



APRA AMCOS

A GUIDE TO MUSIC COPYRIGHT

www.apraamcos.co.nz



THE TWO **BASIC RIGHTS** THAT APPLY TO MUSIC

THE PERFORMING RIGHT

This is the right to **PERFORM** (communicate, broadcast or play) a musical work in public.

The **PERFORMING** right is exercised when a work is performed in public. This includes when it is broadcast on TV or Radio, streamed, played in a shop or restaurant, played live at a concert, screened at the cinema as part of a soundtrack, viewed on YouTube, used in an exercise class etc...

PUBLIC vs. DOMESTIC

Public performances like the examples above (where businesses use music to add value to their business) are different to domestic performances (where people play music at home, or at their parties), which don't incur licence fees or generate royalties.

THE MECHANICAL RIGHT

This is the right to **REPRODUCE** (make copies of) a musical work, for sale or use by the public.

The **MECHANICAL** right is exercised when a work is copied in any form. This includes copies made onto CD or DVD, when a work is downloaded or streamed on the internet, when an existing song is synchronised with a film or TV programme, or printed as music etc...

PUBLIC vs. DOMESTIC

The copyright act allows a certain (small) number of copies of musical works to be made for private or educational use. For example, people can make a limited number of copies of music for their immediate family and educational institutions can make a limited number of copies of music in an educational context

A NOTE ABOUT DOWNLOADS AND STREAMING

Internet downloads and streams actually exercise **BOTH** the Performing and the Mechanical right.

In the case of **DOWNLOADS**, the performing right is exercised when the musical work is previewed (communicated), and the mechanical right is exercised when the musical work is downloaded (copied). A platform such as iTunes pays APRA AMCOS a licence fee that covers both rights, but our distribution of that fee is weighted in favour of the **MECHANICAL** right because the main purpose of the download is to **COPY** the musical work.

In the case of **STREAMING**, the performing right is exercised when the musical work is played (communicated), and the mechanical right is exercised when the musical work is buffered for playback or when it's cached (copied) for offline listening. A platform such as Spotify pays **APRA AMCOS** a licence fee that covers both rights, and our distribution of that fee is weighted evenly between the **PERFORMING** right and the **MECHANICAL** right.



THE DIFFERENCE BETWEEN **MUSICAL WORKS** AND **SOUND RECORDINGS**

For recorded music, there are two components that generate royalties. **MUSICAL WORKS** and **SOUND RECORDINGS**.

MUSICAL WORKS

A **MUSICAL WORK** is a song or composition, most easily described as what can be 'written down' – words, melodies, harmonies, rhythms etc.

When a musical work is **PERFORMED** in public, it earns performance royalties for the people who wrote / own it.

When a musical work is **REPRODUCED** for commercial use, it earns mechanical royalties for the people who wrote / own it.

SOUND RECORDINGS

A **SOUND RECORDING** is a recording of a song or composition (a **MUSICAL WORK**).

When a sound recording is **PERFORMED** in public, it earns performance royalties for the label or artist/s that own it.

When a sound recording is **REPRODUCED** for commercial use, it earns revenue for the label or artist/s that own it.



**APRA
AMCOS**

APRA administers and collects performance royalties for **MUSICAL WORKS** and AMCOS administers and collects mechanical royalties for **MUSICAL WORKS**.



Recorded Music New Zealand collects performance royalties for **SOUND RECORDINGS**. Recorded Music New Zealand does not collect mechanical royalties for **SOUND RECORDINGS** These are administered through the label or artist/s that own the recordings.

THE PERFORMING RIGHT

Songwriters and composers join APRA and give APRA permission to administer the performing right for their **MUSICAL WORKS** on their behalf.

APRA then gives businesses permission to perform those musical works in public, and businesses pay APRA a licence fee in return

APRA collects information about what music has been used and where. The licence fees collected are then distributed back to the members whose works have been performed.

Similarly, the owners of Sound Recordings (usually record labels or artists) give Recorded Music NZ permission to administer the performing right of their **SOUND RECORDINGS** on their behalf.

Recorded Music NZ then gives businesses permission to perform the recordings in public, and those businesses pay a licence fee in return.

Recorded Music NZ collects information about what sound recordings have been used, and where, and then distributes the licence fees back to the owners of the recordings.

