

The Man from BMI





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THE man from BMI has a complicated job. He's a field representative in the business of selling music; rather, he's in the business of selling the right to *use* the music licensed by Broadcast Music, Inc., the world's largest performing rights licensing organization.

Because he doesn't deal with a tangible item like an LP record, a piece of sheet music, a cassette or a small combo hired to play for nightclub patrons, he has some unique problems.

The idea of securing the right to use another individual's property — his music — and paying for that right is sometimes very difficult to explain to the motel operator who provides music for his restaurant customers, the new owner of a low-wattage radio station with an easy listening music policy and the proprietor of the stadium who's hired an organist to play.

Actually, the idea of getting permission to use a man's work and ideas, the product of his creativity, is something we all should be familiar with. We were all introduced to the idea way back in school, when we studied the Constitution of the United States.

Article I, Section 8 states that Congress shall have the power to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

Commenting on this idea, a Supreme Court judge stated that the economic philosophy behind this clause, empowering Congress to grant patents and copyrights, is the conviction that the encouragement offered by personal gain is the best way to advance public welfare.

To put it even more simply, unless the creator is compensated for his idea, his song, his invention, he will cease to create and the public will be the loser.

Licensing has proven to be the way to insure the fact that the BMI-affiliated creator will be compensated for his work. Too, licensing insures proper servicing to the music user in affording him access to BMI's wide-ranging repertory.

From the day it opened its doors, BMI has been active in all licensing. Carl Haverlin, who became BMI president in 1947, was the first man from BMI. He joined the organization in 1940 as director of station relations. Through the years Roy Harlow, Glenn Dolberg and Justin Bradshaw held that post and, as of November, 1974, Robert Higgins became BMI vice president in charge of Licensing.

Early in BMI history, the functions of broadcast licensing and general licensing were treated as separate entities and it was Harry P. Somerville, who joined BMI in 1944, who first headed the general licensing department. Somerville had been chairman of the

American Hotel Men's Association and managing director of the Hotel Willard, Washington, D.C.

In his first letter to the general hotel industry in early 1945 he noted that as of April 1, 1945, hotels would be expected to pay for their use of BMI music. Prior to 1945, non-broadcast situations like hotels, bars, cafes, restaurants, etc. had been issued blanket licenses for token fees.

The Somerville letter stated in part “. . . we want to render the same valuable services to the hotel industry that we render to broadcasters. We want, by maintenance of honest competition to be a permanent protection against injustices in the music field not only for hotels but for all music users.”

Succeeding Somerville as director of general licensing was George Gabriel, who held the post until his retirement in 1974.

Down the years, BMI has made the effort to serve the many worlds of music in the most efficient way possible. In recent years, the organization has moved toward complete computerization of many functions. In recent months, BMI has been taking the steps to further strengthen its licensing operations.

The new licensing configuration, under Robert Higgins, amalgamates the two divisions — broadcast and general licensing — into one department. Field representatives will work in both areas.

As BMI moves into its new licensing policy, it is best to fully explain the process of licensing, what BMI is and what it does and where the creators and users of music fit into the picture.

WHAT IS BMI?

Q. What is BMI?

A. Broadcast Music, Inc., popularly known as BMI, was formed in 1940. Its sole purpose is to serve as an organization to acquire and license performing rights. Founded by a group of music users who neither collect dividends nor receive special rates, BMI has brought healthy and necessary competition to the field of music licensing. Through the decades, the BMI hallmarks have been an open door for writers and publishers of music and a growing, stimulating repertory for the user of music, whatever his requirements.

Q. What is a performing right?

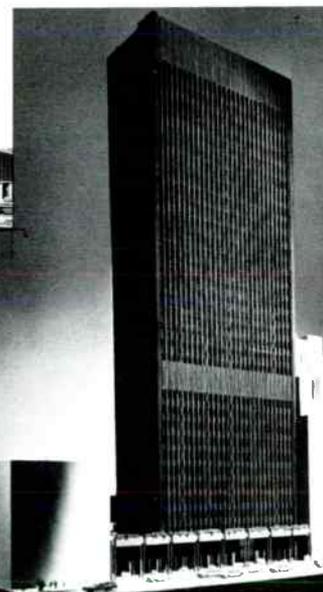
A. It is a right granted by the U.S. Copyright Act to creators of musical works to license these works for public performance for profit. The right is one of a number of separate rights which the law gives the copyright owner. They include the right to authorize publication or recording of a work. But BMI only handles performing rights.

