

DIRECT LICENSING POLICY GUIDELINES (PUBLIC PERFORMANCE AND TRANSMISSION RIGHTS)

1. Our direct licensing guidelines
 - 1.1. These are the direct licensing guidelines of Bernardine. At present we do not have the capacity to directly licence any of our sound recordings or music videos for public performance or transmission.
 - 1.2. Given the legal and administrative costs involved with direct licensing we are unable to offer direct licenses at competitive rates for public performance or transmission. We will review our position every 12 months to consider whether the size and skill base of our organisation enables us to engage in direct licensing.
 - 1.3. In the meantime, if you require a licence for the public performance or transmission of one of our sound recordings or music videos you should contact the Phonographic Performance Company of Australia (PPCA) at <http://www.pcca.com.au> or call (02) 8569 1111.
 - 1.4. If you wish to provide any feedback or comments on our direct licensing policy, please get in contact via www.bernardinemusic.com/mail
2. Types of licences offered for sound recordings and music videos
 - 2.1. We only provide non-exclusive licences. This means we can offer the same licences to other people. For example, if we licence your restaurant to play our sound recordings and/or music videos, we can also licence any other businesses (including other restaurants) that wish to play our sound recordings and/or music videos.
 - 2.2. We offer licences for the following purposes:
 - a) transmission licences for our sound recordings and music videos. You will need a transmission licence if you intend to communicate the sound recording or music video to the public, for example by way of radio, television or the internet;
 - b) public performance licences for our sound recordings and music videos. You will need a public performance licence if you intend to play the sound recording or music video in public, for example by playing a CD at your business premises;
 - 2.3. These licences are separate from any licence required in respect of the underlying copyright in the music and lyrics on the sound recording or music video. Unless the underlying musical works are no longer protected by copyright, you will also need to obtain permission to use the underlying musical works (including any lyrics). Permission to use musical works can be sought from the Australasian Performing Rights Association (APRA) and the Australasian Mechanical Copyright Owners Society (AMCOS). These two organisations operate from the same office and have responsibility for different types of licensing. See <http://www.apra.com.au> or call 1300 852 388.
3. What is the process for direct licensing?
 - 3.1. To enquire about directly licensing any of our sound recordings or music videos, please get in contact via www.bernardinemusic.com/mail
 - 3.2. We require the following information:
 - a) your business name;
 - b) your ABN;
 - c) your contact details;
 - d) a brief description of your business (eg café, gym, radio station, film festival);
 - e) an accurate estimation, to the best of your ability and in good faith, of the number of customers per month attending your business (for radio and television stations, we require an estimate of your audience numbers. For one-off events please estimate the number of people you anticipate will attend);
 - f) the title of each sound recording and/or music video you wish to use (if you wish to use the entire album please indicate this);
 - g) a brief description of how you will be using the sound recording and/or music video (please keep the description under 200 words);
 - h) how long you require the licence (for example, is it for a one-off event or do you require it for a

longer period, such as 12 months?).

3.3. Once you have provided us with this information we will get in touch with you to discuss whether a direct licence is likely to be appropriate in the circumstances. Please be patient, we are only a small business and due to our limited resources it may take several days for us to respond to your valued enquiry.

3.4. After speaking with you, we may require additional information. Once you have provided us with any additional information we require we will provide you with a quote for the licence fee. Our licence fee includes the cost of preparing the licence agreement. Licence fees vary depending on the type of use you are making of the sound recording or music video.

3.5. If you accept our licence fee you must notify us in writing of your acceptance. We will then prepare the licence, which sets out the terms and conditions under which we grant you the licence.

3.6. We grant licences to the following types of businesses and for the following purposes. If you business type or purpose is not listed you may fit into our 'other' category:

- a) childcare centres;
- b) community halls;
- c) concert venues;
- d) festivals;
- e) gymnasiums and fitness centres;
- f) music on hold;
- g) nightclubs;
- h) restaurants and cafes;
- i) schools and universities;
- j) other.

3.7. Once you have paid the licence fee and have signed the licence agreement you are able to use the sound recording and/or music video in accordance with the terms and conditions of the licence. Don't forget to contact APRA and AMCOS to see if you also require a licence from them for the use of the musical works and lyrics. See <http://www.apra.com.au> or call APRA and AMCOS on 1300 852 388 to find out more.

Bernardine Woolard – Direct Licensing Guidelines © Arts Law Centre of Australia 2008, 2011