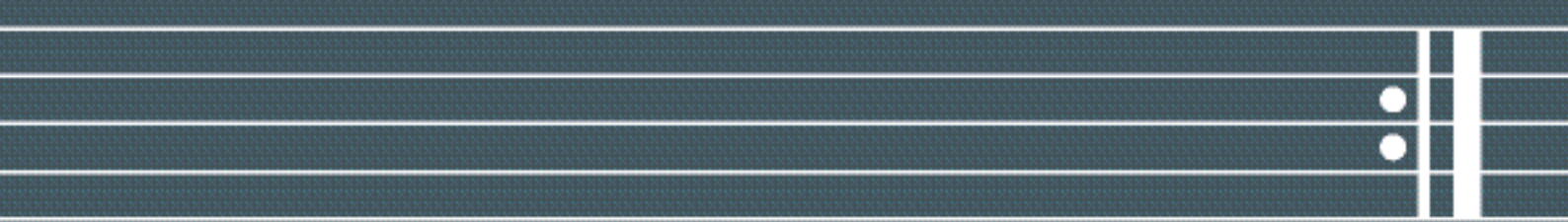


THIRD EDITION 2006



A practical copyright guide to the use of

# Print Music

in Australia



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Photography by:  
Marjorie Hystek

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The contents of this guide may be copied and distributed within Australia to assist with an understanding of copyright and print music issues. Enquiries may be addressed to the Educational Licensing Department. (See contact details on page 18).



## Introduction

### The role of this guide

For several years, AMCOS<sup>1</sup> has offered an advisory service about music copyright and print music issues to the music community. With a view to further assisting users of print music in Australia, AMCOS has, in conjunction with *AMCOS Publishers*, prepared this guide which encapsulates *AMCOS Publishers'* views in relation to the most frequently asked questions from print music users. The guide also includes licences from *AMCOS Publishers* to print music users allowing them to copy print music in limited circumstances.

### Warning

Please note that:

- (a) this guide expresses the views of AMCOS and *AMCOS Publishers* only; and
- (b) the licences granted in section C are from *AMCOS Publishers* only.

If you are in doubt as to any part of this guide, we suggest that you seek independent legal advice. The Australian Copyright Council (02) 9318 1788 offers legal services to advise on copyright and related issues.

### Withdrawal of previous copyright guidelines:

This guide replaces previous copyright guidelines on print music issued by AMCOS. Please do not rely on previously issued guidelines.

Please note that this is the third edition of "A Practical Copyright Guide to the Use of Print Music in Australia." It reflects the views of the *AMCOS Publishers* at the time of publication, however, circumstances may change. If in doubt, please contact the Educational Licensing Department at APRA | AMCOS. If you are unsure whether you have the latest edition of this document – please check with the Educational Licensing Department on (02) 9935 7900. The latest edition of this document is available from the APRA | AMCOS website:  
[www.apra.com.au](http://www.apra.com.au)

### Copyright in music or an edition

Copyright subsists in an original musical work under the Australian Copyright Act (1968). Copyright will also protect any lyrics which accompany the musical work.

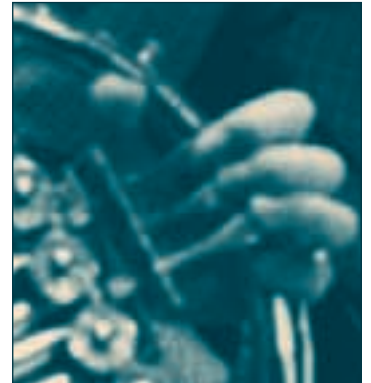
The exclusive rights of a copyright owner in a musical work or lyrics include "reproducing" the work or lyrics. "Reproducing" includes photocopying and copying by hand.

The exclusive rights of the owner of copyright in a musical work also includes the right to make an arrangement or transcription of the work.

Copyright protection for musical works and lyrics usually lasts until 70 years after the year of the composer, lyricist or arranger's death. Copyright protection for works prior to 1 January 2005 was only for the life of the creator plus 50 years. Works whose copyright expired prior to these dates remain in the public domain.

Copyright also protects the typesetting of published music and lyrics (referred to as the published edition).

Copyright protection of published editions lasts for 25 years after the date of publication.



<sup>1</sup> Australasian Mechanical Copyright Owners Society Limited ABN 78 001 678 851. AMCOS represents music publishers in Australia and New Zealand and has reciprocal agreements with overseas collecting societies to license the reproduction of musical works in audio format (mechanical rights.)



## Other types of copyright

Please note that this guide is only intended to cover issues relevant to the copying of print music. It does not cover:

- (a) audio or video recording of musical works; or
- (b) the public performance of musical works<sup>2</sup>.

## Application of this document

The contents of this brochure are intended to apply to all music users throughout Australia. You will need to check the publisher list in Schedule 1 to make sure that the publisher of your music has agreed to the principles and conditions of this guide.

If you have some type of licence (for example, the AMCOS schools' photocopying licence)<sup>3</sup> that allows the photocopying or reproduction of music and/or lyrics, from a licensing organisation or direct from the copyright owner, you must abide by the conditions of that particular licence. This document is not intended to replace any existing licensing schemes.

## What if your question is not in this brochure?

While every effort has been made to answer the most commonly asked questions, it is impossible to cover every imaginable scenario. If the answer to your specific problem is not provided in this document, please contact AMCOS, or the relevant music copyright owner for advice.

## Glossary of terms:

**"AMCOS Publisher"** – the music publishers listed in Schedule 1, who have agreed to this guide.

**"Infringing Copy"** – an infringing copy is an illegal copy, that is, one that has not been made with the authority of the appropriate music copyright owner or made in accordance with terms of a copyright licence or exception to copyright in the Copyright Act or allowed under a licence granted by this document.

**"Licensed Copy"** – is a copy (usually a photocopy) the making of which is authorised by the appropriate music publisher. Usually a *music publisher* will stipulate conditions of use of the copy at the time of authorisation. If these conditions are followed, a *"Licensed Copy"* is a legal copy.

**"Music Publisher"** – the copyright administrator of a musical work and/or published edition.

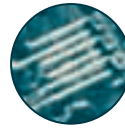
**"Original Print Music"** – the musical work and the published edition copyrights.

**"Public Domain"** – a musical work is in the *Public domain* if it is no longer protected by copyright. However, copyright may subsist in an arrangement and/or published edition of a public domain musical work.