THE MECHANICAL RIGHT

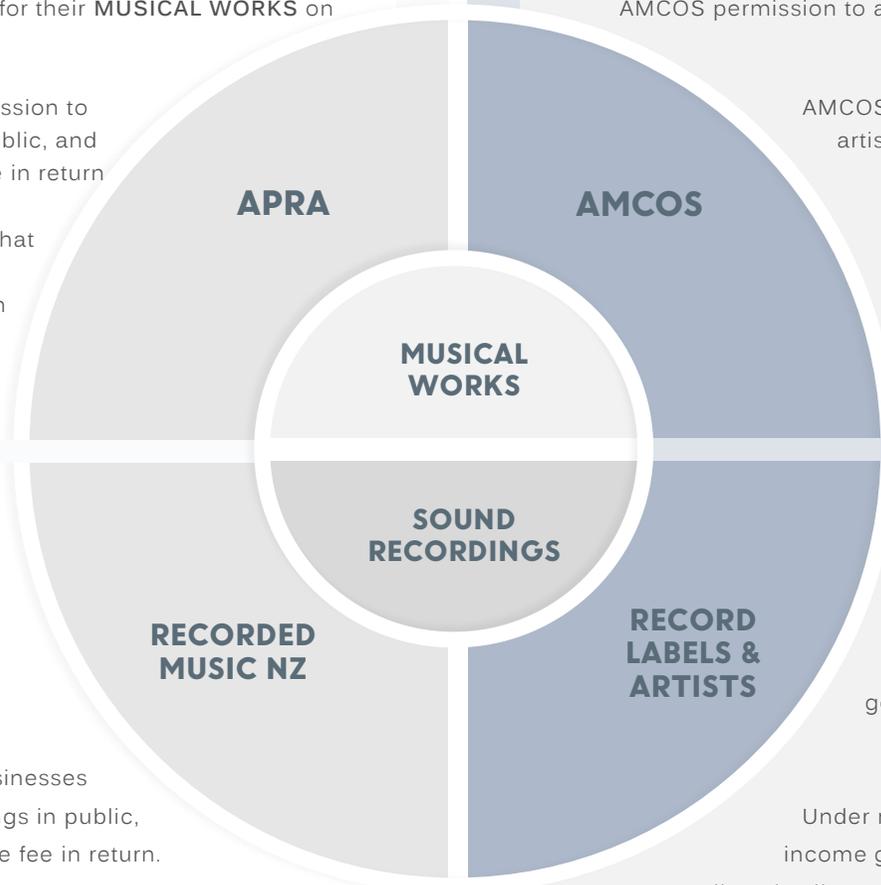
Songwriters, composers and publishers join AMCOS and give AMCOS permission to administer the mechanical right for their **MUSICAL WORKS** on their behalf.

AMCOS then gives businesses and performing artists permission to reproduce the musical works for public use and collects a fee for each copy made.

AMCOS then distributes those fees back to the members whose music has been reproduced.

When a **SOUND RECORDING** is reproduced, the owner of the recording (usually the label or artist that has paid for it) is responsible for collecting and distributing the income generated by the reproduction (copying) of that recording.

Under most record contracts, 50% of the sales income generated by the reproduction of sound recordings is allocated to the owner of the sound recording, while the other 50 % is allocated to the artists / band who performed it. Individual / unsigned artists in NZ can join Recorded Music NZ's 'Direct to Artist Scheme' to collect these royalties.





BANDS BREAK UP, SONGS STAY THE SAME / HOW DO YOU DECIDE **WHO OWNS A SONG?**

There's no perfect way to split royalties. It comes down to what co-writers can live with and what they think is fair. With that in mind, encourage artists to:

1. **AGREE** - agree on how they want to approach the splits **BEFORE** they start writing
2. **REVIEW** - when the song is finished, ensure everyone is happy about their percentage, and the percentage that their co-writers are receiving
3. **REGISTER** – once there is agreement, make sure the writers register the song with APRA **immediately**. Don't wait until the song has earned money before you do this!

Once a song has been registered with APRA, we require the unanimous permission of ALL the of co-owners (including publishers) to change it. This can prove almost impossible if relationships within bands or between co-writers have broken down. Always encourage bands to register songs right away – and cultivate a culture of fairness and transparency within a band or writing partnership, that can withstand arguments and break-ups.

