

MANAGING COPYRIGHT MUSIC LICENSES

For Music Directors and Clergy

PART 1 of 2

* * *

Ed Ackermann

March 9, 2021

INTRODUCTION

This presentation, in two parts, provides information on how to manage licensing (permissions) of copyrighted **music** used in your church's worship services, and how to keep your church compliant with the copyright law.

Presented by Ed Ackermann, Music Director at St. Barnabas Anglican Church in north Fort Worth Communications Director and other staff positions for Fort Worth Chapter of American Guild of Organists. He is also a member of the Church Music Institute headquartered in Dallas.

Information presented is based upon personal research and copyright workshops conducted by the American Guild of Organists and the Church Music Institute.

A handout accompanies this presentation. You may find it on the diocesan website under "**Risk Management & Church Administration Resources**." Download it and use it to follow along with the presentation.

This presentation is only for educational purposes, and not offered or intended as legal advice. Consult with legal professionals regarding unique needs of your ministry.

Part 1 follows.

PURPOSE OF THE PRESENTATION

PART 1

- Defining Licensing and Permissions of Copyrighted Music
- Using Public Domain vs. Copyrighted Music
- Understanding the Religious Performance Exemption
- Determining the Kinds of Copyright Licenses Needed
- Determining Public Domain vs. Copyright Status
- Identifying the Copyright Holder(s)

PART 2

- Obtaining Licenses to Use Copyrighted Music
- Choosing a License Clearinghouse Company
- Attributing Copyright Licenses
- Documenting and Reporting Usage
- Assigning Management of Copyright Licenses to a Designated Staff Position

DEFINING LICENSING AND PERMISSIONS OF COPYRIGHTED MUSIC

“Licensing” in terms of copyright law means securing permission from a copyright holder of music (a score or audio/video recording) to reprint, reproduce, broadcast, audio/video record, perform the music in a public way or re-arrange a score. As part of securing permission, a royalty fee usually must be paid to the copyright holder.

A separate license is required for each KIND of use.

A license is required for EACH use of the music.

Obtaining licenses TIME and MONEY!

- Develop music plans well in advance of use and/or performance
- Get licenses BEFORE use and/or performance
- Getting a license for each copyrighted piece of music
 - - Using church staff: long timeline

(Locating copyright holder, getting permission, sending royalty payment)

- - Engaging a licensing clearinghouse

(Automatic licensing of music in their inventory)

A church has NO requirement to obtain licenses if:

- Music is performed only for congregation in the sanctuary
- Congregation and choir sing from purchased hymnals and anthems
- Instrumental music is performed from purchased scores
- Music scores/lyrics are not printed in service aids or projected on screens
- Audio/video music recordings are not used in the service
- Scores don't need to be re-arranged for choir or instrumental ensembles

No license is need if livestreaming the performance of only Public Domain music scores.

USING PUBLIC DOMAIN vs. COPYRIGHTED MUSIC

To avoid the licensing requirements of copyright law, use only Public Domain music scores!

Make sure the score **IS** a Public Domain score!

All scores published before 1925 are in Public Domain.

Public Domain scores may be copied, reprinted, projected on screens, livestreamed, recorded.

You may use a Public Domain score to make your own arrangement (and copyright it).

A Public Domain hymn tune that is arranged by Mary Jones as the basis for an organ prelude means that the prelude is in copyright status (unless the copyright has expired, or the copyright holder has granted universal permission to use the music in any way for a religious service).

Many Public Domain scores are edited and adapted for easier reading or transcribed for other instruments. They are published in collections that are under copyright.

Note that some scores, such as traditional hymns, have mixed copyright status.

- The tune may be Public Domain
- The harmony/accompaniment/descant may be Copyrighted

THE RELIGIOUS PERFORMANCE EXEMPTION

Copyrighted music that stays within the four walls of the sanctuary during a religious worship service is EXEMPT from public performance licensing requirements of the copyright law.

If the copyrighted music performed (instrumental or vocal) is broadcast over radio, TV or internet, the exemption is lost, and **a license is required to perform the music.**

THE KINDS OF COPYRIGHT LICENSES NEEDED

- Consider the different kinds of music scores used for religious services

Instrumental Solo (organ, piano, trumpet, flute, etc.)

