

C-15

**Memo from Director of Worship, Art
and Music re Copyrights
(10/22/91)**



THE ARCHDIOCESE OF SAN FRANCISCO
PASTORAL CENTER

C-15

OFFICE OF WORSHIP, ART AND MUSIC

(COPYRIGHT POLICY)

445 CHURCH STREET, SAN FRANCISCO, CALIFORNIA 94114-1799 (415) 565-3649

October 22, 1991

Dear Bishop Sevilla,

Enclosed are copies of the original handout printed in the fall of 1987 at the time of the Papal Visit. That is when we first did a detailed scrutiny when all the procedures for reprinting were done for the liturgies for the Papal Visit.

There was only a notation in the weekly mailer for people to follow the procedures on the yellow sheet. This was reinforced in meetings with musicians of the Archdiocese, in consultation with pastors as they called my office to ask questions about copyright and in any workshops we gave that involved preparation of liturgical programs and then at every RENEW workshop we did in the next three years. So the two page handout has indeed been handed out. We have reprinted over 3000 copies for people in the Archdiocese.

Today in doing some research, I found this magazine article that does not need permission to be reprinted. I would be happy to have copies made, to also re-reproduce our original handout and send it to a specific mailing list of pastors, musicians, school personnel and liturgy planning teams. I would like to do it before we hit the Christmas rush and also to secure proper usage of copyright law of worship aids that will be published in the forthcoming months.

I believe it answers in good detail most of the questions I get most often over the telephone. Perhaps together we could draft a letter to encourage people to take this task seriously. Let me know what I can do for the next step. I have enclosed copies for you and for Jack Hammel.

Sincerely,

Kathy Carey

Kathy Carey

Director of Worship, art and Music



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BASIC PROCEDURES FOR REPRINTING COPYRIGHTED MUSIC

(One-Time-Only Basis)

1. FIND OUT the title, composer, copyright holder, and copyright date for each song.
2. WRITE to the copyright holder or publisher of the song before you reprint, asking permission to reprint it. Include in the letter:
 - the occasion for which you need the song
 - the date(s) it will be used
 - the number of copies you will make
3. They will usually send you a copy of their reprint contract or policy, along with the amount of the fee they charge.
4. REPRINT the song exactly the way they tell you. Most publishers require that you print the title and composer's name above the song and the copyright information (e.g. Copyright © 1988, by Sacred Songs Inc. All rights reserved. Used with permission.) below the song. It is always a good idea to say "Used with permission" after the copyright information. Some publishers want their full address listed also. If in doubt, print whatever the published version says. Most publishers allow you to reprint words and melody line only; no harmony, no guitar chords or other accompaniment. N.B. you must obtain permission even for words alone.
5. SEND a copy of your program or songsheet to the copyright holder with the required fee.
6. Keep a copy of the program or songsheet on file for at least three years.

IMPORTANT: There are special procedures for making overhead transparencies and parish hymnals. Please contact the publishers for their individual policies.

PARTIAL LISTING OF PUBLISHERS OF CATHOLIC LITURGICAL MUSIC

Abingdon Press
201 - 8th Avenue South
Nashville, Tennessee 37202
(615) 749-6422

Oregon Catholic Press (OCP)
5538 N.E. Hassalo Avenue
Portland, Oregon 97213
(800) 547-8992

Franciscan Communications Center
1229 So. Santee Street
Los Angeles, CA 90015
(213) 746-2916

Resource Publications, Inc.
(Modern Liturgy Magazine)
160 E. Virginia St. #290
San Jose, CA 95112
(408) 286-8505

G.I.A. Publications, Inc.
7404 So. Mason Avenue
Chicago, Illinois 60638
(312) 496-3800

Sparrow Records, Inc.
(Music of John Michael Talbot)
9255 Deering Avenue
P.O. Box 2120
Chatsworth, CA 91311
(818) 709-6900

I.C.E.L.
1275 "K" Street N.W.
Suite 1202
Washington, D.C. 20005-4097
(202) 347-0800

World Library Publications, Inc.
38315 North Willow Road
P.O. Box 2701
Schiller Park, Illinois 60179
(312) 678-0621

Pastoral Press (NPM)
225 Sheridan Street N.W.
Washington, D.C. 20011-1492
(202) 723-1254

Weston Priory Productions
Priory Lane
Weston, Vermont 05161
(802) 824-5409

North American Liturgy Resources
(NALR)
10802 North 23rd Avenue
Phoenix, Arizona 85029
(602) 864-1980

Other publishers are listed in the Music Locator, by Resource Publications. We have this in the Office of Worship and will be happy to help you locate publishers.

