

DO YOU KNOW WHERE YOUR LICENSE IS?

by Marcia Gittinger

In the last issue of *Progressions*, I dealt with the orchestra librarian's identity. I hope you have all gone to your governing boards and persuaded them to fund a staff librarian position. When your new librarian gets settled, s/he will have to contend with two of the more complex library concerns: licensing and copyrights.

The issues of performing licenses and copyrights are intertwined, so I will attempt to tackle both areas in the space of one article. Let me begin with some obvious, but not always followed, rules of thumb:

1. Honesty is the best policy. Personal, professional, and corporate integrity is not to be taken lightly.

2. When in doubt, ask. Part B of this is to ask *before* the performance!

OK, take a deep breath and plunge with me into the fascinating world of copyright law!

Theoretically, publishers and/or composers can be the proprietors of both the rights to print and distribute music as well as the rights to perform music publicly. Realistically and practically, publishers and composers are busy with the physical production of music, so orchestras must obtain the performing licenses through two primary sources: ASCAP (The American Society of Composers, Authors, and Publishers) and BMI (Broadcast Music, Inc.). ASCAP, founded in 1914, and BMI, begun in 1939, represent thousands of composers and publishers and the performance of tens of thousands of pieces. While ASCAP and BMI are separate organizations, they have two common functions: 1) to protect the composer and/or publisher against unauthorized performances and to distribute the royalties collected on their behalf, and 2) to provide a clearinghouse for music users to perform the works of their respective members. These functions are true not only for American composers but also for foreign composers and publishers. (Rental fees for the printed music are separate from and in addition to licensing fees.)

ASCAP and BMI both have what is called a blanket license. This covers all concerts during a season. BMI also offers a per-program license that pertains to concerts that include BMI works on the program. This type of license would require careful record-keeping (by your librarian, of course!). Both of these licenses are for small rights performance, i.e., non-dramatic.

For a thorough overview of performing rights, I urge all of you to call the League and order two copies (one for you and one for your librarian) of their booklet *Copyright Primer*. It was prepared by Richard Green, the League's copyright counsel. Additional information may be obtained by contacting the

Copyright Office of the Library of Congress, Washington, DC 20559. Ask for circulars 1 and 91.

Some of you may be wondering if you need a license at all. If any of your programs involve a copyrighted work (i.e., rented or commissioned) you must have a performing license. Both BMI and ASCAP are available to help you and to address your concerns about fees, reporting schedules, and the like. The people you should contact are:

| ASCAP | BMI |
|---|-----------------------------------|
| Deborah Meth | David Kamen |
| Manager of Educational & Symphonic Licensing | Director of Licensee Relations |
| ASCAP Building | 320 West 57th Street |
| 1 Lincoln Plaza | New York, NY 10019 |
| New York, NY 10023 | 908-219-5141 |
| 212-621-6407 | |

Both organizations are eager to calm your fears, dispel rumors, and help you through the maze of copyright law, so call or write them soon!

In the area of rental music, here is what your librarian needs to know after the piece is located, but before s/he calls the publisher:

1. The composer's name and the complete title of the composition;
2. The dates of the performances and the conductor;
3. The date the music is needed;
4. The type of performances (subscription, pops, youth, etc.);
5. Any unusual happenings with the concert (slides, narrator, choreography, any type of staging, etc.; the publisher will help you with any grand rights issues);
6. The number of scores and string parts needed—be aware that some publishers charge extra for additional string parts;
7. The name and address of the performing organization, the contact person, and the shipping and billing address of the organization.

Nearly every publisher now requires the completion and return of a rental contract before any music is shipped. Some even require prepayment, but those tend to be more pops-oriented organizations.

It is imperative that your librarian tell the rental company the size and type of your group, as fees are based on four areas: length of piece, number of performances, type of concert, and size of the performing group. Small-budget orchestras should not be paying the same fee as those with larger budgets.

One final word of caution: When returning rental music, be sure to include copies of the program,

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the instrumentation sheet, all of the scores and parts (or be prepared to pay for them), and insure the package. Seal it securely with tape, and check the address label!

I hope this gives you some discussion topics for your next meeting with the librarian. If you are ever in Washington, I urge you to visit the Library of Congress and its Copyright Office. The staff will astound you with the volume of work and detail that they do. While in D.C. you can come visit me, too!

I have had several calls about consortium purchases, commissions, photocopying of music, and even bowing marks, and I will try to cover some of these concerns in the next column. Until that time, you may continue to call or write me with your questions at the National Symphony Orchestra Music Library, John F. Kennedy Center for the Performing Arts, Washington, DC 20566 or phone me at (202) 416-8130. *==p*

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