Q. What is a performance for profit?

A. The federal courts, including the Supreme Court, have consistently held that any public performance of copyrighted music, the basic motive for which is profit, is a performance for profit. This is true even though no cover charge, minimum charge or any other charge is made for admission or entertainment.

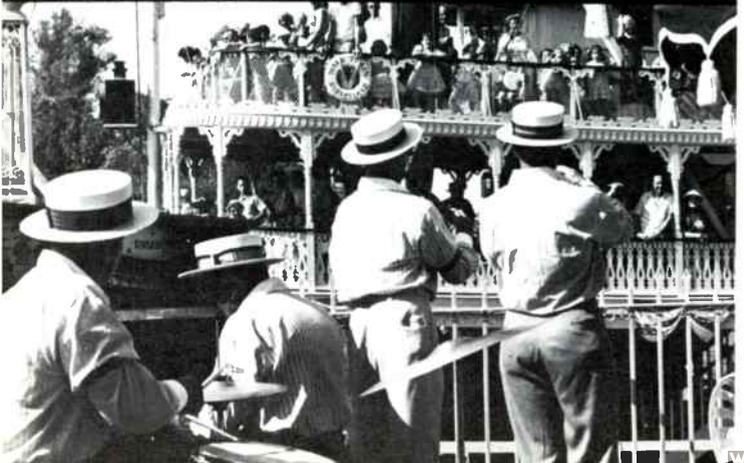
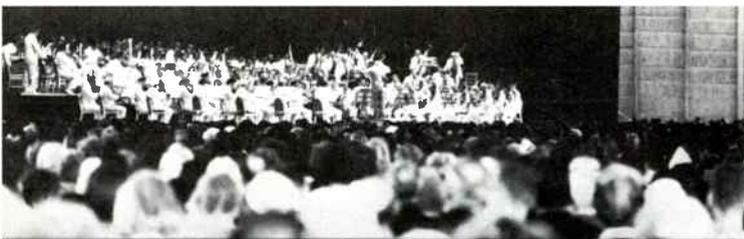
The operator of any business where music is performed for the entertainment of an audience, customers or employees must have permission from the copyright owner of each composition used.

The total term of copyright for a musical composition is 56 years. However, pending a revision of the present Copyright Act, the Congress has extended this term so that practically every musical composition written since September 19, 1906, is protected by federal copyright law.



Serving the creators and users of music, BMI's major offices are located in New York City (right), Los Angeles (above) and in Nashville (below).





That law does not permit the responsibility of the proprietor of the establishment where music is performed to be passed on to an employee, an orchestra leader, an entertainer or any other person.

The music user must secure permission whether the work is performed by live musicians, on tapes or by any other mechanical means, except coin-operated phonographs in certain circumstances. If admission is charged, the proprietor must secure permission for the use of the music heard on the coin-operated phonograph.

Q. What is the liability for infringement of copyright?

A. Publicly performing copyrighted music for profit without permission is a violation of federal law. (See footnote)*

The copyright law prescribes criminal as well as civil penalties for unauthorized public performance for profit of copyrighted musical compositions. The minimum damages which a court is permitted by the law to grant for a single infringing performance of a single composition is \$250.

WHAT DOES BMI DO?

Q. How does BMI operate?

A. BMI acquires performing rights from independent writers and publishers, collects license fees from the organizations which perform music for profit and, in turn, makes payment to the creators of the music used.

It is in the area of licensing that the overwhelming role of music in everyday American life is most clearly reflected. Among BMI licensees are radio and television stations, hotels and motels, restaurants, airlines, bars and cafes, ball parks, ballrooms, banks and background music services, concert halls, circuses, trade shows, skating rinks and cruise lines and traveling attractions like ice shows and rodeos. Clearly, the American people love music of all kinds and the businessman has long since recognized the fact and uses it widely.