<sup>2</sup> Although this information may be obtained from the: (a) Mechanical Licensing Department and the (b) General Performance Licensing Department of APRA

<sup>3</sup> Information about the AMCOS schools' photocopying licence is available to schools in the booklet "Music Copyright for Schools". Schools may contact AMCOS for a free copy.





## PART A: General Print Music Issues

### 1. Availability of music

#### 1.1 How do I find out if a certain piece of music is available for purchase?

*Try your usual music retailer. If you are unsuccessful, look in the yellow pages for a specialist print music store. The relevant music publisher of the work may also be able to advise you of where it may be purchased.*

#### 1.2 What is meant by the term "out of print"?

*If a piece of music is out of print it means that the music publisher has no more copies left to sell.*

#### 1.3 If a work has gone out of print, does this mean that it is no longer protected by copyright and am I free to copy it?

*No. Even if a copyright work is permanently out of print, you may not photocopy it without the publisher's permission. The copyright status of a work is not affected simply by the fact that it is out of print.*

#### 1.4 How do I get a copy of an out of print piece of music?

*Even if a piece of music is out of print, some retailers may still have copies in stock – if not, contact the music publisher for advice. Many publishers retain archive copies from which they can make a copy for you, or they may be able to authorise you to make a **licensed copy**. Making such requests also alerts the publishers to the fact that a piece of music is in demand, and as a result, the publisher may decide to reprint the work.*

#### 1.5 What is meant when a retailer says that a piece of music is only available for hire?

*There are many works that are only available for hire and not purchase, especially contemporary works – including chamber music, orchestral music, and many operas, operettas and musicals. You will need to contact the **music publisher** hire library that controls the work in order to hire the music.<sup>4</sup> The Educational Licensing Department on (02) 9935 7900 may be able to assist you by referring you to the appropriate **music publisher** or their agent.*

#### 1.6 Can I purchase a piece of print music from an overseas source for the purpose of lending, selling or hiring?

*No, the permission of the copyright owner in Australia is required due to importation restrictions in the Copyright Act.<sup>5</sup>*

#### 1.7 What can I do if I am told that the music is going to take a long time to arrive from the time of order?

*Music should not take a long time to arrive, once ordered. Your retailer should be able to give a reasonable estimate of how long this will take. If unsure – you can always seek a second opinion – ask another retailer. (It is of course prudent to allow time to order the music in case this is necessary as a retailer should not be expected to keep every piece of music ever published, in stock all the time.) You are not entitled to make a photocopy just because you have ordered the music. You would require prior permission from the copyright owner to do so.*

#### 1.8 What does it mean if a retailer tells me that a piece of music which I have ordered cannot be supplied because it "cannot be sold in Australia for copyright reasons?"

*Due to importation restrictions in the Copyright Act, certain titles can not be imported into Australia for the purpose of sale. This can occur for example when a British edition of a work is licensed for sale in British Commonwealth countries while an American edition of the same work is not.*

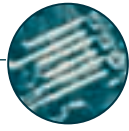


<sup>4</sup> In relation to "grand right works" such as operas, musicals, ballets – permission to perform the work (as well as to hire the music) would be controlled by the publisher (and not APRA).

<sup>5</sup> Sections 37 and 38.

## PART A

### General Printed Music Issues



#### 1.9 What if my concert is this weekend and I can not purchase or hire the music?

*If your concert is this weekend the chances are that you needed the music before this week to learn it. You must allow plenty of time to purchase the music and learn it. It is unrealistic to expect music retailers to have every piece of music in stock when you need something at the last minute. It is extremely inadvisable to plan the content of a musical performance or a programme before having all the music in your possession. This is taking an unnecessary risk, because there may occasionally be some difficulty in obtaining a piece of music, particularly if it is out of print.*

#### 1.10 I have just bought a piece of music by phone-order but do not want to wait for it to arrive in the mail. Can I ask the shop to fax it to me to avoid the wait?

*No. Retailers are subject to the same copyright obligations as any individual and are not able to reproduce copyright material without permission.*

#### 1.11 What if I only need one piece from a collection?

*First check with your retailer to see if it is available for purchase in separately published form.*

*If not, consider investing in a collection which will provide you with other valuable material for future use. Photocopying of copyright material in a collection will usually require permission from the publisher.*

#### 1.12 Can I go to a library and photocopy music?

*Not necessarily. There are various exceptions under the Copyright Act, including "fair dealing"<sup>6</sup> for the purpose of research or study or for the purpose of criticism or review. However, in the view of **AMCOS Publishers**<sup>7</sup>, the making of a copy for the purpose of playing or performing the work would not be a 'fair dealing'<sup>8</sup>. In the absence of a specific copyright exception under the Copyright Act, or express permission from the relevant **music publisher**, you would have to make sure that every element of copyright had expired in the work and its published edition. (See paragraph 7, "Issues to consider in assessing the copyright status of a published work".)*

*Private music teachers should be aware that they **may not** use school library collections as material for copying for their private students<sup>9</sup> – the students should purchase originals for their own use.*

#### 1.13 If I own an original piece of print music, does that entitle me to make photocopies from it?

*No. The ownership of a physical item such as a piece of sheet music or a compact disc does not mean that you own the copyright in the musical work, sound recording or the published edition. Therefore, it does not give you the automatic right to make copies.*

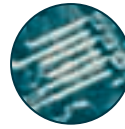


<sup>6</sup> An example of "fair dealing" (in the Music Publishers' view) would be if a small extract of work was copied for use in the preparation of an essay or assignment on music for a course of study. There is also an exception in the Copyright Act (s.200) which permits copying by hand by a teacher or student in the course of study (such as in a classroom) where no further copies (by a photocopier or printer) are made of the hand written copy.

<sup>7</sup> Also the view of the Australian Copyright Council.

<sup>8</sup> The "fair dealing" sections of the Copyright Act include section 40 (fair dealing for the purpose of research or study), section 41 (fair dealing for the purpose of criticism and review), section 42 (fair dealing for the purpose of reporting news), section 43 (reproduction for the purpose of judicial proceedings or professional advice); and the corresponding sections in relation to subject matter other than works – sections 103A, 103B, 103C and section 104.

<sup>9</sup> Copying of print music for private tuition purposes is not covered by the AMCOS schools' licence even if the tuition is held on school premises.



