

VIDEOGRAPHERS

The basics

What's copyright?

As the maker of the video, you are probably aware of the importance of copyright with respect to your own creation – the wedding video - but copyright exists in other material as well. When someone creates a piece of music (or a piece of text, a graphic, a photo, painting, a film or anything else that is protected under copyright laws), a whole system of legal rights and obligations comes into play. These rights and obligations outline what someone can and can't do with the material.

Copyright law provides an incentive for creators to continue creating. Copyright Law in Australia is governed by the Copyright Act 1968 (the Act), and the intention of the Act is to protect copyrighted works from being used without the permission of the owner and to provide an economic incentive to artists to produce new material.

Who owns the copyright in a piece of music?

There is generally more than one owner of copyright in any given song. From your perspective, you need to know that there is a copyright in the underlying musical work (that is, the original tune and lyrics) and a separate copyright in the sound recording (that is, the particular recording of that song). The copyright owner in the musical work will be the songwriter/composer who wrote the song (and who are often represented by their music publisher or copyright collection society) and the maker of the recording - typically a record company – will own the copyright in the sound recording.

What rights do the copyright owners have?

The copyright owners have a number of exclusive rights in their work. So, if you:

- make copies of the tracks (including the synchronisation of those tracks with visual images);
- perform music in public; and
- communicate the tracks to the public (including broadcast and online use);

You will need to obtain their permission and/or permission from the relevant copyright collecting society. The inclusion of a piece of music in a film, including a wedding video, does not remove the copyright in the underlying music and sound recording - these rights remain intact and whole.

I have purchased digital music via a legitimate online store; can I use this music in wedding videos for my clients?

The purchase of the MP3 does not give you the right to use the track where ever you wish. You need to seek permission from the copyright owners should you wish to use the music in the wedding video. If you are making copies of the video to distribute to family and friends, this will constitute a reproduction of the music, so appropriate permissions and/or licenses need to be obtained.

I bought a legitimate CD. Can I use music from the CD in wedding videos for my clients?

The purchase of a CD only gives you the right to own the physical disc, to play it privately, and to pass on the same physical disc to another person. This means that copying the music from a CD including onto a video or DVD, without the permission of all relevant copyright owners, is an infringement of copyright except in very limited circumstances.



What about the private and domestic use exceptions?

The Copyright Act allows you to “format shift” music for **personal use**, for example, to copy your personal CD into MP3 format in certain limited situations. **However, this does not extend to use of the music in a professional video or DVD that you are distributing to third parties, even if it is only a demo copy.**

I want to showcase my work on the internet - can I do this?

If you wish to upload your videos (ie. such as a client's wedding video), among other permissions you may need to get, you need to obtain permission from the copyright owners of both the sound recording and the musical work and ensure that the music is licensed to be shown on the internet.

Further, if you buy music from legal distributors (e.g. iTunes), then you should check their relevant terms and conditions to make sure that you are licensed for the use you wish to use it for.

So, how can I legally use music in wedding or other domestic videos for my clients?

If you want to use music in wedding or other domestic videos then you can get a Domestic Use Video Licence (**DUVL**) from AMCOS and ARIA. There are two licences available: a single event licence and an annual licence. For further details contact the Non-retail Licensing Department of APRA | AMCOS on (02) 9935 7900.

However, these licences only cover the distribution of videos to clients and do not extend to the use of videos as promotional and demo copies for example to be provided to potential customers.

What do I need to do to get permission to use music in videos that will be used as promotional or demo material?

If you want to use music in wedding videos which you will be using as promotional material or providing to potential clients, you must get:

- permission or a licence from the record company that controls the copyright in the sound recordings (contact the licensing department of the relevant record company); AND
- permission or a licence from the music publisher for the reproduction of the musical works. AMCOS can assist you with this process.
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Can I download music from the internet and use it in videos for my clients?

The basic principle is that you cannot copy or distribute music including from the internet without the permission of all relevant copyright owners. There are a number of legitimate download sites in Australia which are listed at www.pro-music.org.

If you legitimately buy music from legal online distributors (e.g. iTunes), then you should check their relevant terms and conditions to make sure that you are licensed for the relevant purpose, including for using the music in wedding or other videos.

What about downloading music through file sharing networks?

Unless authorised, the vast bulk of P2P 'file sharing' is considered unauthorised copying and transmission of copyright material. This activity hurts sales of music and the livelihoods of people in the business including your favourite artists and songwriters.



What if I download music to use in my videos from a site overseas where the law might be different?

Internet activities of this sort typically involve acts of copying, transmission, or distribution in both the 'receiving and sending' countries and laws of each will apply. Be aware that if you download music files to your PC located in Australia, without the copyright owners' permission, you are committing an infringement of copyright under Australian law.

What if I am making a video recording of a wedding that uses music as a part of the ceremony?

If the ceremony that you are videoing has music, then videoing the ceremony and the music is still considered a "reproduction" of that music. The AMCOS and ARIA DUVL licence covers both the reproduction of music during filming and in post-production.

What are the consequences?

Penalties for copyright infringement range from injunctions, damages and costs through to fines of up to \$60,500 for individuals and up to \$302,500 for corporations for each infringement and/or up to 5 years imprisonment per offence. Police can also issue on-the-spot fines of \$1320 per offence and seize any pirate product.

Need more information?

Music Rights Australia	www.musicrights.com.au	info@musicrights.com.au	(02) 8569 1177
APRA AMCOS	www.apra-amcos.com.au	apra@apra.com.au	(02) 9935 7900
ARIA	www.aria.com.au	Licensing.aria@aria.com.au	(02) 8569 1144