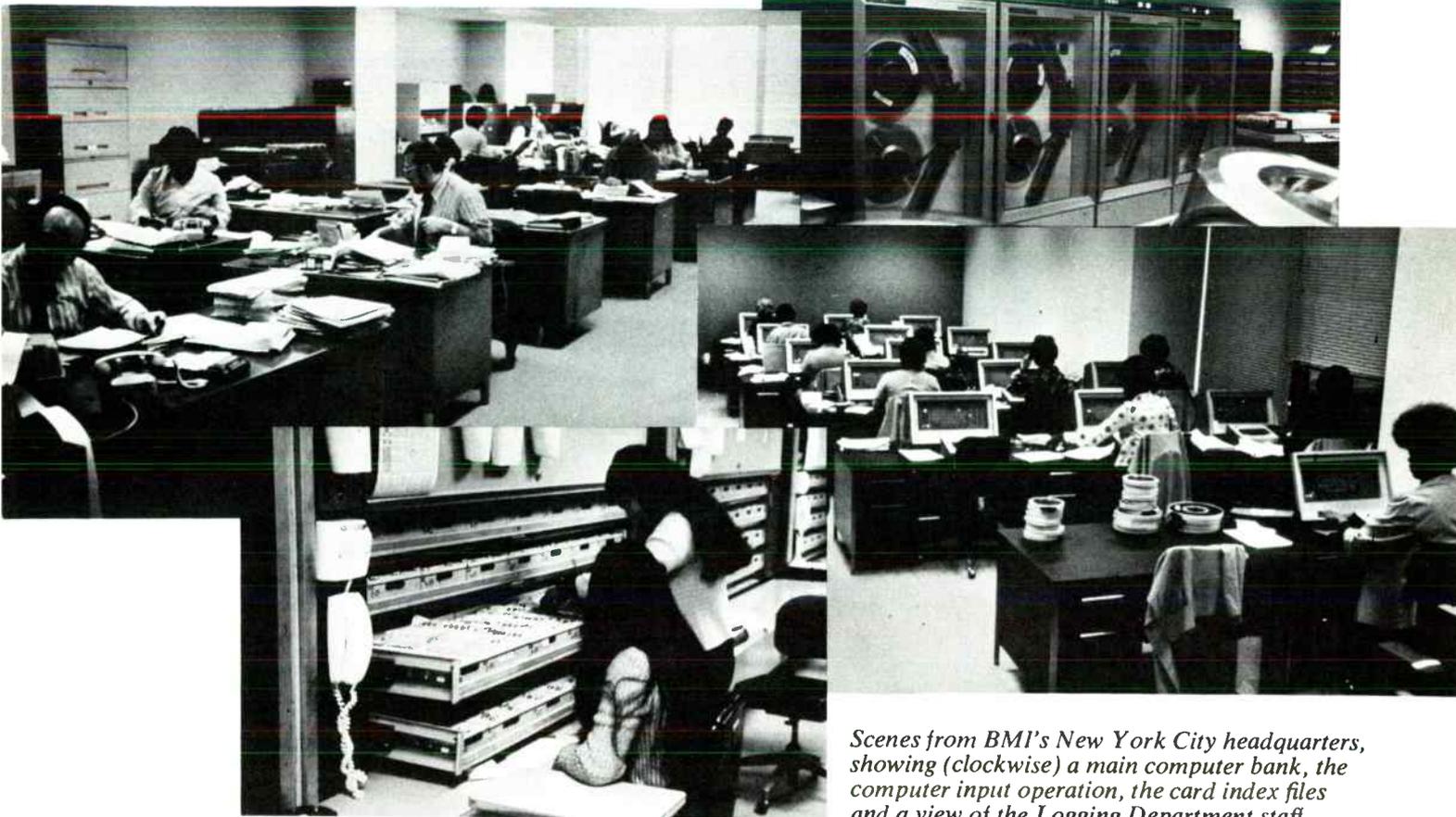
With a BMI license, the businessman avails himself of a proven sales tool, an entertainment commodity, that can be tailored to the listener/customer. Through the BMI repertory which includes popular hits, Country, easy listening, jazz, concert music, rhythm and blues, gospel, salsa and the most avant-garde works, the broadest possible spectrum of people can be reached.