EQUAL SHARES

Often, bands who write together – or co-writers – simply split their songwriting royalties equally between them.

Alternatively, bands will also adjust the percentages if they feel that one person has written more than others. Have these conversations openly.

NASHVILLE RULES

Nashville rules give an equal percentage of ownership to **EVERYONE** who was in the room during the writing of the song, regardless of how much each person contributed.

'If you were in the room, you're in the song.'

MUSIC AND LYRICS

Traditionally, songs were thought of in terms of Music and Lyrics.

50% ownership went to whoever wrote the music
50% ownership went to whoever wrote the lyrics

The way people create music today means that this definition doesn't always apply. Splits expand to take into account other musical elements like production, riffs, harmony, groove and arrangement.

TOP LINERS AND TRACK WRITERS

Today, music is often written collaboratively by a combination of professional top-liners (writers who specialise in words and melody) and track writers (writers who create chord structures and musical backings etc.).

Often producers are cut into songs if they have made a contribution to their writing and construction. At the top level of the industry, even artists are sometimes given a percentage, simply for lending their profile and fanbase to the song.



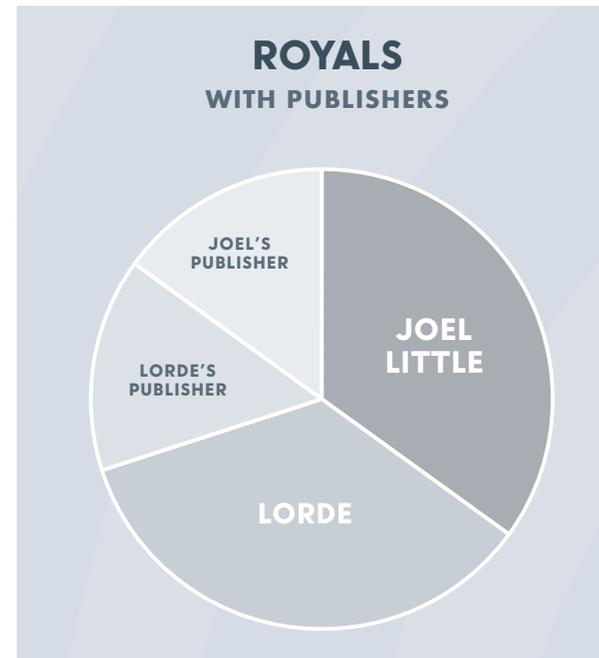
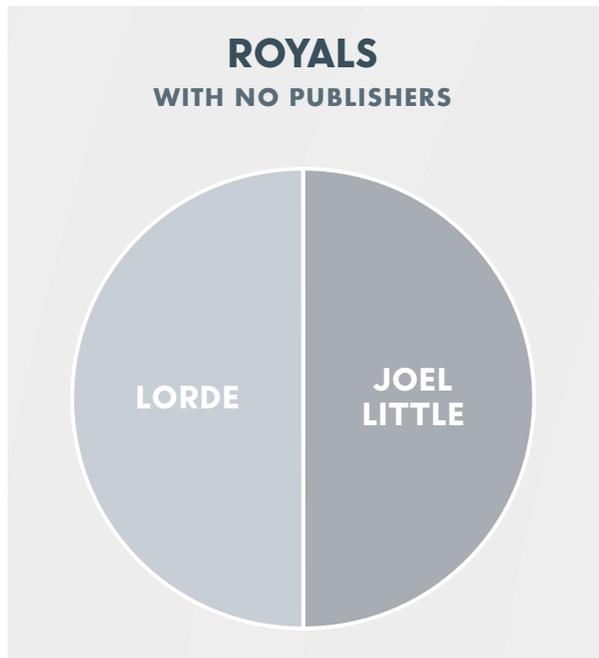
WHERE DO **MUSIC PUBLISHERS** FIT IN TO THE SONG OWNERSHIP PICTURE?

To increase the reach of their songs, songwriters and composers often sign deals with Music Publishers, who actively promote the work of their writers in return for a share of the ownership of their songs for a set period of time.