## 2. Contacting music publishers

### 2.1 Who do I contact for permission to photocopy a piece of music?

*If you know who the copyright owner of the work, arrangement or edition is, and their local representative (if applicable)<sup>10</sup> – contact them. If not – contact the Educational Licensing Department on (02) 9935 7900 who will research the copyright and provide the contact details of the copyright owner wherever possible.<sup>11</sup> You will then need to contact the copyright owner of both the work and published edition (usually a **music publisher**) yourself. If the work is in unpublished (manuscript) form, you will need to contact the composer.<sup>12</sup>*

### 2.2 In what circumstances will a music publisher grant permission for you to photocopy?

*You can not assume that a **music publisher** will always grant you permission to photocopy or reproduce a work or published edition in some other way. It is AMCOS' experience that permission is far more likely to be granted if the work is not commercially available.*

### 2.3 How can I confirm that a photocopy in my possession has been authorised by the music publisher of the work/edition?

***Music publishers** usually send an accompanying letter of authorisation, or if they are issuing the photocopies themselves, they will often stamp the photocopy with a licence number. Most authorised copies are marked with specific wording required by the **music publisher** – for example – “reproduced with permission of X Publisher – Licence No. X.”*

### 2.4 Can I use a **licensed copy** in a public performance?<sup>13</sup>

*Yes. If the copy has been authorised by the relevant **music publisher** then you are entitled to treat it as a legal copy as long as you abide by any conditions stipulated by the publisher. It is advisable to always have with you the relevant letter of authorisation from the copyright owner if using the photocopy in a public performance, as many eisteddfod and other music competition bodies will not allow the performance from photocopies without the competitor providing proof from the publisher. (See Form 1.)*

## 3. Lending/borrowing music

### 3.1 Can I lend my music to another person or organisation?

*In many cases original published editions of music may be lent, but keep in mind that if you lend music to someone so that **they** can photocopy it, not only will they be potentially liable for copyright infringement but **you** may also be liable for authorising a copyright infringement.<sup>14</sup> Music teachers should be especially careful in this regard.*

### 3.2 Can I borrow music from my music teacher for an exam, or do I have to purchase my own music?

*There is no infringement of copyright in borrowing music from your teacher provided that you do not copy it.*



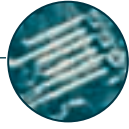
<sup>10</sup> Many overseas publishers are represented by music publishers in Australia. A list may be obtained from AMCOS of the major agency representations of music publishers in Australia and their contact details.

<sup>11</sup> If the enquiry is for non-commercial purposes, such as research to help a teacher, student, or an educational institution, we do not charge the usual research fee that applies to commercial research services for advertising agencies etc.

<sup>12</sup> The Australian Music Centre may also be a useful contact regarding certain unpublished Australian compositions. Ph: (02) 9247 4677.

<sup>13</sup> Please note that a licence for the public performance of the music may be required from APRA. For an eisteddfod/music competition – it would be the responsibility of the eisteddfod/organising committee to take out the appropriate APRA licence.

<sup>14</sup> See para 1.6 and footnote 5.



## 4. Arranging/transcribing music

### 4.1 How do I obtain permission to arrange a piece of copyright music?

Contact the **music publisher** for permission. If it is unpublished – contact the composer for permission.<sup>15</sup>

### 4.2 If I am given permission to arrange a musical work by the music publisher, who owns the copyright in my arrangement of this work?

A **music publisher** will usually give you permission to arrange a work on the condition that it will own copyright in your arrangement.

### 4.3 If the musical work itself is in the **public domain**, am I allowed to arrange it?

Yes. However, if you want to re-arrange a copyright arrangement of a **public domain** work, you will still require permission from the owner of the copyright in the arrangement.

### 4.4 If I want to arrange copyright musical works into a medley do I need permission from the **music publishers** of the various works that I wish to combine in a medley?

Yes.

### 4.5 Am I allowed to write out a piece of music by memory or by ear – listening to a recording?

No, if it is in copyright. You will need prior permission from the copyright owner of the musical work even if the work is not available in print music form. Contact the Educational Licensing Department on (02) 9935 7900 for assistance. It is worth checking to see if the music is commercially available in print form before seeking permission to make the transcription. If it is not commercially available in print form, this does not mean that it is not protected by copyright.

### 4.6 Can I make up my own song booklet with lyrics from favourite songs?

Only if the songs are out of copyright, otherwise you would need to seek permission from the copyright owner(s) of these songs. Contact the Educational Licensing Department on (02) 9935 7900 who can assist you by researching the copyright ownership in these works.<sup>16</sup> If you were hoping to compile a book with photocopied extracts from various sources, you would have to check the copyright status of the published edition too, and seek appropriate permission from the relevant music publisher(s).

### 4.7 Can I alter the words of a song?

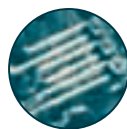
If you wish to change the words of a song, you will usually require the permission of the **music publisher**<sup>17</sup>. Please note that a licence to reproduce or publicly perform a song will usually require you to obtain the permission of the **music publisher** to change the words of the song. The same principle applies to translating lyrics into another language or adding lyrics to an existing instrumental work – both of which would require permission from the relevant **music publisher**.

<sup>15</sup> If permission is granted by the music publisher, they may charge an upfront fee for making the arrangement. If you wish to sell the arrangements, they will usually require payment of a certain percentage of the royalties to the music publisher who owns the copyright in the underlying work. This will be specified in your agreement with the publisher.

<sup>16</sup> You would be required to submit a list of the titles, composer and lyricist details of these songs.

<sup>17</sup> Unless the musical work and lyrics are in the Public domain.





## PART A

### General Printed Music Issues

- 4.8 If I own the original print music, can I simplify the music for my students without infringing copyright?

*No. You will usually need the permission of the music publisher who controls the work. However, if the musical work is controlled by an **AMCOS Publisher**, please see Section C paragraph 13. If the work is not in copyright, you do not require permission to simplify it.*

- 4.9 If a piece is written in an unsuitable key to perform, am I allowed to make a transposition of it?

*No. You will usually need the permission of the **music publisher** who controls the work. However, if the musical work is controlled by an **AMCOS Publisher**, please see Section C paragraph 14.*

- 4.10 Can I transpose the music by scanning it and then altering it on a computer, and then printing it out?

*No. You would need to seek permission to scan and to alter a copyright musical work. If the edition is protected, you may need permission from the **music publisher** to scan and print out the edition even if the work itself is in the **public domain**.*

- 4.11 Can I make a transcription of an improvisation on copyright material?

