

## Livestreaming Is Here To Stay

As a result of the pandemic, livestreaming of music is booming and unlikely to go away even after in-person concerts return in full force. Brands and agencies that want to use this impactful marketing tool will need to understand the basics of music licensing before getting involved.

The following Q&A provides information on what marketers should take into consideration about music licensing for livestreams before diving in.

**Q: We want to hire a band, singer or rapper to perform a livestream to help promote our brand/products. We already have a talent agreement with the performer, so do we still need to worry about music licenses?**

A: Yes, your talent agreement will likely only require the talent to perform and grant you rights to the talent's name, image and likeness.

Even if the performer wrote all of the songs to be performed, the talent agreement will probably **not** include rights to:

- Use those songs;
- "Publicly perform" those songs; or
- Use any existing sound recordings that may be used in the performance.

**Q: Our products are not going to be featured in the livestream and we won't have any signage. Do we still need to worry about music licenses?**

A: Yes, if you plan to promote the livestream on social media (or elsewhere), you should ensure the music is appropriately licensed. The commercial association between your brand and the songs may be enough to trigger the need for music licenses.

**Q: We want to use clips of the artist performing the songs on social media to promote the upcoming livestream, and then, after it's over, to promote that it happened. What licenses do we need?**

A: It is important to understand that using recorded clips of the artist performing songs live will likely require the same licenses you would need if you used a song in a traditional TV, radio or digital commercial.

This means you will need to obtain a synchronization (synch) license allowing you to use the musical composition (the

words and music), and you may need a license from a record label for the actual use of the newly created master recordings from the live performance, in the event the artist is a party to an exclusive recording agreement. Even if you paid for the production of the livestream event, and paid the artist for the performance, you still need to consider these synch and master recording licenses. In addition, if an artist wants to use pre-recorded music within their live performances, additional third-party licenses may be required.

**Q: We don't want to use recorded clips in promotion, but we want to re-play the entire livestream and leave it up for a period of time. Do we still need to consider obtaining synch and master recording licenses?**

A: Yes, you still need to consider synch and master recording licenses in these circumstances.

**Q: We want to record our livestream in advance for production reasons but it will otherwise appear live. We will only play it one time, and won't use any recorded clips in promotion. Do we still need to worry about music licenses?**

A: Yes, in these circumstances, you may still need to consider synch and master recordings licenses.

**Q: Our livestream will be truly live — not recorded in advance — and we won't re-play it or use any recorded clips in marketing before or after the event. Do we still need to worry about music licenses?**

A: Yes, you will still need to consider public performance licenses, which allow you to publicly “perform” the musical compositions live. The livestreaming platform may not have a license in place, so you may need to obtain a “one-off” license from the performing rights organizations such as American Society of Composers, Authors and Publishers (ASCAP) and Broadcast Music, Inc. (BMI).

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