Unpublished artists own their own songs and APRA is able to collect their PERFORMANCE royalties, and AMCOS to collect their MECHANICAL royalties, based on the agreements APRA AMCOS makes on their behalf, with the businesses they licence.

The difference between what APRA AMCOS does, and what a publisher does is simple. Publishers work to **promote** and **increase opportunities** for their artists' musical works to earn money. They use their knowledge, experience and networks to generate new performances and reproductions of the works in their catalogue. In return for this, they take a percentage of the OWNERSHIP of their artists' copyrights (for a set period of time). They become **part-owners** of their writers' songs and we pay them a share of their artists' royalties.

Once publishers are involved in the ownership of the song, their unanimous permission also needs to be gained before the ownership of that song can be changed.





HOW DO **BAND MEMBERS** WHO DON'T WRITE SONGS EARN ROYALTIES?



STRANGER THAN FICTION / SPLIT ENZ

THE WRITERS: Tim Finn
 Phil Judd

THE BAND: Paul Crowther
 Eddie Rayner
 Phil Judd
 Noel Crombie
 Mike Chunn
 Wally Wilkinson
 Tim Finn

THE WRITERS / THE MUSICAL WORK

Tim Finn & Phil Judd co-wrote the **MUSICAL WORK**, 'Stranger Than Fiction'

Each time the musical work is **PERFORMED**, Tim and Phil receive performance royalties.

Each time the musical work is **REPRODUCED**, the **Tim and Phil** receive mechanical royalties for the reproduction of their work.

THE BAND / THE SOUND RECORDING

The band performed on the original **SOUND RECORDING** of 'Stranger Than Fiction'

Each time the Sound Recording is **PERFORMED** the **owner of the recording** and the **members of the band** receive performance royalties. The percentage they receive will depend on the agreement the band has with the owner of the sound recording.

Each time the sound recording is **REPRODUCED** the **owner** of the recording earns mechanical royalties. These royalties will be shared with the **band** in accordance with any agreements in place.

WHO PAYS THE BAND THEIR ROYALTIES?

When a band signs a contract with a record label, they negotiate an agreement which sets out what share of the royalties earned by their **SOUND RECORDINGS** the label will pay them.

The royalties come in two forms – **REPRODUCTION** royalties (administered by the label), and **PERFORMANCE** royalties (administered by Recorded Music NZ).

Recorded Music NZ allocates 50% of the performance royalties from a **SOUND RECORDING** to the **owners** of that recording and 50% to the **performers**.

It used to be that only record labels could collect these royalties from Recorded Music NZ, however, now independent artists can join Recorded Music NZ's **Direct To Artist** scheme, which allows one representative from the band to claim these royalties, and then pay them on to the other members of the band.

Each member of a band is entitled to an equal share of the 50% that is allocated to the **performers** on the **SOUND RECORDING**, unless otherwise stipulated in a record contract or band agreement.



BAND AGREEMENTS

To recognise the contribution of band members who **don't** write songs, royalties from the **MUSICAL WORK** are sometimes shared with the band members, for as long as they remain in the band.

In order to set out a clear framework for how this should happen, bands often sign Band Agreements. These are legal contracts that members of the band all agree to.

Performance and / or Mechanical royalties can be paid by APRA AMCOS into a band account which is then shared between the members.

This allows the songwriters to still 'own' their work, while also ensuring that the other band members' contribution is recognised – letting band members share in the band's revenue for as long as they remain in the band.

When a band member leaves, they also leave the agreement. The song remains the property of the writers and the band member no longer receives songwriting royalties.





WHAT IS OneMusic ?

OneMusic

gives businesses (such as restaurants, cafés, retail premises, supermarkets & airports) permission to use recorded music on their premises.

OneMusic is a joint initiative between APRA AMCOS and Recorded Music New Zealand.

For recorded music, there are two components that generate royalties. MUSICAL WORKS and SOUND RECORDINGS.

In the past, venues or business premises that wanted to publicly perform recorded music had to take out TWO different licences – one from APRA AMCOS, for permission to use the MUSICAL WORK, and one from Recorded Music NZ (previously PPNZ Music Licensing), for permission to use the SOUND RECORDING.

Business owners found the two different licences confusing.

In a collaborative venture that was the first of its kind, anywhere in the world, APRA AMCOS and Recorded Music NZ joined forces to create a single licence that could cover the public performance of both MUSICAL WORKS and SOUND RECORDINGS.



