

## **Music Copyright Issues Update**

On Monday of this week, three members of the Board (Karen Asbell, Karen Bahr and Yvonne Cole) met with MDTA's legal counsel. We discussed the questions that were submitted by members and other tangential issues. Below is a summary of our legal counsel's interpretation/comments on music copyright law, licensing, etc. as it applies to Missouri teams. The best practices and rules we are adopting are set forth below and are for MDTA events only. If you participate in other events, you will have to abide by the rules set forth by those organizations and the rules affecting the settings where the performance is performed (i.e. school settings).

### **Performance Copyright Licenses an Mechanical Copyright Licenses**

- MDTA Performance Licenses. Public performances by dance teams require a type of license called performance copyright licenses. ASCAP, BMI, SESAC represent songwriters, composers and music publishers with respect to the public using their music. The three companies together, represent over 95% of all music copyright owners. MDTA will be purchasing Performance Licenses from one or all of the applicable Companies to cover the 2017 State contest.
- School Performance Licenses. ASCAP, one of the three performance licensing companies, advised Karen Asbell, that they do not seek Performance Licenses from K-12 schools because K-12 schools are generally exempt from having to purchase Performance Licenses. The legal exemption for Performance licenses for educational institutions to the Performance can be found at <https://www.law.cornell.edu/uscode/text/17/110>. We recommend you consult with your school, but we believe that ASCAP is essentially correct. However, we do not know the positions of either BMI and SESAC and the rules are complicated. We recommend coaches consult with their school regarding the need for Performance Licenses, if any, to perform routines at their own schools.
- Mechanical Copyright Licenses. These licenses are required to duplicate and/or distribute copyrighted music. If you purchase music from a company i.e. mix, be sure to check the terms and conditions of use to determine if you can make copies of the music for your team members.

### **What you can do as a coach**

- You are allowed to use one song(legally purchased i.e. iTunes, Amazon, Google Play, CD, etc.("Licensed Song")) and remove small or de Minimis sections (average audience would not notice the elimination) of the Licensed Song in order to get it within the proper time limits (you may do this yourself or you can pay to have it done). The reason that you cannot do more, is that you are not purchasing a Custom/Permission license to create a derivative work from the licensor such as iTunes, Amazon, etc.
- You may also sequentially order several Licensed Songs which have only been changed to achieve the proper length and play them in sequence. There should be a 1-2 second break between Licensed Songs. Please create a playlist for the performance and submit it for

documentation, should it be reviewed. We want to prevent you from being accused of creating a derivative work without a proper license.

- You may place a sound effect or voiceover that you created or licensed from a third party between the Licensed Songs that you are using in the playlist chain. However, these Licensed Songs and each voiceover/sound effect must be separated by at least a 1-2 second break. The Licensed Songs and/or sound effects and voiceovers cannot overlap or blend into each other.
- If you are purchasing a Licensed Song music mix from a company, be sure to read their Licenses and Terms and Conditions to make sure that they have the appropriate licensing from the copyright holders to permit them to mix copyrighted material and then determine exactly what rights they are giving to you. **If you cannot find it, email them and specifically ask them for written permission to do what you would like to do.**
- If you wish to use an original artist's music, you can write to the publisher and the record label to request permission. Be sure you are specific in your request- do you want permission to modify or rearrange the song; do you want permission to use the song in a public performance. If they grant permission, you will be permitted to use the song(s). An email response granting this permission will be acceptable documentation.

#### **What you cannot do as a coach**

- You cannot mix music(unless you, personally, have the license to do so) or do any type of music sampling where you use snippets from a sound recording – often altered or enhanced in some manner – in a new sound recording. You would need a Customer/Permission License from both the music publisher and the record label.
- If you purchase a mix of music from a company and you want to remove a section or combine it with a mix from a different source- you may not do this **without all the proper licensing which would be near to impossible to obtain. Therefore, it would not be accepted.**
- **Summary of coach's due diligence:**
  - a. legal purchase of Licensed Song music
  - b. Selection of music mixing company
    - ensure that the company has proper licensing to mix, produce and license music to you for use at dance performances/contests
    - Please check the terms and conditions or License Agreement on websites you visit to determine the following:
      - i. you are allowed to use the music to perform in public
      - ii. you are allowed to distribute copies of the music selection to team members or a Mechanical License
      - iii. how long you have the rights to use the music piece without paying additional fees (sometimes this might only be for one year)

**Note:** Sometimes what is written in a company's promotional literature or website is contradictory to what is written in the Terms of use section or the License Agreement on their website. The Terms of use or the License Agreement will trump inconsistent promotional promises. If you note such a contradiction, it would be good practice to contact the company and obtain written clarification of the policies.