*No. You would need to seek the permission of the copyright owner(s).*

- 4.12 What if my orchestral set includes a part for a certain instrument (for example, viola) but I do not have that instrument in my orchestra. Am I allowed to transcribe it and change the clef if necessary (for example for 3rd violins to play)?

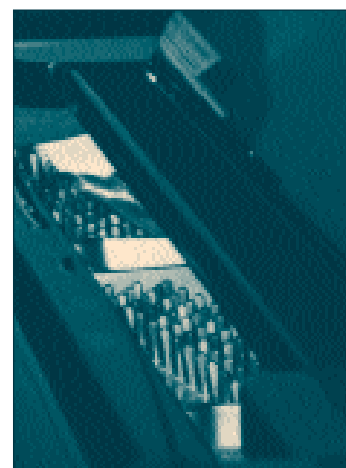
*No as technically this would be a transcription, requiring the permission of the copyright owner. However, if the musical work is controlled by an **AMCOS Publisher**, please see Section C paragraph 15.*

- 4.13 What are the copyright responsibilities of music typesetters, arrangers, and transcribers?

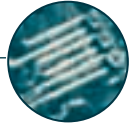
*It is advisable that when making any transcription or print arrangement on behalf of another person or organisation, that you obtain warranties and an indemnity from the person who has asked you to typeset the copyright in the music – that the music that you are typesetting is either owned by them or if it is an arrangement/transcription of a copyright work, that the arranger has obtained the relevant permission from the copyright owner of the original musical work.*

- 4.14 If I purchase a midi file, does that entitle me to print out the musical notation?

*The purchase of the midi file does not automatically entitle you to print out the music – this usually requires permission from the copyright owners of the musical works. If you purchase the midi file it should have a copyright notice on it regarding whether or not you can print material from it. Sometimes the copyright notice is on the accompanying book (if it is part of a kit comprising print music and a midifile disc).<sup>18</sup>*



<sup>18</sup> For example the books and MIDI file discs produced by the AMEB for its contemporary popular music courses.



## 5. Use of print music in performance situations

- 5.1 If I perform in public from a number of musical publications that I own, am I allowed to produce my own compilation/collection by photocopying and putting the photocopied music in a folder or scrapbook?

*No. You would need the permission of the relevant **music publisher**.*

- 5.2 The music is in a volume and it is difficult to read on the music stand/piano ledge, can I photocopy all the pages of the music for ease of playing if I own the original?

*Permission must be obtained from the relevant **music publishers** for such purposes.*

- 5.3 Can I make a photocopy of a page if there is a difficult page turn?

*Usually, no. However, if the original print music is controlled by an **AMCOS Publisher**, please see section C paragraph 16.*

- 5.4. Can I make an enlargement of a piece of music that I own if I have impaired vision?

*Usually no. However, if the original print music is controlled by an **AMCOS Publisher**, please see section C paragraph 17.*

- 5.5 If an instrumental duet is published as a single "playing score", can I make a photocopy of it for the other player?

*No. Both performers will need to purchase their own original music from which to practise and perform.*

- 5.6 If a work for two pianos is published as a single two piano score, can I make a photocopy of it for the other players?

*No. Both pianists will need their own original music. Some editions of works written for two pianos are published with two original copies in the set. In this case, both performers have an original to play from. Some other publications of music for two pianos contain one copy of the two piano score. A photocopy may not be made for the other pianist simply because it is published in this way. You will need to use two original copies or obtain permission from the copyright owner to make a copy.*

- 5.7 What if the music is not published in separate parts?

*(An example of this is a playing score<sup>19</sup>, especially in chamber music, where all the parts may be printed on the one page). You still cannot photocopy the music. If this is difficult to read, you should play from one original each, or as usual, contact the **music publisher** for advice.*

- 5.8 Can I make one photocopy onto an overhead transparency?

*If you photocopy the words or music from a song or piece of music that is protected by copyright, you will require permission from the copyright owner or an appropriate licence.<sup>20</sup>*

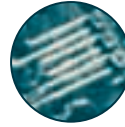
- 5.9 Can I write out song lyrics by hand on an overhead transparency?

*If it is outside an educational institution – for example, in a church or at a "singalong", you would require permission or a relevant licence from the copyright owner(s) to make such a transcription.*



<sup>19</sup> A playing score is a publishing format in which performance parts are only published as a score, and not separately.

<sup>20</sup> There are some church copyright licences issued by licensing organisations such as Copyright Agency Limited (CAL), Christian Copyright Licensing International (CCLI), Word of Life International, LicenSing, that allow such reproductions of their members' works.



## 6. Liability for copyright infringements

Copyright in a musical work or published edition is infringed when a person, without the permission of the copyright owner reproduces the work or edition.

Accordingly, a person infringes copyright if he or she, without the copyright owner's permission, "authorises" a person to reproduce a work or edition.

In this context "authorise" has been defined to mean "sanction, approve or countenance".

Authorise, therefore extends beyond merely expressly allowing a person to copy a copyright work. It includes:

- (a) implied permission or invitations to copy a copyright work; and
- (b) inactivity or indifference to copying.

- 6.1 If I allow someone to borrow my books to photocopy, would I be liable for any copies that he makes?

*Yes, you are likely to be liable for authorising any resulting infringements from encouraging or even condoning the making of the illegal copies.*

- 6.2 What are the maximum fines for breach of copyright?

*"Where copyright is infringed, the copyright owner has the right to bring an action against the infringer to recover damages or an account of profits. Damages is a sum of money intended to compensate the copyright owner for money lost, or spent, in respect of the infringement and will vary according to the circumstances. An account of profits is the profit made by the infringer in selling the infringing copies."<sup>21</sup>*

- 6.3 Has AMCOS or any of the music publishers taken legal action recently against any copyright infringers?

*Yes, recent cases include taking legal action against someone who was making arrangements of copyright music without permission and several commercial music teaching practices where photocopies were being made without the permission of the copyright owners and supplied to students for a fee.*

- 6.4 What is the potential liability of corporations for breach of copyright?

*If a corporation infringes copyright they may also have committed a criminal offence. [Under the Australian Copyright Act] "a person who is guilty of an offence may be fined up to \$60,500 or imprisoned for 5 years, or both; a corporation may be fined up to 5 times that amount. In addition, courts can order that infringing copies, and any equipment used for the making of infringements be destroyed, handed over to the relevant copyright owners or otherwise dealt with."<sup>22</sup>*

- 6.5 How is information obtained about copyright infringements?

