

Performing Rights Organizations (PRO's) and the Casino Industry

ASCAP, BMI, SESAC – What are they and why are you paying them money? This is such a common question and it is a somewhat vague and confusing subject at the same time. These PRO's are licensing agencies. The public performance of any copyrighted music is subject to licensing. This is the law under the US copyright act which has been around for many decades. The proprietor of any establishment and any public event that incorporates music, whether it is live or recorded, must obtain authorization to do so. This includes all types of venues including radio, television, corporate events, public festivals, concert venues, hotels, airplanes, circuses, bars and restaurants, and casinos. In the early years it was mostly just radio and television but then the copyright law was updated in 1976 and added many more types of entities subject to this licensing and reduced the square footage requirement for already existing venues so more were included. Their job is to license and collect fees from all these venue types and then pay royalties out to their writer and publisher members from those fees.

So how does it work? Basically writers of original music are signed with a publisher and grant the rights of their music to them. These publishers then shop and license the music to record companies who in turn have their artists record and then release and distribute the music to retail outlets, etc.. The music then begins to spread thru concert tours in your showrooms and amphitheatres, cover bands in your lounge, re-recordings for piped music in your restaurants and hotels, karaoke in your cabaret, satellite in your gaming or lounge area, and so on. Your fee covers all these performances to pay the writers and publishers, but how that is all figured is not directly related. The information to figure all this out is actually gathered thru surveys, random samplings, radio stations being taped and playlists logged, and other general means. It is not specific with each venue.

So why pay a licensing fee to ALL of the PRO's? Why not just pay one of them? You do not know which song is licensed to which PRO for all the music performed in your venue so the general rule is to have a license with all of them, and it is usually a blanket license with each that covers their entire catalogue whether you play 1%, 50%, or 100% of their catalogue. It's a 'just in case' rule of thumb. If you have any music at your casino, you are probably playing music from writers from all 3 PRO's. And your concert acts repertoires may be a combination of their own writers on stage with one or two PRO's, a collaboration on a song with an outside writer from another PRO, or etc. Their material is not necessarily with one PRO.

So how do we know we are paying the right fee for our venue? How is it figured out? There are many different types of formulas used and it is not well understood. Some of the considerations are whether your music is live or recorded, how often played each week, capacity of your showroom, whether you have a hotel or restaurant with music playing, etc. Some venues pay exorbitant licensing fees because they have regular concerts, lounge acts, piped music in the hotel and restaurant, streaming satellite, and more. The more you offer the more expensive it gets.

So if we only have local bar bands that only play original music why do we have to pay at all? Lounge bands often 'cover' a song by a major artist. Now you are technically subject to licensing. The 'just in case' rule of thumb. Some clubs may be under the radar and not licensed, but if a rep from one of the PRO's sees the website with bands listed (which they do surf for regularly) and comes in and hears a cover, they'll get hit up to be licensed.

So how do you get around it? The only way is to have absolutely no music in your venue whatsoever which is not very appealing to your customers, or, you only play pre-recorded royalty free music (music you own outright which you paid to have written and gained the exclusive rights to) Neither of these

options seem very feasible. It isn't impossible to negotiate with the PRO's however when they come knocking. It is a rather vague system.

Overall this is a complex subject with a lot of vagueness to it. But until this system can be revised, made easier, and made more fair, it is what you are currently dealing with.

To learn more, visit these 3 main Performing Rights Organizations at the following websites:

<http://ascap.com>

<http://bmi.com>

<http://sesac.com>