

### **Who are ASCAP and BMI?**

ASCAP stands for is the American Society of Composers, Authors, and Publishers and BMI stands for Broadcast Music Inc. ASCAP is a membership association that has over 400,000 composers, songwriters, music publishers, and lyricists from the United States. ASCAP protects the rights of its members by licensing and distributing royalties for the public performance of their copyrighted work. The work of many foreign writers is also licensed through ASCAP in the US. BMI represents over 500,000 composers, songwriters, and music publishers world wide and collects license fees on their work and distributes the royalties to members when their work is performed in public.

In short, these two entities represent the people who create and publish the music that we perform, and they collect the license fees when the copyrighted work is performed and pays them their royalties.

### **What is a performance fee?**

The performance fee is the license fee to perform one piece of music one time. Whenever there is a public performance of copyrighted work, performance fees need to be paid. Paying the licensing fees ensures that composers and arrangers will continue to create new music.

### **What is a Blanket License?**

A blanket license is a license that allows work to be performed as many times as the performer wants during the year for which the license was obtained. The BMI/ASCAP blanket license through ACB enables you perform work that is licensed by ASCAP and BMI as many times as you want during the year for one low fee.

### **How does the BMI/ASCAP Blanket License through the Association of Concert Bands work?**

Organizational Members may purchase the Blanket License for \$225/year. After purchasing the license, the organizational member is then required to keep track of the songs played during the year (Title, Arranger, Composer, Date, Organization name, and Location of performance) in an Excel spreadsheet that can be downloaded from our web site (<http://www.acbands.org/ASCAP-BMI-Blanket-License.html>). At the end of the year, the organizational member emails this spreadsheet to ACB where it will be combined with the information from all other blanket license holders and submitted to ASCAP and BMI.

### **Do we need a performance license if we own the printed score and parts or have paid a rental fee to the publisher?**

Yes. The Copyright Law identifies the print right, or the right to reproduce and distribute printed music, as distinct from the performing right. As a result, the cost of purchasing or renting performance materials for a copyrighted work, whether published or unpublished, does not include public performance rights.

### **Do we need a license if we are a non-profit organization?**

Yes. The copyright law applies to for-profit and not-for-profit performances alike. Though there is an exemption when there is no direct or indirect payment or other compensation to the performers, promoters, or organizers of the event, there must also be no direct or indirect

admission charge of any kind (program ads, sponsorships, suggested donation, etc.). All proceeds for the performance, after deduction of the reasonable costs of producing the event, must also be used exclusively for educational, religious, or charitable purposes. Only in these narrowly defined circumstances is an exemption granted.

In short – The word “indirect” can encompass a wide variety of things that would make it such that the performance fee has to be paid. Also, the requirements on how any proceeds must be spent are very restrictive.

**Do we need a license if all our concerts are free and open to the public?**

Possibly, having concerts that are free and open to the public does not automatically make the organization exempt from paying the license fees.

If you answer yes to any of the following, then you need a license: Do you have a suggested donation? Do you “pass the hat”? Do you have a program with advertisements? Do you have sponsors (monetary or in kind)? Is there an organizer to the concert that is benefiting by your performance? Do you have a program that lists band sponsors? Is the venue benefiting from your performance? Did you rent the venue? Is the venue paying the band to perform? Does the venue have a program? Does the venue “pass the hat”?

**Do we need a license if we don't pay the musicians in our band?**

Possibly, the musician is not the only “performer.” If you answer yes to any of the following, then you need a license: Do you pay your conductor? Does the band get paid to perform? Do you pay a librarian or equipment manager?

**Do we need a license if our events are held at a college or university that has a BMI license?**

Yes. When independent organizations rent campus facilities for events that they sponsor and produce themselves, they must first obtain their own performance license.

**How do we know if the music we play is covered by the blanket license?**

Most concert band music is covered by ASCAP or BMI. You can check their databases on their web sites:

ASCAP - <http://www.ascap.com/ace/index.aspx>

BMI - <http://repertoire.bmi.com/startpage.asp>

Foreign work may not be included in the databases. BMI suggests calling their research department to inquire about international works.

**Are we covered by this license if we perform outside of the US?**

Yes. The license covers the performance of the music that you are playing, not where you are playing it.

**How much money do ASCAP and BMI make from this?**

Both BMI and ASCAP operate as non profit entities distributing all revenues, less operating expenses, to its composers and publishers in the form of royalties. For most composers,

performance royalties are an essential means of financial support that enable them to continue their creative activities For BMI- according to their web site in January 2012 “Currently, more than eighty-seven cents of every dollar of your licensing fee goes to our affiliated copyright owners”

**What happens if we do not have a performance right license?**

If you do not have a license from BMI or ASCAP, your organization and each individual responsible for any unauthorized performances of copyrighted musical compositions would be considered copyright infringers.

**How do we know if we really need a license?**

If you are still unsure after reading the above, look at the following statements.

- If any money changes hands at any point in connection with a concert then performance fees have to be paid because there is a commercial advantage for someone in connection with the concert.
- Unless the performance is part of face to face teaching activity at a non-profit educational institution or part of a religious service then the license needs to be obtained and performance fees paid.

**With a Blanket License, does that mean we can record and sell CDs of our performances?**

No, the Blanket License only covers public performances and performance rights. In order to produce and sell CDs you need to obtain the mechanical rights to the music. This can be done through the copyright holders or through the Harry Fox Agency (<http://www.harryfox.com>).

**For more information see:**

<http://www.ascap.com/licensing/licensingfaq.aspx>

<http://www.bmi.com/licensing/faq>

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