*At public performances in concerts, festivals or events many people may be aware of the fact that a performance is taking place from an unauthorised copy or arrangement. Reports of alleged infringements are regularly received from the general public and all such reports are followed up.*

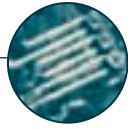
- 6.6 If I follow the principles of this guide and make copies under the licences contained within the document, I'm safe aren't I?

*Yes. All the principles contained in this guide are based either directly on the Australian Copyright Act or where licences are granted under this document though agreement with AMCOS music publishers. If a publisher is not listed in this guide, you should check directly with them to make sure that they agree to the principles in this guide, as you can not assume that they will.*



<sup>21</sup> Extract reproduced with the kind permission of the Australian Copyright Council. For further information please refer to the information sheet entitled "Infringement actions, remedies, offences and penalties." October 2000, available from [www.copyright.org.au](http://www.copyright.org.au).

<sup>22</sup> See footnote above.



## PART A

### General Printed Music Issues

## 7. Issues to consider in assessing the copyright status of a published work

### 7.1 How can I tell if a piece of printed music is in copyright?

*You need to check all the possible copyright elements – such as the music, words, translation of the words, arrangement, published edition, editors' notes or explanatory remarks.<sup>23</sup>*

### 7.2 How long are works protected by copyright?

*Published musical works are protected in Australia until 70 years after the end of the calendar year in which the composer died. Arrangements of **public domain** works are protected until 70 years after the end of the calendar year in which the arranger died. Lyrics are protected until 70 years after the end of the calendar year in which the lyricist died. Copyright in works that are not published, performed, broadcast or recorded during the composer's lifetime will remain in copyright until fifty years after the end of the year in which one of these events first occurs. Copyright protection for works prior to 1 January 2005 was only for the life of the creator plus 50 years. Works whose copyright expired prior to these dates remain in the public domain.*

### 7.3 Do I have to consider the copyright in the published edition as well?

*Yes. This is separately protected to the musical work itself, for 25 years from the date of publication. If the edition does not have the date of publication on it, you should not assume that the edition is not protected by copyright.*

### 7.4 Are there any other types of copyright that I should be aware of in a piece of published music?

*Yes. Not only copyright in the music, lyrics, arrangement and published edition but also possibly in the editor's markings and introductory notes. The actual compilation of pieces in a collection may have copyright protection (that is, the selection and order of the different works may be protected). You should not assume, for example, that a piece of print music written by Palestrina published in 1924 is necessarily out of copyright, as there may be separate protection for the translation of the words, editor's markings and other original contributions of the publisher and editor.<sup>24</sup>*

## 8. Internet

### 8.1 Can I download anything from the internet?

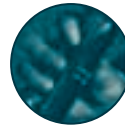
*No, if you are reproducing copyright material you will usually require permission from the relevant copyright owner. If the creator of the website has original material on the site, you may contact them for direct permission to reproduce part or whole of a work. However, quite a lot of musical works and/or lyrics are illegally included on websites. This does not mean that you are free to copy works from these sites. If you wish to reproduce any musical works or sound recordings on the net, you should contact AMCOS (regarding the musical work) and ARIA (regarding the sound recording) for advice.*



<sup>23</sup> An editor's notes may in some cases be regarded as a separate literary work.

<sup>24</sup> It may be argued in some cases that the editor has created a new literary work, separate to the musical work.





## PART B

### Issues for Specific Music Users

## PART B: Issues for Specific Music Users

### 9. Orchestras and Bands

- 9.1 What if the orchestral/band music that I own is not published with sufficient parts for each player in the ensemble? For example, if it contained six first violin parts and there are eight first violinists in the orchestra. Can I photocopy extra instrumental parts?

*No. You may not photocopy without permission. Firstly you should make enquiries with a retailer to see if it is possible to buy additional instrumental parts. These are quite often available – particularly for strings. If not – you should contact the publisher for advice or permission to supplement the purchased set.*

- 9.2 What if I have lost one of the instrumental parts of an orchestral/band set. Am I allowed to photocopy a substitute (assuming I still have another original?)

*No. The loss of an original part does not give you the automatic right to replace it by photocopying it without the **music publisher's** permission. You may be able to purchase a replacement, particularly if it is a string part. If not, contact the publisher for advice.*

- 9.3 Can I photocopy and enlarge a miniature score for use as a conductor's score?

*No. Miniature scores are published as an aid to study, not intended to be used as a conductor's score. It is therefore not permissible to enlarge it unless you obtain the relevant permission from the **music publisher** – which in AMCOS' experience is more likely to be given if the full sized conductor's score is not available for purchase or hire. (The conductor's score may quite often only be available for hire.)*

### 10. Use of Music in an Eisteddfod, Music Competition or Audition

- 10.1 Do I have to perform from original print music in an eisteddfod or other music competition?

*Yes, unless you have a photocopy that has been licensed for that purpose. Eisteddfod and other music competition organisations usually ask competitors to complete the Performer's Declaration **FORM No. 1** (See Schedule 2) indicating that they are performing from original published editions or photocopies authorised by the relevant **music publishers** and have a letter confirming that the copy is either in the **public domain** or has been authorised by the **music publisher**.*

- 10.2 If I wish to sing or play in an Eisteddfod or other music competition, where the accompaniment is not physically separable from the vocal part, can I make a copy of the accompaniment for the accompanist to use during the music competition?<sup>25</sup>

*Usually no. However, if the original print music is owned by the soloist and the copyright is controlled by an AMCOS music publisher, and the music is published only in the form of a score without the inclusion of a solo part separable to the piano accompaniment, please see Part C para 19 and FORM NO. 5.*

- 10.3 If I perform from memory in an Eisteddfod or other type of music competition, will I need to complete Form 1?

*No, this form is only to be completed by performers who are playing/singing from music. This does not of course mean that any photocopies can be made without permission prior to the music competition.*



<sup>25</sup> This would mostly apply to vocal music where both the accompaniment and solo parts are usually printed together in the form of a score without the inclusion of a separate solo part for the vocalist.

