GUIDE TO MUSIC RIGHTS
For the Perplexed Choreographer
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What is a music performance right?
It is one of the rights available to be granted by a copyright holder to another party. A work is protected for a set term of years, during which time the creator, the owner and a designated agent, if any, are eligible for compensation. The compensation helps to offset the costs involved in creating, notating, promoting, housing and generally looking after an individual work as well as a catalogue of works by a composer.

Under what circumstances do I need to clear performance rights?
Broadly stated, if you are considering a work written during the 20th or 21st centuries, the recent copyright extension is likely to protect it. (Written meaning created as distinct from published, that is physically available with a copyright date attached.)

If a work was published in 1923 or later (that is, you are looking at a printed score and the copyright notice is dated 1923), it is protected by US copyright law in this country. In addition, a large group of works, largely of Russian but also other origin was restored to copyright in 1996 for the US under GATT. The 20 year extension put into law 1998 also has an impact on the works covered by this treaty.

If a work is a 20th or 21st century arrangement of an existing work, whether the underlying work still protected by copyright or already in the public domain, you will need to clear performance rights.

It is crucial to remember that different laws cover copyright in different parts of the world and works in the public domain in one part of the world may be fully protected by copyright in another.

Why do I need to obtain music performance rights?
The music is somebody’s intellectual property and its use in a performance is, in fact, controlled by the owner or agent. A grand right, that is the performance right pertaining to choreographed or otherwise staged works, is granted directly by the owner or agent and is subject to the owner or agent’s express agreement or approval. Some owners do not wish to have certain works staged or do not wish to have a work staged by a specific individual or group. As arbitrary as this may seem on the receiving end, it is a right protected by law.

When should I inquire about clearing the performance rights?
As soon as you think you might use a piece of music. You will want to know as soon as possible that the work is available and the cost of the license.

The fact that you may have already used the music previously, or that the music has been used by another choreographer does not assure you a license. Also, some composers prefer not to have their works set, or agree but only if the entire work or a complete section is set and you will want to know any limitations as soon as possible.

With whom should I clear the performance rights? And how do I find him/her?
You want to find the copyright holder that could be the composer, an estate, a publisher. It could be different parties in different parts of the world. If you are looking at a score, the name will be on the bottom of the first page. Whether or not you have a score, you can be in touch with ASCAP, BMI or SESAC to find current contact information.
If you are looking at a recording, you are most likely to find only the composer's name. Often, however, the composer has asked a publisher or agent to look after licensing. Once you have the composer's name, you can be in touch with ASCAP, BMI or SESAC to locate his or her appropriate representative.

**What if I cannot find the copyright holder or agent, or never hear back about the performance rights?**

It is illegal to perform a work without a license, so you need to keep trying to find and reach the appropriate people. Getting an early start, while not a guarantee, can be helpful here.

**What do I need to tell the copyright holder or agent?**

As much as you can—include what you know and what you are considering. For example, how much of the music will be used; whether the music will be played live or on recording; possible performances dates and the seating capacity and ticket prices of the venues; if you are thinking of touring and if so, where; whether you are interested in making an archival or even commercial video recording; if you are planning educational or benefit performances; if you plan to use the works for competitions.

**How are fees set?**

In as many different ways as there are copyright holders but most people begin with the size of the performing company, venues, ticket price, number of performances, the relationship of the amount of music being used for which a license is being requested to the whole program. If you are renting performing materials, that is an additional, and sometimes, separate fee.

**What kind of deals on fees are there to be made?**

Sometimes none, sometimes all sorts. It depends on the copyright holder and the agent, if any, and the information you can offer.

**Who has to pay music performance rights?**

Opera companies, dance companies, orchestras, chamber music societies, concert halls, radio stations, dance schools, bars and taverns. Some of these are licensed by ASCAP, BMI or SESAC on behalf of the copyright holder or agent and some (opera and dance companies) are licensed directly by the copyright holder or agent.

**What if I want to use a recording instead of live players? Who do I contact?**

You will need to contact the record company directly. If you are making a collage or medley, you will need to tell the company.

**What do I need to do if I want to use a copy of a recording made from a commercial recording?**

You need to tell the record company. As the recording would be for your own rehearsal and/or performance use, there should not be a problem.

**Does a venue's ASCAP, BMI or SESAC license cover the use of a recording?**

No.