Instrumental Ensemble (band, orchestra, brass quartet, oboe & piano, etc.)

Congregational Song (traditional hymns, contemporary Christian songs, liturgy music settings)

Choral Anthems/Vocal Solos

- What requires permission?

Printing music scores and/or lyrics in service aids

Broadcasting music in worship services as a audio/video livestream/pre-recorded event

Broadcasting a service as an audio livestream/pre-recorded event

Providing service aids on-line to accompany livestreamed services

Projecting music scores and/or lyrics on screens in sanctuary

Playing videos/audio recordings produced by others as part of a worship service

Re-arranging scores for choir, vocalists, instruments

Using/creating rehearsal tracks for choirs

- Public License: Copyright holder gives blanket approval to any and all persons to use the music according to conditions. (For example, permission to print and livestream for worship service but not permission to perform the music non-religious worship public settings.) No royalty fee is required. (Some scores provided by imslp.com are under public license.) If you contact a copyright holder directly, the holder may grant a public license. One kind of public license is specifically identified by the copyright holder as a CC or Creative Common license, with no restrictions for use whatsoever.

- Reprint/Reproduction License: Required to copy a copyrighted score and print it as a handout or service aid and to project the lyrics on a screen. (Some hymnals allow copying scores and projecting lyrics IF the church has purchased hymnals placed in pews.)

- Synchronization License: To livestream or pre-record performance of copyrighted music using a video format. Also to use someone else's copyrighted video, all or part, in a service.

- Mechanical License: To create an audio recording format using copyrighted music.

- Masters License: To use someone else's audio recording, all or part, in a service, or to add to an audio recording format you are creating.

Video and audio recordings produced by others are NOT available as Public Domain. If you want to use a copyrighted recording, audio or video, all or part, within a service, livestreamed or not, two licenses are required: one from the copyright holder of the underlying music score and one from the producer of the recording medium. Licenses required are synchronization license for video formats, and mechanical and masters licenses for audio formats.

DETERMINING COPYRIGHT STATUS: PUBLIC DOMAIN OR COPYRIGHT

- Where is copyright information found for a music score?

Bottom of first or last page of a free-standing score

Inside the cover or first two pages of a collection of works by one creator.

At bottom of first page of a score in a collection of works by many creators.

Special case for hymnals. Hymnals have an index of copyright holders.

The Hymnal 1982 lists creators of tunes, harmonizations, descants, lyrics at bottom of each hymn. If any or all of the hymn's parts are copyrighted, the hymn will be listed in the index by hymn number. The hymn numbers are listed sequentially. If the hymn is not listed, it's in Public Domain. Note that on page 1 of the index, at the top of the page, there is list of a group of hymns all copyrighted by one publisher. (That was done to limit the number of individual entries in the book, causing use of more printed paper.)

- How to determine if the music is in PUBLIC DOMAIN or COPYRIGHT status

PUBLISHED BEFORE 1925: Music is in Public Domain

PUBLISHED 1925 – 1978: © expires at published date + 95 yrs

PUBLISHED AFTER 1978: © expires at creator's death + 70 yrs

IDENTIFYING THE COPYRIGHT HOLDER(S)

Possible holders:

- a) Publishing Company that has bought rights from the creator(s)
- b) Individual original creators
 - Composer of the melody (tune)
 - Composer of a descant (as occurs in traditional hymns)
 - Composer of vocal harmonization
 - Composer of keyboard accompaniment
 - Composer of other instrumental parts (trumpet part; orchestra parts)
 - Author of original lyrics (in English or a foreign language)
 - Translator of lyrics into English
- c) Agents representing the original copyright holders

This gets complicated for livestreamed performance of some scores, for an example, a hymn.

- A hymn copyrighted hymn introduction must be licensed.
- A copyrighted re-harmonization of the hymn must be licensed.
- A copyrighted modulation from one key to another must be licensed.
- The main hymn itself, if copyrighted, must be licensed.
- If a copyrighted descant is sung, that must be licensed.

Music published in foreign countries often presents difficulty in locating the copyright holder.

PART 1 - SUMMARY

Now that we have gone through the basics of copyright law as it pertains to music, the differences between public domain and copyright, what a license is, what licenses are potentially required, and how to identify copyright holders, PART 2 will address how to get licenses, apply them and report usage.