



5 myths about using music in commercials

Description



Everyone is familiar with music in commercials. There is music playing while a mobile phone company's latest gadget is being tested by young people, music played while we watch the latest Volkswagen television advertisement and music playing when we watch our favourite TV shows.

As music supervisors, it isn't just about putting music over pictures to fit a commercial. It is about underlining the brand's identity, telling a story and touching the viewer.

But music can be a minefield because there are so many music rights to consider and pitfalls to avoid when using music in commercials.

Let's look at 5 common fallacies about using music in commercials:

Myth 1:

If I use a song that is 70 years or older, I don't need permission from any rights holders

While there are certain cases with the music rights being tied to the song's release date, the most common rule worldwide is a copyright expiration 70 years after the death of the author. This music copyright applies to music and lyrics.

The music itself is protected for the duration of copyright which means that only music in the public domain can be used without any permission from music rights holders (though there are exceptions). Public domain means that music is not protected by copyright and can be used freely.

The 70 year rule applies to all authors involved. So, if you have a song with one person having written the melody and one creating the lyrics, the song would come into public domain 70 years after the death of the writer who died last.

And even if e.g. a famous Christmas Carol entered the public domain, it only applies to the original music and lyrics. Often the most common version of that particular Christmas carol is a work edit or contains alternative lyrics which are still copyright protected.

So before using an old song you need to carefully check which version of the song and which recording of the underlying music and lyrics you want to use and also how and in which countries you want to air your commercial. This determines if and which rights you need to clear.

A good starting point to check who wrote the song can be public sources like Wikipedia and lyrics portals. There you can research if the authors are still alive or when they have died. To find out which is the public domain version of the song you can refer to sheet music providers who then state the respective version as public domain.

Music recordings are equally protected. Their copyright expiration was extended from 50 to 70 years a few years ago, harmonizing it to the copyright duration for the underlying work.

If in any doubt you should seek advice from a music expert. Tracks & Fields as a specialist for music clearance, music research and music licensing [can help you in this regard](#).

Myth 2:

If I only use 6 of 8 notes of a famous tune, it won't be considered a copycat

Copyright infringement is a serious issue. Well-known court rulings like the "Blurred Lines" case in which the writers of Robin Thicke's "Blurred Lines" were found guilty of plagiarism were mainly based on [similarities in the feel of the rhythm section](#) (to Marvin Gaye's "Got to give it up").

So even if you use music that contains only 6 of 8 notes of a famous melody or music piece it will still be considered as copyright infringement by music rights holders.

In the music industry there is a saying: music has memory. This means that music in itself carries certain features from music pieces heard before.

Putting this another way, music consists of more than just notes and rhythm. It contains many other elements which listeners subconsciously recognise as being familiar or not familiar when listening to music. If worst comes to worst and you are sued for copyright infringement, musicologists on both sides will try to prove to the judge that the song you used is or isn't similar that famous tune.

An intentional copycat of course wants to evoke memories of the famous tune it copies, but if that happens, you are likely to be found guilty of plagiarism leading to significant penalty payments.

Myth 3:

Artists will give me their music literally for free when I credit the song in my ad

We all know when commercials made chart hits due to their ubiquity in the TV programmes. Just remember the famous Levi's ad featuring Smoke City's "Underwater love" or Feist's "1234" still humming in your head from Apple's iPod ad.

The big advantage for brands to find the perfect song just on the springboard to becoming famous are manifold. The brand can position itself as a forerunner in music. A music loving brand in touch with music, music enthusiasts and music makers. The popularity of the song and the memorability of the ad (and thus, the brand) will go hand in hand. In an ideal case, the song will often be remembered as "the song from the xyz ad".

While you may think that a music credit in your ad will boost the popularity of the song, the facts show that the impact for the artist is very limited. So even though you have done a favour to them by raising their tune in popularity, music artists won't give you their music for free. For you as a brand the price advantage comes rather in the general price tag being lower than for semi-known or well-known songs than potential price discounts for music being credited in the ad.

In reality we see that our clients often refrain from music credits in their productions, because the price advantage is rather nil or low in comparison to the distraction the credits impose on the message to bring across in the short 15-30 second duration of an ad.

Myth 4:

I only need music licence for music broadcast on TV or online

The music used in your ad does not necessarily need to be broadcasted on TV. The music rights you need to clear depend on how and where the music is (or eventually will) be used.

So even if your ad is only to be played in a limited surrounding like e.g. a trade show you need to obtain a license.

The difference, however, can lie in where to get the license from. Generally, licenses for music in commercials are granted by the artist and writer of the song, commonly represented by their label and

publisher(s). For some uses, however, the rights are being granted by the respective collection society, e.g. GEMA for music used in Germany or PRS for music used in the UK.

Knowing the exact use case for the music is key. While e.g. a plain IVR (telephone on hold loop) background music use may be licensed through the collection society, a branded IVR use (e.g. with a voiceover “welcome to xyz, your premium supplier for xyz”) may need license permission from label and publisher.

If you’re not sure with whom to contact, please feel free to [get in touch](#). We are happy to provide advice and assistance to have all music licensing requirements in order.

Myth 5:

I rather hire a composer as licensing music is expensive and time-consuming

The fact is that there is perfect music for any project and literally any kind of budget.

However, in contrast to licensing famous evergreens, collecting music ideas as well as clearing and licensing music from hot and upcoming Indie artists will be more tedious. Oftentimes music by unknown artists is only available for music licensing after substantial research of who the rightsholders may be, figuring out how to contact them and getting approval on your request to make sure the music rights are properly cleared. So, finding and checking on a variety of music options from Indie artists will require more time investment (which is often not being paid for by the client).

Music supervisors like Tracks & Fields will take care of music searching, clearance and licensing. We will present a variety of options matching your briefing, goals and budget – may it be a hot yet unknown upcoming artist or superstar. This selection can be provided within a short timeframe which makes licensing an existing song on par with custom compositions in terms of time investment and budget requirements. [Just reach out to us with your music brief and we’ll get to work.](#)

With all the explanations for existing songs, we don’t want to leave out music compositions here. There are occasions when a project will require a custom made piece. May it be because of specific (often brand related) lyrics, or sudden changes in mood and intensity within the track (which existing songs typically don’t contain). There may also be hybrids, e.g. when you want have a modern cover version of an evergreen for your commercial. In all these cases, music licensing alone isn’t enough as music compositions and/or lyrics need to be custom-made.

When looking for a composer for those kinds of projects, it is advisable to go for composers who are specialized in the kind of music you are after rather than the one-guy-does-it-all type. There may also be the option to hire an artist of that specific genre to write a custom song matching your brief.

To match these requirements here at Tracks & Fields we provide a large roster of composers who are specialized and credible in their type of music, often being releasing artists themselves, as well as artists being open to create custom pieces on spec.

We hope that this summary of the most common fallacies was helpful. If you need any further advice don’t hesitate to [reach out](#).