accompanied by the required warning notice and label (see “Marking and Labelling requirements” below).

Copying sheet music for teaching purposes

Under the University’s Print and Graphic (Part VB) licence agreement it’s OK to copy a very limited amount of sheet music for teaching purposes. This permission isn’t always very useful because as a rule you’re only allowed to copy up to 10% of the musical work. For printed sheet music the 10% rule applies to the number of pages, while for electronic works it applies to the number of bars.

However, you may copy the entire work if you’re satisfied after reasonable investigation that the work is not commercially available (i.e., it is out of print).
Playing music at a University event

It’s OK to play sound recordings at official University events (e.g., graduation ceremonies, art exhibition openings, Open Days) provided that no admission fee is charged. If you propose to charge an admission fee for the event, then you’ll need to obtain a special licence from APRA and the PPCA.

Playing music in University premises

Commercial enterprises based on campus, including those operated by the Guild, need to obtain a special licence from APRA and the PPCA if they wish to play background music in their business.

Similarly, outside organizations that hire University premises must obtain a special licence if they wish to play music at their function.

The University has been advised that it’s permissible to play background music (without the need for a special licence) in teaching situations where the music is incidental, and where the educational purpose clearly outweighs any commercial intent. This would apply, for example, where teaching schools/departments run clinics or centers (e.g., Psychological services, Degrees Brewery Restaurant) in which students gain practical experience and are assessed on their clinical and theoretical technique. Even though clients pay a charge for the treatment they receive, this clinical or theoretical practice is regarded as an educational rather than a commercial activity, and consequently the playing of background music would be covered under ECU’s overall licence.

Copying music for or at a University event

It's OK to copy musical works for use at an official University event.

Similarly it’s OK to make an audio or video/DVD recording of a University event (e.g., graduation ceremony) that features copyright music. However, such recordings can only be sold to students and their families on a cost recovery basis – the University is not allowed to make a profit on their sale.

Listening to music at work

It’s OK (subject to your manager's approval) for staff to play music on the radio or on a CD player at work as long as this is only for the benefit of ECU employees.

Copying for research and study

Under the fair dealing provisions of the Copyright Act you’re allowed to copy a “reasonable portion” of a sound recording or printed sheet music for the purpose of research and study, or criticism or review. As a rule you can only make a single copy of the reasonable portion for your own personal use.

Copying for Personal Use (other than for teaching or research)

Unless the copying is done for educational purposes or under the fair dealing provisions (see above), there’s currently nothing in the Copyright Act that makes it legal for people to copy music from a commercial CD onto an iPod or onto a computer system. This is so even if you’re the rightful owner of the CD. The Federal Government is currently looking at whether this sort of “format shifting” for personal use should be made legal, but at the moment it’s not.

Staff are given access to the University’s computer facilities and services only for legitimate educational or administrative purposes. Therefore these facilities/services should not be used to download or share music for personal use. On no account should you download, store or share copyright-infringing material (e.g., music obtained from an illicit web site or peer-to-peer file) using ECU computer facilities.

Music on Hold

Telephone systems throughout the University may play music on hold.
Copying music for student film productions

It’s OK for ECU students to use segments of copyright music in a film which they make as part of their course and submit for assessment. However, this doesn’t allow them to show the film outside ECU (e.g., at a festival) or to sell the film to a distributor. The student would have to get permission from the music copyright owner to do this.

Using music in dramatic context productions

The collective music licence doesn’t cover the use of music in dramatic context productions. If you want to use music in a dramatic context (e.g., as part of a play), you’ll need to obtain a special licence from APRA. Similarly if you want to perform a musical work (such as a musical theatre show or operetta) as part of a Performing Arts course then you’ll need to obtain the rights from the music publisher or copyright holder.

Marking and labelling requirements

If you supply students with teaching materials or recordings of a University event that contain excerpts of copyright music, then the teaching materials/recording (or its packaging) must carry:

a) the following notice:

“This recording has been made by Edith Cowan University under the express terms of an educational licence between it, ARIA, AMCOS, APRA and PPCA and may only be used as authorised by the University pursuant to the terms of that licence.”

b) the following information:

- the title of each musical work;
- the name of each composer, lyricist and arranger of the musical work; and
- if the recording is an ARIA Sound Recording, the artist/group name, and the record company label.

These labelling requirements apply regardless of whether the teaching materials/recording is made available as an electronic item (e.g., CD, DVD, CD-ROM), or communicated via the Intranet.

NEED MORE INFORMATION?

If you have any further queries about music copyright or other issues relating to copyright please contact Krishna Prasad, the Copyright & Legal Officer on 6304 2524 (or email copyright@ecu.edu.au).

Further information on copyright can be found at http://www.ecu.edu.au/GPPS/copyright/ 

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