Q. Why shouldn't the music user deal directly with composers and publishers instead of with BMI?

A. In dealing with BMI, the music user derives a great many benefits. He benefits because by a single transaction, the acquisition of a BMI license, he obtains per-

* *Herbert v. Shanley Co.*, 242 U. S. 591.
Buck v. Jewell-LaSalle Realty Co., 283 U. S. 191.
Irving Berlin, Inc. v. Daigle, 31 F.2d 832.
Leo Feist, Inc. v. Lew Tendler Tavern, Inc., 267 F.2d 494.

Arenas, stadiums, ballrooms, concert halls and Grand Ole Opry . . . the settings in which the music licensed by BMI is heard are endlessly varied.



Scenes from BMI's New York City headquarters, showing (clockwise) a main computer bank, the computer input operation, the card index files and a view of the Logging Department staff.

mission to perform *all* of the music in BMI's diversified repertory. A BMI license means it is not necessary for him to engage in the time-and-money consuming effort of trying to deal directly with American composers and with foreign composers, whose works are part of the repertory through BMI's agreements with 34 performing rights societies throughout the world. Finally, the music user benefits because BMI pioneered the establishment of uniform, non-discriminatory rates, and its continuing existence is a guarantee of honest competition in music licensing.

WHERE DOES THE MONEY GO?

Q. What does BMI do with the license fees it collects?

A. BMI is solely a non-profit performing rights licensing body. Except for operating expenses and a necessary reserve, BMI distributes all monies to its affiliated composers and publishers.

Because there are approximately 7,700 radio and TV stations using music every day, BMI maintains a computerized logging system to establish performance credits.

Payments to writers and publishers are based upon the performances on these radio and TV stations.

Vast indexes contain details of every writer and publisher affiliated with BMI. The computer produces instant reference to this information — requested by song title or by writer's name. Into this reference go new songs, as many as 1,000 per month.

To make certain that credits for broadcast performances are fully and fairly apportioned, each quarter some 300 stations are asked to keep an accurate log of the music they use, hour-by-hour and day-by-day. Each station is asked to provide a log for one week and stations are scientifically chosen and represent a cross-section of broadcasting activity and area. This mass of information from the stations is checked and titles, composers and publishers are identified by computer.

Of course, until the logging quarter is completed, BMI personnel do not know which stations are providing performance information. All communications with the stations providing logs are carried on by an independent accounting firm.

In addition to these logged performance figures from the various stations, there are performance counts of music used on TV shows and in feature films, which are checked with reference to network reports, cue sheets and countless regional editions of *TV Guide*.

All of these performance figures are fed into the computer to arrive at quarterly payments. Referring to the master records of those to whom payment is due, the computer generates statements, calculates amounts and writes the check.

In the field of concert music, BMI secures the programs of symphony orchestras, concert halls, etc., to ascertain actual performances of works by all BMI composers and subsequent payment.

Awards . . . BMI music wins them every year. These trophies are (l. to r.): Country Music Association, the Tony, the Emmy, the Grammy and Oscar.



Q. How does BMI manage to serve thousands of radio and television stations and thousands more music users in local situations efficiently?

A. BMI has established field offices in key areas across the nation. From these offices operates a field staff of almost 50 representatives—the men from BMI. Each is highly trained to provide the best possible service for music users of all kinds. Of course, the field offices serve the potential BMI-affiliate, too, the writer and the publisher whose music may some day be in demand by all.

The field representatives are the eyes, ears and voice of BMI in their respective territories and they not only serve the music user, but they carry on an important educative function.

As has been mentioned, the concept of performing rights, copyright, licensing, the role of the creator, user and BMI in the whole picture is an involved one. The field representatives are on hand to answer questions, ease problems.

