

How to Use Music in Your Speech Legally, Ethically and Effectively

with Al McCree

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www.almccree.com

www.militarymusic.com

1. If you are performing the music, you usually have no legal liability*

A professional speaker who is "hired" is in the same category as a performing musician, singer or entertainer and usually faces no legal responsibility or liability. Legal liability usually falls to the individual "hiring" the music. (If you charge admission to your programs or conduct your own rallies, then you are hiring yourself, and you are liable).

** Al is not a lawyer, so cannot offer legal advice. Take his ideas to your lawyer and check out the legalities for your situation.*

2. Your clients should know that music is a part of your program so they can secure licenses.

Simply advertising in your brochure that you use music in your program should be sufficient. Remember, even if you speak the lyric, a license is required. Even if you just play the radio during breaks, a license is still required. (If you deliberately mislead your client and use unlicensed music unexpectedly, you are liable.)

3. Do not permit duplication of music without appropriate permission.

This is called piracy and is the most serious and expensive mistake you can make. Do not let your client do it. This is illegal even if you or your client are not selling the recording but merely want to make copies available for those not attending. If you are using music in your presentation, be sure and notify anyone who might be taping you that duplication of music without a license is illegal. If necessary, have them edit out the music before duplicating.

4. Do not use music in conjunction with visual media (sound on slide, music on video, etc.) without the appropriate synchronization license.

In my opinion, this is the speaker's responsibility, not the client's. Do not believe the production people when they say it's OK. Without a specific license to "sync," it is illegal. If you sell a video with a song on it, a "sync" license is required.

5. Other options:

- **Obtain licenses for the music you use**
This will help your clients avoid the hassle of obtaining the license. ASCAP has a special license just for speakers. Although more difficult, you can obtain a BMI license as well. Numbers are listed below.
- **Obtain mechanical licenses for music on tapes/CDs/MP3s that you sell.**

A mechanical license for your own production of a song is 9.1¢ per unit (CD or MP3). You must pay this royalty to the song's publisher. Jana Stanfield has written an excellent book on how to produce your own musical album. (Contact Jana directly at 615/333-7550, cost \$18.99). Keep in mind that this license would be for music that you have produced and recorded. This mechanical license does not give you the right to duplicate a song off a CD/MP3 that you purchased. To duplicate and use a commercially recorded song, you must seek a master license from the record company. (See the notes on piracy above.)

- **Use commissioned or self-composed music specifically by you.**
Since all of my programs involve original music, I self-license. Our company has worked with many NSA members to create their own original music including Michael Aun, Patricia Fripp, Elizabeth Jeffries, Jeanne Robertson, Naomi Rhode, Dana May Casperson, Burt Dubin. Bob Danzig, Keith Harrell, and Dan Maddux.
- **Write your own song.**
Speaker Connie Podesta and her sister Vicki Sanderson, wrote their own song to conclude their programs. They hired our company as consultants to assist their endeavors.
- **Stop using music in your presentation.**
I hope you don't choose this option. As a songwriter I know the emotional impact of the right song at the right time. There is a power in music that cannot be conveyed in the spoken word alone.

6. Cost to License is variable and negotiated

The cost to license is a complicated and confusing topic.

With the exception of the mechanical license mentioned above, the copyright owners of the music are under no legal obligation to license the music to you. However, you always have the option to negotiate your own deal with the copyright owners or their appointed agents.

A blanket license such as the ASCAP or BMI ones are based on the anticipated number of people in the audience and/or the number of times you speak. To get the exact costs, contact ASCAP and BMI. The ASCAP blanket license is \$322 or up to 34 presentations and \$646.50 for 35 - 70 presentations. ASCAP is providing the 35% discount per NSA's partner agreement. If you only get the ASCAP license, you are only licensed to play ASCAP songs.

For specific songs, you may be able to negotiate directly with song publishers for specific use but you may be turned down. If a song is relatively obscure, the publisher can be pretty reasonable. If the song you want is a top ten radio hit, be prepared to pay. This is not unlike negotiating permission to use excerpts from a book. The more popular the book, the greater the cost.

Jana Stanfield has always been very gracious about the use of her songs by other speakers. If you would like to license her music, contact her directly at 615/333-7550 or <http://www.janastanfield.com>.

When licensing a song on a DVD, a rough industry standard 10¢ per unit sold per song. This is usually done in conjunction with some kind of advance against future sales. This would be for a song you produce, not a commercially recorded song.

Master use license, the use of a commercially recorded song on a product that you sell can be very expensive depending on the popularity of the song.

Other sources of information:

- ASCAP (American Society of Composers, Authors) 800/952-7227, <http://www.ascap.com>, info@ascap.com
Select the voicemail option for becoming a customer. Ask for: information on purchasing a license. If appropriate, verify that: ASCAP is providing the 35% discount per NSA's partner agreement
- BMI (Broadcast Music, Inc.), 800/925-8451, <http://www.BMI.com>
BMI does not have a specific license for speakers. You would need to obtain a license as if you are a meeting planner and the license will be based on the number of meetings and expected audience per year.
- SESAC (Society of European State Authors and Composers), , <http://www.sesac.com>, 800/826-9996 (Nashville), (212/586-3450 (New York)
SESAC licenses the venue and does not have a license for speakers or meeting planners.

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