

Copyright

The general rule for things like lyrics and music is that copyright lasts for the life of creator plus 70 years. This rule applies whether or not the lyricist or composer/songwriter owns or ever owned copyright in the material.

Who owns copyright in a sound recording?

Performers that are captured on sound recordings have moral rights to their performance. These are distinct from any moral rights they might have in any music or lyrics they wrote.

Moral rights for creators...

Apart from copyright obligations, the Copyright Act contains provisions relating to what are referred to as "moral rights".

Moral rights apply in relation to music and lyrics for example, but not recordings.

Assigning & licensing rights

Copyright owners can assign any or all of their copyright rights. This means that someone else becomes the owner of the rights.

Music and Copyright

You may be able to use music created by people before 1955, but you need to find out or not if copyright has expired.

It is important to remember people who infringe copyright leave themselves open to legal action.

Performers' rights...

Performers, such as musicians and singers have the right to decide whether or not their performances will be filmed, recorded or broadcast.

If authorisation isn't obtained, a performer is able to take action against people who:

- Make an unauthorised film or recording (a bootleg film/recording);
- Make a copy of a bootleg recording or film where the person knew or who ought to have known it was unauthorised;
- Use a recording device knowing the performer didn't consent to the recording being made;
- Make an unauthorised broadcast of a performance to the public ... this includes over the Internet.

Additional copyright in a "sound recording"

Sound recordings are also protected by copyright. This copyright is separate and additional to any copyrights in material on the recording. Therefore in a CD there may be:

- A copyright in each musical work;
- A copyright in the lyrics to each song; and
- A copyright in the sound recording of the music and lyrics

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Copying cassettes, CD's, MP3's & records

Key points:

- It is now legal to copy recorded music you own (such as a CD) to play on a device you own (such as an iPod), subject to certain conditions.
- If you agree to certain conditions before downloading a music file, those conditions still apply; they are not overridden by new provisions in the Copyright Act which allows copies of recorded music.

Since 11 December 2006, it has been legal to make copies of sound recordings you own for your own personal use. For example, you may copy music from CDs you own to:

- Your computer
- Your portable music player (such as an iPod)
- A blank CD to play in the car
- A blank CD for a second CD player; and
- A blank CD to keep for a backup

Copyright

Copying from a CD

You can copy from a CD if:

- You own the CD;
- It is a non-infringing copy (that is, it was not made illegally);
- You make the copy yourself;
- You make the copy to play on a device you own.

The new provision does not apply if:

- The CD is owned by someone else;
- The CD is an illegal copy;
- The copy is made for you by someone else;
- You make the copy to play on a device owned by someone else.

Once you have made the copy, there are things you must not do with the copy or the original CD. The copy will become an infringing (illegal) copy if you:

- Sell the copy or the original CD
- Distribute the copy or the original CD
- Play the copy or the original CD in public (such as an office party, club function, or community event); or
- Broadcast the copy or the original CD

Copying downloaded files such as MP3 files

These provisions refer to someone who has paid to download a file, or indeed you may have been able to download legitimately without payment.

If you pay to download a file, you will nearly always be asked to agree to certain conditions before you do download. Even if you don't pay for a download, there still may be certain conditions you have had to agree to. The new provisions in the Copyright Act 2006 does not override your obligations in this area. In most cases, the download agreement allows you to make a number of copies of the downloaded file.

These new provisions do not apply to illegal files, such as illegal mp3 files acquired using P2P software.

Some common questions

Can I copy music from my CDs to listen on my MP3 player?

Yes, provided you own the CD and the player. If the process requires copying the music onto a computer, you must own the computer too.

Can I lend copies I have made to my friends?

No, unless they are part of your household. You may only lend copies you have made to your family and the people you live with.

Can I make an extra copy of a CD to give to my brothers and sisters?

No. You can only make a copy for you to play on a device that you own. You can lend, but not give a copy you have made to your family and to people you live with.

What happens if I infringe copyright?

The copyright owner is entitled to legal action against you. For example, record companies in America, Europe and Canada have commenced proceedings against individuals for illegally swapping music online.

Sources:

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