## PART B

### Issues for Specific Music Users

#### 10.4 Does my young child have to sign the Performer's Declaration Form 1?

*No. Children under the age of 18 may have a parent/guardian sign on their behalf.*

#### 10.5 What if the competitor refuses to sign the form?

*An eisteddfod or other music competition organisation may refuse the performer to play or sing.*

#### 10.6 Do I have to fill in the form for every section that I go in, in the music competition?

*No. You can simply fill in FORM 1, listing the sections that the form is to apply to.*

#### 10.7 Do I need to fill out a Performer's Declaration Form if my school ensemble is performing from AMCOS Licensed Copies?

*You would tick (b) (i) and the copy would have to be properly marked/stamped with the words "AMCOS Licensed Copy". Please note that this only applies to schools that have the AMCOS licence. No individual performers can use 'AMCOS Licensed Copies' only school choirs/orchestras/bands/ensembles.*

#### 10.8 Can I make a photocopy of original print music for the use of an adjudicator?

*Usually, no. However, if the **original print music** is controlled by an **AMCOS Publisher**, please see section C paragraph 18. **FORM NO. 2** (Schedule 2) must be attached to any copies made under section C paragraph 18.*

#### 10.9 Who is responsible for ensuring that the performance is either from original published editions of music or a licensed photocopy in an eisteddfod/music festival situation – the individual competitor or the eisteddfod committee?

*It is the responsibility of the competitor to ensure that they perform from originals or **licensed copies**, however, if an eisteddfod committee authorises or condones the making of **infringing copies**, they could be liable for **authorising copyright infringements**.*

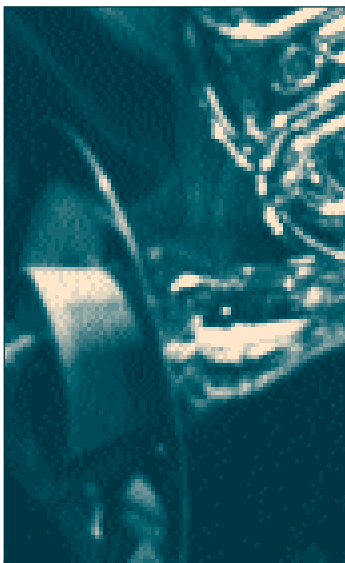
*Eisteddfod societies and music competition committees should ensure that **FORM No. 1** in Schedule 2 is completed by the competitors to assist in reducing the risk of liability of the eisteddfod/music competition committee for the authorisation of infringing copies by competitors, and to make the competitors aware that they must abide by copyright laws.*

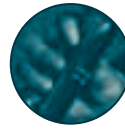
#### 10.10 Do I have to play from an original (ie. a published edition of music) in an audition?

*Auditions are no different to any other type of performance, therefore you should perform prepared pieces from original print music, or **licensed copies**.*

#### 10.11 Can an auditioning body make photocopies of sections of orchestral or band parts for the performers at an audition?

*Usually, no. However if the **original print music** is controlled by the **AMCOS Publishers**, please see section C paragraph 20. Where photocopies of orchestral or band parts are supplied by the auditioning body, they must have a declaration notice attached in **FORM No. 4**. (See Schedule 2).*





## PART B

### Issues for Specific Music Users

## 11. Choirs

- 11.1 What if a concert requires print music for a large number of performers?

*If you can not purchase enough originals for any reason, you should contact the publisher of the work for assistance.*

- 11.2 What if I own twenty copies of a published choral sheet, and there are twenty-five singers in my choir?

*Buy another five (so that you have one per person) or ask choristers to share the music. Any photocopying of copyright material will require permission from the **music publishers**.*

- 11.3 Can my choir perform using photocopies in folders instead of using our original print music?

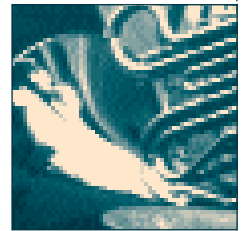
*No, permission must be obtained from the **music publishers** for such purposes.*

- 11.4 Does a choir have to use printed music to learn a song or can they learn "by rote"?

*It is completely up to the choral director to decide this issue. Please note that elements of the music such as lyrics/melody may not be transcribed and photocopied to assist the rote learning process, without the **music publisher's** permission.*

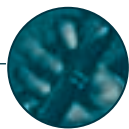
- 11.5 Would I need permission to rewrite a choral piece for SSA if it was originally scored for SATB?

*Yes if it is in copyright. Any rearrangement of a copyright work requires permission. (See the section 4 on arranging/transcribing music.)*



## PART B

### Issues for Specific Music Users



## 12. Examinations

### 12.1 Should I perform from original print music in an exam?

*Yes – you should perform from original print music or a **licensed copy** as some examination bodies may refuse to accept the performance of music from unauthorised photocopies in an examination, or may penalise the student in some way. (Read the rules published in the syllabus of each examination body.)*

### 12.2 What if I need to send a copy of the music to an examination body prior to the exam?<sup>26</sup>

*This should be treated in the same way as making a copy for an examiner or an adjudicator in an eisteddfod – that is, usually no. However, if the original print music is controlled by an AMCOS Publisher, please see section C paragraph 21 and complete and attach FORM NO. 3.*

### 12.3 What if I am required to make an arrangement of a copyright piece of music for an examination? Do I need to seek permission?

*Section 200 (1) of the Copyright Act permits arrangements of musical works in the course of educational instruction provided that no photocopies are made of these arrangements.*

### 12.4 If I have to give a copy of the music to a music examiner, am I allowed to make a photocopy for them?

*Usually, no. However, if the original print music is controlled by an AMCOS Publisher, please see section C paragraph 21. FORM NO.3.*

### 12.5 Can I make photocopies of past examination papers?

*Many of these examination papers are available for sale after the year of the examination. If you want to make any photocopies of these, you would need permission from the examination body that publishes these papers, for example, the AMEB and the copyright owner(s) of the music.<sup>27</sup>*

### 12.6 Am I allowed to use (copy) any copyright music or lyrics as part of an examination paper?

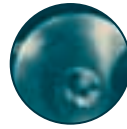
*Yes, under section 200 of the Copyright Act, you may reproduce or adapt a musical work if it is used as part of the questions or answers to an examination. You may not use the material for any other purpose, however, so even the distribution of exam papers after the examination would require copyright permission in the usual ways.*



<sup>26</sup> For example, this may be required for some of the high level performance AMEB performance exams such as the F.Mus.A.