**APRA
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OneMusic

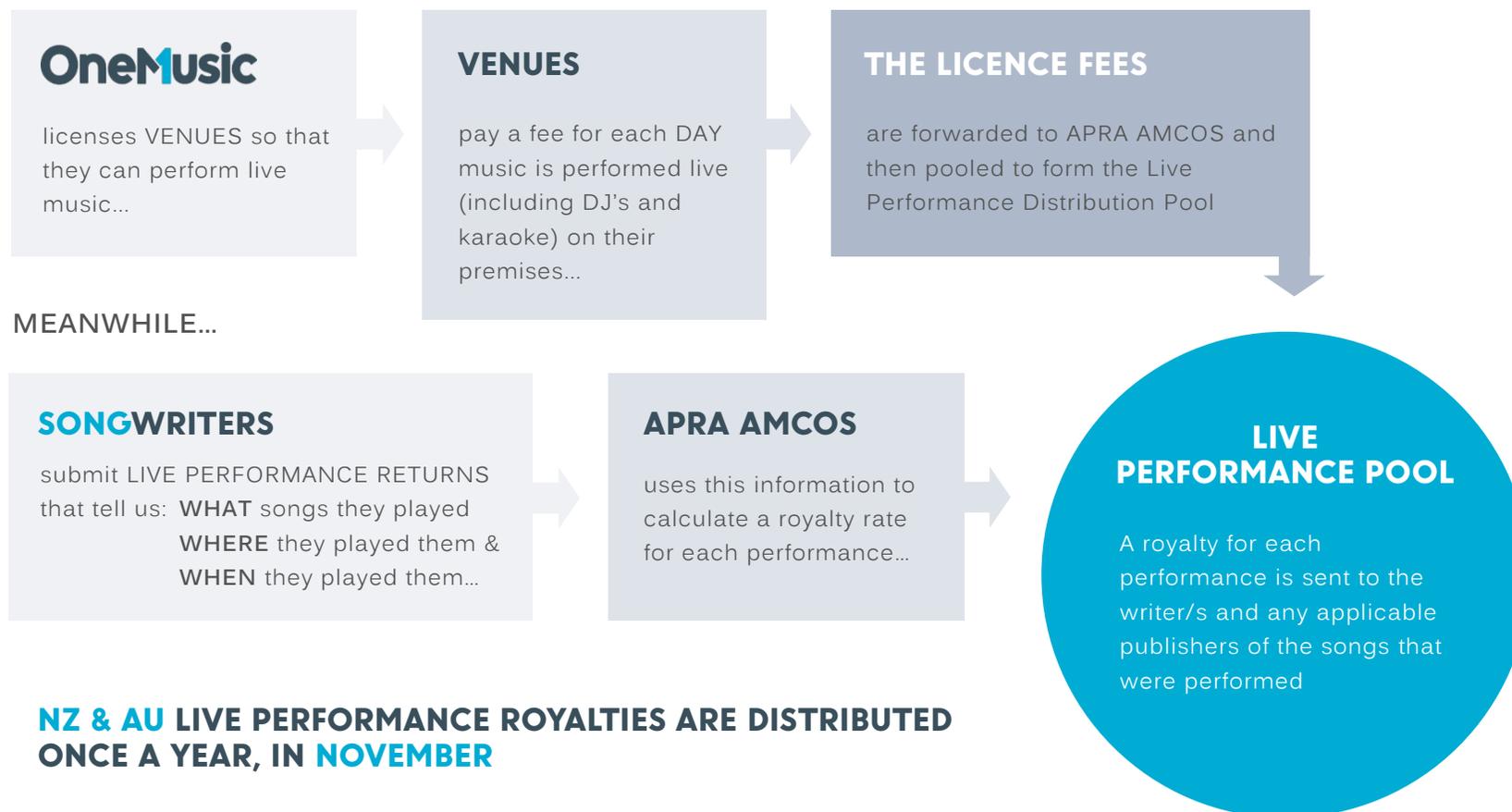


LIVE PERFORMANCES IN NEW ZEALAND / OneMusic LICENCED VENUES

When a band plays in a OneMusic **LICENCED VENUE**, where the advertised ticket prices are **UNDER \$35.00 DOLLARS**, the songs they play earn performance royalties which can then be claimed when the band files a **LIVE PERFORMANCE REPORT** online, via the **APRA AMCOS** website.