The Church Musician and the Copyright Law

EDITOR'S NOTE:

No copyright is claimed in this article. You are encouraged to reproduce it in order to assure the widest possible circulation.

On October 19, 1976, President Gerald R. Ford signed into law Public Law 94-553 setting forth the law of the land in regard to copyrights. This new law became effective January 1, 1978. The organizations listed at the end of this article want to inform church musicians, ministers and the laity of the provisions in this statute that have particular application to the use of music and related print materials in their respective ministries.

This guide does not presume to be a comprehensive summary of the Copyright Act of 1976. It does not attempt to deal with all the issues covered by the legislation, nor does it provide answers to many of the legal questions.

A complete copy of the Copyright Law of 1976 and further information regarding the Copyright Law may be obtained by writing: The Copyright Office, Library of Congress, Washington DC 20559.

● ● ● Guidelines For the Use of Copyrighted Music Material

① What does "copyright" mean?

Our nation's founding fathers determined that it was in the public interest that the creative works of a person's mind and spirit should belong, for a limited time, to the creator. The protection of these works is called "copyright." The United States Copyright Law grants to any copyright owner the exclusive rights to original material for a term which is *equal to the length of the life of the author/creator plus 75 years*. (For many songs written prior to 1978, the term is 75 years. The copyright owner is the only one who has the privilege of reproducing the work. If any other party wants to reproduce the material in some manner, permission must be obtained from the copyright owner.

Church Music Pub. Assn.

Visible notice of copyright should appear on all copies of copyrighted music. Whether on the owner's original works or on permitted copies, the notice should be visible and contain the word "copyright" or the symbol © (for printed material) or ® (for sound recordings), the year of first publication and the name of the copyright owner.

② What are the rights of copyright owners?

- A. To reproduce the copyrighted work in printed copies or on records, tapes, videocassettes or *any duplicating process* now known or which later comes into being.
- B. To make arrangements and adaptations of that copyrighted work.
- C. To distribute and/or sell printed or recorded copies of the work or to license others to do so.
- D. To perform the copyrighted work.
- E. To display the copyrighted work.

③ Who owns the legal right to make copies?

The original creators (authors and composers) and/or publishers, assigned agents, etc.

④ Do other countries have copyright laws?

Yes. Most of the world now seems to recognize the need to give incentive and protection to creative persons. Copyrighted material owned by United States citizens is protected in many other countries by these countries' copyright laws and treaties with the United States.

⑤ What if I'm faced with a special situation?

If you want to include copyrighted lyrics in a song sheet . . . arrange a copyrighted song for four baritones and kazoo . . . or make any special use of copyrighted music which the publisher cannot supply in regular published form, the magic word is . . . ASK. You may or may not receive permission, but when you use someone else's property you must have the property owner's consent.

⑥ What if there's not time to write?

Think of copyrighted music as a piece of property, and you'll be on the right track. *Plan ahead.* Some publishers routinely grant permissions over the phone.

⑦ What about photocopies or tapes that are now in our church?

Immediately destroy any unauthorized photocopies, tapes, etc., and replace them with legal editions. Possession of any illegal copies puts you in the position of harboring stolen goods.

⑧ Is it permissible to:

- Make a photocopy of a copyrighted work for my accompanist in order to sing a solo?
- Print words only of a copyrighted work on a one-time basis for uses such as church bulletins or song sheets?

- Print songbooks or song sheets containing copyrighted works and use them in churches, Bible studies or home prayer groups as long as they are not sold?
- Make a transparency or slide of a copyrighted work for use by projector?
- Make copies of copyrighted music first and then ask permission?

No. Permission must be secured prior to any such uses and/or duplications.

⑨ What if I can't find the owner of a copyrighted song? Can I go ahead and use it without permission?

No. Check the copyright notice on the work, and/or check with the publisher of the collection in which the work appears. Once you know the name of the copyright owner, write or call the Church Music Publishers Association at the address at the end of this article for assistance in locating an address or phone number. For a cost of \$2, CMPA will supply a current listing of major sacred music copyright holders/publishers. Please send cash; CMPA cannot invoice.

⑩ But what about items that are out of print?

Most publishers are agreeable, under special circumstances, to allow reprinting of out-of-print items; but again, permission must be secured from the copyright owner prior to any duplication.

⑪ What is *public domain*?