<sup>27</sup> The same applies to tapes and other pre-recorded material. Contact the Mechanical Rights Division of APRA and the owner of the sound recording copyright for permission/licence.





## PART C: Licences from *AMCOS Publishers*

### 13. Simplifying music

If you own *original print music* controlled by an *AMCOS Publisher*, you may simplify the music for your students without infringing copyright if you make an alteration that simply requires writing on the print music, for example, writing a note an octave lower than printed in the edition.

If the simplification requires rewriting the entire piece or re-arranging it, or the musical work is not controlled by an *AMCOS Publisher*, you will need permission from the *music publisher* if the work is in copyright. (See Clause 4.8).

### 14. Key changes for performance purposes

If you own *original print music* controlled by an *AMCOS Publisher* and it is in an unsuitable key for your voice or instrument, you may exactly transpose (that is transcribe but not rearrange) one transposition only for the sole purpose of performing the piece. The resultant transposition may not be photocopied, sold, hired or lent. (See Clause 4.9).

### 15. Instrumental changes for orchestral and band sets

If you own the original orchestral or band set and the *original print music* is controlled by an *AMCOS Publisher*, you may make a transcription of a part of the musical works. (See Clause 4.12).

### 16. Difficult page turns

If you own *original print music* controlled by an *AMCOS Publisher*, you may photocopy the page solely for use in conjunction with the original print music. You may not photocopy the entire work or movement to eliminate the need for all page turning without obtaining permission. (See Clause 5.3)

### 17. Enlargements for impaired vision

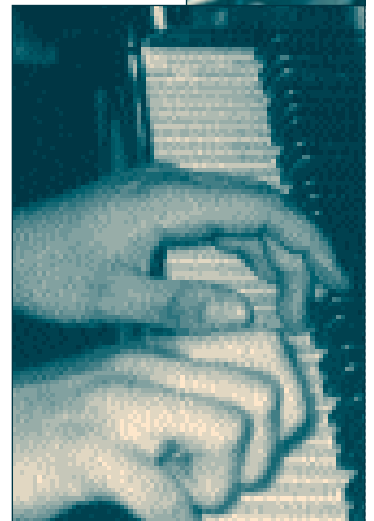
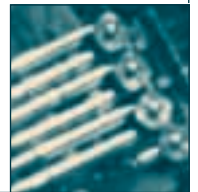
If you own *original print music* controlled by an *AMCOS Publisher* and you cannot read the small notation because of impaired vision, you may make an enlargement of the work for your own personal use. (See Clause 5.4)

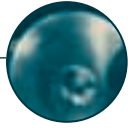
### 18. Making copies for the use of an adjudicator at a music competition or eisteddfod

If you own *original print music* controlled by an *AMCOS Publisher* you may make a single photocopy for the use of the adjudicator, to enable them to write a report as part of a music competition or eisteddfod, if:

- (a) the photocopy is made and used solely for the purpose of adjudication at the music competition or eisteddfod;
- (b) the photocopy is clearly marked "**Adjudication Copy Only**";
- (c) the photocopy is destroyed by the music competition or eisteddfod committee or the adjudicator at the conclusion of the section; and
- (c) a copy of **FORM NO.2** in Schedule 2 is attached to the photocopy.

(See Clause 10.8)





## PART C

Licences from *AMCOS Publishers*

### 19. Making a copy of music for an accompanist where the accompaniment part is not separable from the solo part

A single copy of an accompaniment may be made in circumstances where the accompaniment is not separable from the solo part.

- (a) The soloist must complete FORM NO.5.
- (b) At the conclusion of the performance, the accompaniment copy may be returned to the soloist.
- (c) If the soloist wants to give the accompanist the copy for future performances, permission would have to be obtained from the relevant music copyright owner(s) to retain the copy.

This does not apply where the solo part is published separately to the piano accompaniment or where a separate solo part and piano accompaniment part are published and sold as a two-part set (see clause 10.2).

### 20. Copying by an auditioning body for the performers at an audition

If you own *original print music* controlled by an *AMCOS Publisher*, an auditioning body may:

- (a) photocopy sections of orchestral parts; and
- (b) retain those photocopies, for use by performers at an audition if:
- (c) the photocopies are made from original orchestral parts (not books of published orchestral excerpts);
- (d) a declaration notice in **FORM NO.4** in Schedule 2 is attached; and
- (d) the photocopies are returned to the auditioning panel at the conclusion of the audition and not retained by the auditioning performer.

(See Clauses 10.10 and 10.11).

### 21. Copying music to supply to an examination body or music examiner prior to or during an exam

If you own original print music controlled by an *AMCOS Publisher*, you may make a photocopy for the sole purpose of supplying it to an examination body prior to or during an exam if:

- (a) you complete and attach a **FORM 3** in schedule 2 to the photocopy;
- (b) the photocopy is marked with the words "**Examination Copy Only**"; and
- (c) the photocopy is destroyed by the examination body after the exam.

(See Clause 12).



## APRA | AMCOS

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Send us an email to [print@apra.com.au](mailto:print@apra.com.au)



## Endorsement of the Principles in this Document

### Schedule 1: AMCOS Publishers

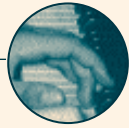
The music publishers listed below agree to the terms contained in this guide.

1. Alfred Publishing Australia	Colgems-EMI Music Inc.	4	Music Sales Pty Ltd	11
2. AMPD	CCP Belwin Inc.	2	Neil A. Kjos Music	11
3. Brolga Music	D. Davis & Co.	4	Nightlight Music	11
4. EMI Music Publishing Australia	Disney Publications	5	Novello	11
	Dorsey Bros Music	11	Orpheus Publications	1
5. Hal Leonard Australia	Hal Leonard/Editio Musica Budapest	5	Paul Simon Music	11
6. Fable Music	Edward B. Marks	7	Pink Floyd Music Publisher	4
7. J. Albert & Son	Edwin H. Morris & Co.	11	Queen Music Ltd	4
8. Neil A. Kjos Music	EMI April Music	4	Queenwood Publications	11
9. Modern Music Craft	EMI Blackwood Music	4	Realsongs	4
10. Morton Music	EMI Catalogue Partnership	4	Rodgers & Hammerstein	5
11. Music Sales Pty Ltd	EMI Music Publishing	4	Rondor Music	5
12. Origin Network	EMI Songs	4	Rubank Publications	5
13. Peer Music	EMI Virgin Music Publishing	4	Screen Gems-EMI Music Inc.	4
14. Universal Music	Essex Music	14	Shapiro Bernstein & Co.	1