Too, the representatives maintain a heavy schedule of lectures at colleges and universities, reaching the broadcaster and the businessman of tomorrow who will use music in his enterprise. The representatives attend local, state and regional broadcasting conferences and make every effort to visit stations in their territories regularly.

In visiting colleges, at conferences and conventions and at individual stations, these field men can present printed and visual aids specially created for them.

The representatives can present in either a half-hour or full hour version a film called *The Score*. It tells the story of how music is created for film, which naturally includes TV. Step by step, through the words and works of five BMI-affiliates, the process is explained from original inspiration to final soundtrack.

Printed material available includes various brochures covering different aspects of BMI activity and the BMI magazine, *The Many Worlds of Music*. Recent issues have touched on BMI's role in the licensing of film music, its relationship with the individual writer and publisher and its role in the world-wide community of licensing societies. Whenever feasible, these articles are extracted and issued in brochure form.

Finally, the field men can present a slide-and-sound cassette show on what BMI is and what it does, including its licensing activities.

Q. How does BMI go about licensing broadcasters?

A. In order to use the BMI repertory, the broadcaster must have a BMI license. These licenses are issued to all new stations and must be issued anew each time a station changes ownership hands.

Annually, BMI licenses some 500 stations which change ownership. The number of new stations licensed each year varies depending upon the number the FCC (Federal Communications Commission) will allow to begin operation.

Periodically, it is announced what new FCC licenses have been granted to recently opened stations and what licenses have been awarded to new owners of existing stations.

These announcements are checked by BMI's Licensing Administration staff in New York City headquarters. All new FCC licensees are mailed the proper license forms for completion and return. The field representative is notified to schedule an early visit to the operation.

Q. How does BMI determine how much broadcasters pay?

A. The fees and terms of licensing agreements are not arbitrarily set by BMI. They are the result of periodic negotiation between BMI officials and the All-Industry TV Stations Music Licensing Committee and the All-Industry Radio Stations Music Licensing Committee. These committees consist of owners and/or executive personnel of radio and TV stations from coast to coast. The fees are based upon station income, less certain deductions.

Q. What is the term of licensing agreements?

A. Current agreements with both radio and TV outlets run through December 31, 1977.

Q. How does BMI go about licensing other music users?

A. These music users are mailed the proper license forms for completion and return. Of course, the field representatives are always available for information and assistance.

**it soothes it relaxes it invites it stimulates
it brightens it transports it tranquilizes it
energizes it uplifts it cheers it transforms
it entertains it warms it romances it sings
it mesmerizes it reminds it sells it moves
it revives it adorns it advertises it pleases
it placates it serenades it amuses it lures
it enchants it caresses it cajoles it calms it
delights it contributes it cuddles it cradles
it enlivens it spirits it entices it whoops it
woos it beautifies it hoots it enkindles it
evokes it excites it enthuses it summons
it stirs it astounds it fires it flavors it pulls
it reinforces it calms it colors it persuades
it unites it frees it touches it tantalizes it
glamorizes it highlights it helps it thrills it
tempts it spotlights it signals it inspires
it provokes it humanizes it fascinates it
awakens it motivates it hastens it enriches
it impresses it felicitates it penetrates it
it jolts it activates it comforts it attracts
it imbues it welcomes it sympathizes it
teases it intensifies it radiates it suggests
it invigorates it persuades it electrifies it
mothers it stops it satiates it envelops it
alerts it restores it refreshes it informs**

The power of music is infinite. As a selling aid, it is unsurpassed. Music is a tough salesman, with the softest sell of all. Music, and the rules for using it in business, are relatively new to retailing. To guarantee that the writers and publishers of music are paid, we exist. We are Broadcast Music Incorporated, and have been protecting the rights of our affiliates since 1940. They now number 40,000. Here's the rule that applies to you: Whenever you use BMI music in your shopping mall, department store, or establishment, you must be licensed. We are the world's largest performing rights organization, and stand ready to suit your needs. Now that you know who we are, and why we are, we ask for your cooperation. When it comes to selling, we can make beautiful music together. For more information on the rules of using music in your business, write: General Licensing, BMI, 40 West 57 Street, New York, New York 10019. **BMI**