If a song is in the public domain (PD), the copyright protection for the song has expired and the song is dedicated to the public for use as it sees fit with no permission being required from anyone. The absence of a copyright notice (see question 1) is one indication that a song may be PD.

⑫ What is *fair use*?

Fair use is not generally available to churches. It is a doctrine developed by the courts that permits portions of copyrighted works to be reproduced legally for purposes of criticism, comment, news reporting, classroom teaching, scholarship and research. In no instance does this apply to a performance. The various interest groups involved have agreed upon guidelines which constitute the minimum and not the maximum standards of educational fair use. If you are interested in a copy of these guidelines, please contact CMPA at the address at the end of this article and enclose a self-addressed stamped 6 x 9 envelope (\$.50 postage) with your request.

⑬ Is it permissible to perform copyrighted religious works in church?

Yes. You may perform copyrighted religious works from legal editions in the course of services at places of worship or at religious assemblies. Legal editions do not result from

unauthorized duplication of religious works, but to purchase one copy of religious sheet music, then make 30 copies for the choir without permission and then perform it in worship service is not legal or ethical.

⑭ Can I make an original recording of a copyrighted song?

Yes, but you must secure a recording license from the copyright owner, and pay, effective January 1, 1988, a royalty of 5¼ cents per song, per record or tape manufactured. (This rate increases every two years.) *This includes copies of recordings or tapes of church services, concerts, musicals or any programs that include copyrighted music.*

⑮ Can I make a record or tape using a prerecorded instrumental accompaniment track?

Yes, provided you have proper permission. Two different permissions are necessary in this situation. The first is from the copyright owner of the selection to be recorded (see question 13), and the second is from the producer/manufacturer of the accompaniment track. Fees are usually required for each permission.

⑯ Is it permissible to make duplicates of the tape that accompanies a musical or printed work for "learning" or "rehearsal" purposes?

No, *it is illegal*. As good an idea as this is, and as helpful as it would be to teach the music to members of the choir, it is against the law without permission. Write or call the publisher of the music. They will usually work with you concerning your request.

⑰ If I buy a record, is it permissible to make a copy for a friend?

Duplication of copyrighted materials is against the law when the purpose is to avoid a legal purchase.

⑱ What are the penalties for making unauthorized copies of copyrighted music?

Embarrassment is the first. Additionally, the law provides for the owner of a copyright to recover damages for unauthorized use of copyrighted music. These damages include the profits of the infringer and statutory damages ranging from not less than \$250 to not more than \$50,000 per infringement. In addition, prison terms are provided for willful (i.e., you knew what you were doing was wrong!) and commercial infringement. Remember, churches, schools and not-for-profit organizations can be infringers too!

⑲ What about photocopiers who don't "get caught"?

Frankly, we cannot imagine what kind of school, church or professional musician would derive satisfaction from doing something illegal. They force the price of legal editions higher. They risk embarrassment from professional colleagues who understand the law. They risk fines and jail sentences if taken to court.

Plainly stated, the making of unauthorized copies of all copyrighted material is strictly illegal. However, all music publishers desire to have their songs used in as many ways as possible; so in some cases, permission can be obtained. You must contact the copyright owner prior to use or duplication.

If you have other questions, please feel free to ask a publisher or direct your inquiries to the Church Music Publishers Association. The Association and its member publishers are always willing to help you with copyright questions. There is a 24-hour "hotline" number to service church musicians and to provide information. That number and the CMPA address are printed at the end of this article.

● ● ● Postlude

This article is produced by The Church Music Publishers Association and issued jointly by the following organizations:

American Choral Directors Association
American Guild of Organists
Association of Disciple Musicians
Choral Conductors Guild
Choristers Guild
Evangelical Lutheran Church
Fellowship in the Arts—United Church of Christ
Fellowship of American Baptist Musicians
Fellowship of United Methodists in Worship Music and
Other Arts
Gospel Music Association
Hymn Society of America
Music Educators National Convention
Music Publishers Association
National Association of Church Musicians—Church
of God
National Association of Pastoral Musicians
National Association of Schools of Music
National Church Music Fellowship
National Music Publishers Association
Presbyterian Association of Musicians
Retail Sheet Music Dealers Association
Southern Baptist Church Music Conference
Standing Commission of Church Music
of the Episcopal Church

If you have further questions, contact the Church Music Publishers Association, PO Box 158992, Nashville TN 37215; 615-791-0273. This information is furnished through the courtesy of the Church Music Publishers Association. ●