**Note: Cross reference the number with the sub-publishers below.**

### Sub-publishers

Abkco Music	4	Frankdon Music	13	Universal Music Publishing	11
Alain Boubil Music	11	Hal Leonard/G. Ricordi & Co.	5	W. H. Paling	4
Alfred Publishing Australia	1	G. Schirmer Inc.	11	Wallaby Music	1
Allans Educational	2	Gibb Bros Music	11	Walton Music	5
EMI Allans Music	4	Gladys Music (Elvis Presley)	4	Warner Bros Music	1
AMEB Publications	2	Hal Leonard/Glocken Verlag	5	Warner Chappell Music	1
AMPD	2	Gordon V. Thompson	1	Wise Publications	11
AMSCO	11	Hal Leonard Publishing Corp	5	Yorktown Music Press	11
Hal Leonard/Anglo-Soviet Music Press Ltd	5	Highland Etling	1		
Bacalunga Music	1	Hit and Run Music	4		
Belinda Music	4	Impulsive Music	4		
Blackbull Music	4	Intersong Pty Ltd	1		
BMG Music	11	Jenson Publications	5		
Bob Dylan Press	11	Jobete Music/Stone Diamond	4		
Boosey & Hawkes Pty Ltd	5	Joel Songs	4		
Bosworth	11	Hal Leonard/Josef Weinberger	5		
Brolga	3	Kevin Mayhew	5		
Bourne Inc./Ltd	11	Larrikin Music	11		
Campbell Connelly	11	Lawson Gould	1		
Carl Fischer	4	Leiber Stoller Music	11		
Castle Music	4	Lenono Music	4		
Charisma Music	4	Magnetic Publishing Ltd	4		
Cherry Lane	5	Margaret Brandman Music	11		
Cherry River	5	Universal/MCA Publishing	11		
Chrysalis Music	11	Modern Music Craft	10		
		Morton Music	10		
		MPL Communications	4		
		Mushroom Music	11		



Schedule 2  
AMCOS Publishers

### Schedule 2: Standard Forms

The following are standard forms to be used in conjunction with photocopies to show that they have been made under this guide.

These forms may be photocopied, or downloaded from [www.apra.com.au](http://www.apra.com.au) (The guide forms will be made available on our website as pdf files).

## FORM NO. 1



### Performer's Declaration Form for Eisteddfods and Music Competitions

This is to certify that I, ....., will be performing in the .....  
(name of Competition)  
..... eisteddfod/music competition/music festival in section(s) number(s) from: .....

(a) an original published edition of music; or

(b) a photocopy, transcription or arrangement of music accompanied by a letter from the music publisher either:

(i) authorising the photocopy, transcription or arrangement; or

(ii) stating that the work and edition are no longer protected by copyright (that is they are in the public domain)

in accordance with Clauses 2 and 10 of APRA | AMCOS' "A Practical Copyright Guide to the Use of Print Music in Australia" Third Edition 2006.

.....  
Signature

.....  
Date

If you have any queries regarding this form please contact the Educational Licensing Department on (02) 9935 7900.

This form is also available from [www.apra.com.au](http://www.apra.com.au)

## FORM NO. 2



### Temporary copy for the use by an adjudicator in an Eisteddfod/Music Competition

This is to certify that this photocopy has been made by

.....

from their own published edition of the musical work, in reliance on Clauses 10.8 and 18 of APRA | AMCOS' "A Practical Copyright Guide to the Use of Print Music in Australia" Third Edition 2006.

.....  
Signature

.....  
Date

The photocopy is to be destroyed by the Eisteddfod/Music Competition committee at the conclusion of the section and may not be handed back to the competitor.

If you have any queries regarding this form please contact the Educational Licensing Department on (02) 9935 7900.

This form is also available from [www.apra.com.au](http://www.apra.com.au)





**FORM NO. 3**



**Temporary copy for the use by an examiner**

This is to certify that this photocopy has been made by

.....  
from their own published edition of the musical work, in reliance on Clause 12 and 21 of APRA | AMCOS' "A Practical Copyright Guide to the Use of Print Music in Australia" Third Edition 2006.

.....  
Signature Date

The photocopy is to be destroyed by the Examiner at the conclusion of the examination and may not be handed back to the candidate.

If you have any queries regarding this form please contact the Educational Licensing Department on (02) 9935 7900.

This form is also available from [www.apra.com.au](http://www.apra.com.au)

**FORM NO. 4**



**Orchestral and Band Auditions**

This is to certify that the attached photocopies of orchestral parts have been made from original published editions of the musical works owned and copied by

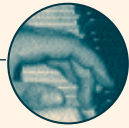
...../  
(name/auditioning body)

in reliance on Clauses 10.10, 10.11 and 20 of APRA | AMCOS' "A Practical Copyright Guide to the Use of Print Music in Australia" Third Edition 2006, for use in the preparation for an audition and in the course of the audition. These excerpts must be handed back to the audition panel at the conclusion of the audition process and this form should remain attached.

.....  
Signature Date

No copies are to be made from published books of orchestral excerpts, without permission from the relevant publishers.

If you have any queries regarding this form please contact the Educational Licensing Department on (02) 9935 7900.



Schedule 2  
AMCOS Publishers



**FORM NO. 5**

**Temporary copy for the use by an accompanist in an Eisteddfod/Music Competition**

This is to certify that this photocopy has been made by:

.....  
(the competitor)

from their own published edition of the musical work, in reliance on Clauses 10.2 and 19 of APRA | AMCOS' "A Practical Copyright Guide to the use of Print Music in Australia" Third Edition 2006.

.....  
Signature

.....  
Date

This form is to be attached to the music during the music competition performance.

The photocopy is to be handed back to the competitor by the accompanist at the conclusion of the competition and destroyed by them.

If you have any queries regarding this form please contact the Educational Licensing Department on (02) 9935 7900.

This form is also available from [www.apra.com.au](http://www.apra.com.au)

*poco rit.* *f* *Tempo*

so Na die la lo ma!  
ses Tuus les re fu RENT!

*colla voce*

*cantando esp*

*pp*

*ff*

*Acc.* *Acc.* *Acc.* *Acc.*

*Led.* *Led.* *Led.* *Led.*

3 3 3 3

6 6 6 6

8

2/8