It's **extremely** important for bands to file Live Performance Reports. This is how APRA AMCOS knows what songs have been performed live and therefore, who to pay performance royalties to. **We can't pay writers if we don't know which songs have been performed.**

Here's how it works:



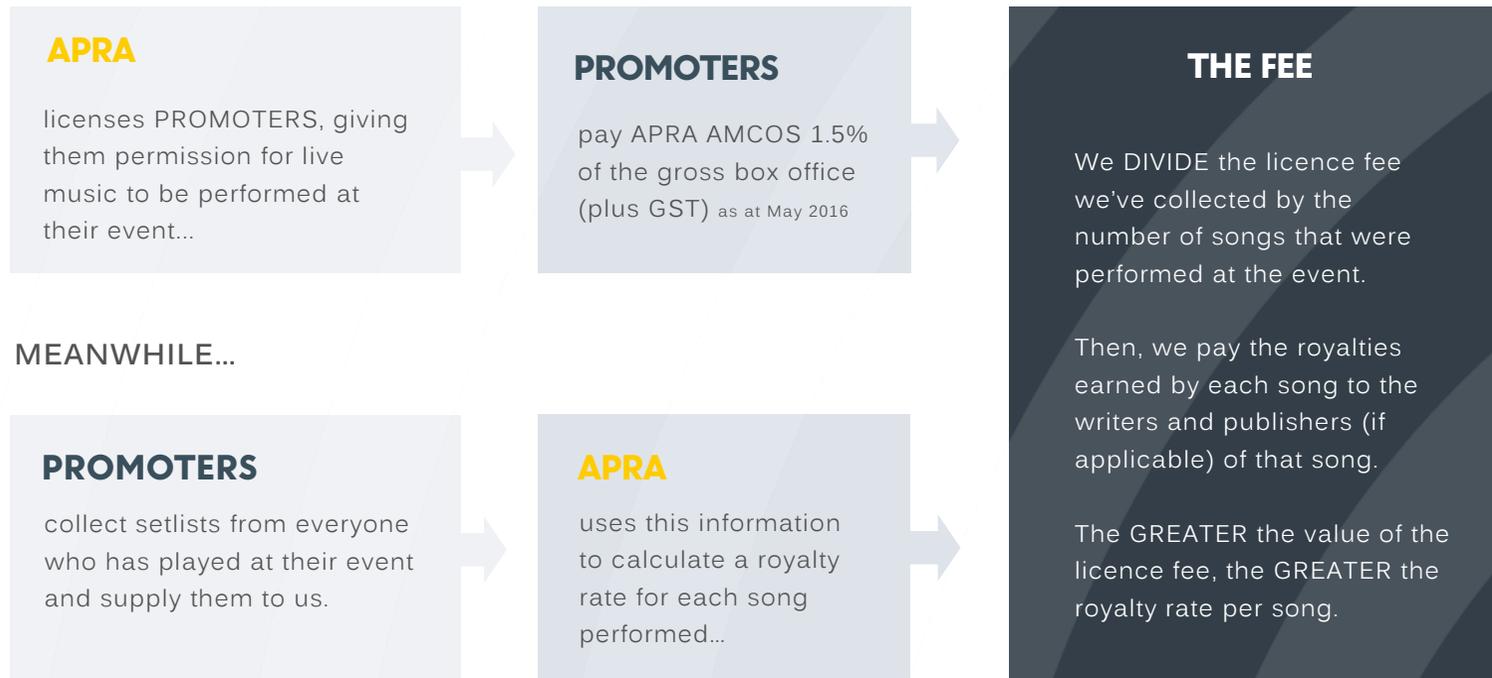


LIVE PERFORMANCES IN NEW ZEALAND / **APRA LICENCED CONCERTS, EVENTS AND FESTIVALS**

When a band plays a live show in ANY venue, where ticket prices are **\$35.00 OR MORE**, the promoter of the concert takes out an APRA **CONCERT & EVENT LICENCE**.

It is extremely important for bands to provide **SETLISTS** to the **PROMOTER** of the event – or to supply them to their manager or to us – if they are promoting the event themselves. This is how we know what songs have been performed live and therefore, who to pay performance royalties to.

We can't pay writers if we don't know what songs have been performed.



ROYALTIES GENERATED BY CONCERTS AND EVENTS IN NZ ARE PAID AS PART OF OUR NORMAL QUARTERLY DISTRIBUTION SCHEDULE **ONCE WE HAVE RECEIVED THE LICENCE FEE**

LIVE PERFORMANCES OVERSEAS

Every country is different, with its own copyright law, its own collecting society and its own way of doing things. If a band plays live overseas, they can complete an OVERSEAS LIVE PERFORMANCE REPORT online via our WEBSITE. We will then send the performance report to the society where the performance took place.

APRA AMCOS

collects performance and mechanical royalties earned for ALL music that is used in our territory of NZ, Australia and the Pacific, according to our copyright laws and business practices. Then we send any royalties earned by overseas writers back to their societies.

OVERSEAS SOCIETIES

do the same thing for us. We have reciprocal relationships with more than 120 countries.



OVERSEAS LIVE PERFORMANCE ROYALTIES ARE DISTRIBUTED ACCORDING TO THE DISTRIBUTION PRACTICES OF THE COUNTRY WHERE THEY WERE EARNED



ROYALTY DISTRIBUTION TIMEFRAMES

APRA AMCOS has almost 100,000 members across New Zealand and Australia, and we administer a catalogue of approximately 2,000,000 works on their behalf.

We also administer and collect Performance and Mechanical royalties, on behalf of overseas societies, for ALL of the music that is performed in our territory of NZ, Australia and the Pacific.

APRA AMCOS distribute the royalties that we collect from performances in OUR territories, every THREE MONTHS. From the first date of performance it takes us approximately three months to process the information we receive from all of the businesses and organisations that we licence. For this reason, domestic royalties for your artists' work can take between 3-4 months to be paid. If you are expecting royalties and they don't appear when you thought they would, you can query them by contacting us.

Every country has its own distribution schedule. Some send money through to us quarterly, some annually, some every two years.

When it comes to paying overseas royalties to our members we are absolutely dependent on the distribution methods of our affiliate societies. In some cases, overseas royalties can take between 2 – 3 years to be paid to our members.

Our foreign distribution schedule can be viewed on our website: <http://apraamcos.co.nz/music-creators/collecting-royalties-earned-overseas/schedule-of-foreign-royalty-distributions>

Again, if you are expecting royalties from overseas performances and they haven't arrived, you can query them by contacting us.



TEN GOLDEN RULES

1. Any of your artists who write songs must join APRA in order to be paid their PERFORMANCE royalties.
2. If your artists are unpublished, they must join AMCOS in order to be paid their MECHANICAL royalties.
3. Cultivate an atmosphere of transparency amongst your artists around song ownership and ensure that song splits are agreed upon between co-writers as soon as the song is finished. Then, make sure that the songs are registered with APRA AMCOS right away.
4. Make sure the band understands that writing members don't need to 'pay' non-writing members with splits in a song. If the songwriters in the band want to **share** their royalties with non-writing members, Band Agreements can be used to share royalties with other members for as long as they're in the band, while still preserving the original ownership splits.
5. Always tell APRA AMCOS if your songwriters sign publishing agreements, and also provide us with a copy of those agreements so that we can distribute your writers' royalties properly.
6. If your artists want to earn royalties from the live performance of their songs in OneMusic licenced venues, they **MUST** submit Live Performance Reports. If you are able to provide evidence of past performances, live performance royalties can be retrospectively paid up to three years from the date of performance.
7. If your artists play promoted concerts, festivals or events, **SEND US THE SETLISTS**, otherwise we can't pay them the songwriting royalties that they've earned from the live performance of their original works.
8. If you're working with an independent band then a band member needs to join the Recorded Music NZ Direct To Artist Scheme on the band's behalf so that their share of royalties from the public performance of **SOUND RECORDINGS** can be paid to them.
9. Please keep in touch with us and let us know how your artists are doing. For a start, we love hearing about them... but we can also help you to monitor and query their royalties both here and overseas and help you to track their success.
10. If in doubt... please ask us.

