



## **Rights Clearance for Streaming a Performance**

Presenting a performance online can pose different rights clearance challenges from staging a live performance. If the performance is based on a copyrighted work, such as a play or musical, the producers need to obtain not only rights to stage the performance itself, but also the rights to capture it on video and to distribute the resulting video on the web.

If the performance is recorded as part of the process, and not just live streamed, the recording rights are also likely to be required. If music is involved, then this needs to be explicitly licensed as well. The scope of the rights acquired should cover all of the intended uses.

Because these video rights are different from those involved in a live performance, the source of the licenses may even be different. Agencies that handle the rights for presenting a musical in a theater are unlikely to have been given the rights themselves to authorize a video version.

In addition to copyright licenses, the online performance may also need clearance for any trademarks or personal rights in real individuals depicted. All of the performers, and any creative staff contributing to the production, should also grant full permission for the use of their names, likenesses and creative contributions in the production and its distribution.

More specifically, the producers should obtain:

Performance, video, recording and distribution licenses for the work, including any attendant music. The agency granting these rights is likely to have forms which they use. These are likely to be favorable to the agency, so be sure that all of the intended uses are covered

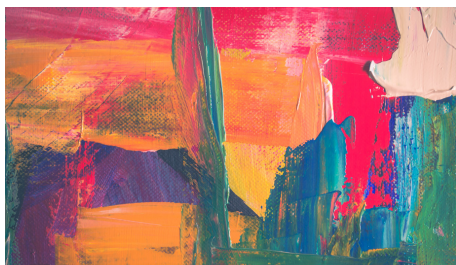
## **Resources**

The following links and the forms and educational resources they contain are provided solely for informational purposes. Please consult an attorney for further guidance and in connection with the preparation of releases and other documents that you may require for actual concert.

Releases from the individuals involved in performing or in any creative role such as directing, choreography, sets, costumes, lighting, etc. can be found at: (1) <https://eforms.com/release/video/>, and (2) <https://nonprofitdocuments.law.stanford.edu/wp-content/uploads/Appearance-release-SLS-sample-07-12-17.pdf>

Additional licenses and permissions for the use of any trademarks or for the depiction of real persons, including permissions for rights of privacy and publicity and waivers of defamation. Forms that might be used for such licenses and permissions can be found at: (1) <https://cdn2.hubspot.net/hubfs/2438218/Brand%20and%20trademark%20release%20Form.pdf> and (2) <https://www.sampletemplates.com/sample-forms/publicity-release-form.html>

Additional information on the licensing process and on possible sources for licenses can be found at: <https://photography.tutsplus.com/tutorials/when-to-use-release-forms-for-video--cms-26608>



## Rights Clearance for Streaming Paintings and Drawings

Streaming paintings and drawings online through viewing rooms or exhibitions recently became popular. Art galleries and artists adapted and utilized streaming to display art during the COVID-19 pandemic. Online display and streaming methods require additional copyright clearances from conventional displays or exhibitions.

A copyright clearance is generally needed in both an in person and online exhibition or display. To have a copyright clearance, the author or licensing agency must provide permission for the artwork to be displayed and sold.

In addition to the artwork itself, the online viewing room or exhibition organizers may want to consider getting copyright clearances for the high resolution images used to depict the art

and any paragraphs used to describe the art.

If there are videos used to show the viewing room or exhibition, this can put the organizer in the role of producer or publisher. This may require the organizers to receive clearance for any trademarks or personal rights in real individuals depicted in addition to the artwork. Not only will the organizer have to receive the copyright clearance from the images, artwork, or words they use, but also the organizer needs to consider the copyright law they now have protecting the video they created.

More specifically, if a person wants to stream a viewing room or exhibition, they should obtain:

Copyright clearance for the artwork itself, high resolution images depicting the artwork online, paragraphs describing the piece, trademark clearance, and publicity clearance.

## Resources

The following links and the forms and educational resources they contain are provided solely for informational purposes. Please consult an attorney for further guidance and in connection with the preparation of releases and other documents that you may require for an actual exhibit.

Copyright release forms needed for artwork, descriptive paragraphs of the artwork, and high resolution images displaying the art can be found at: (1) [https://releaseforms.org/artistartwork-release-form/\(2\)https://eforms.com/release/media/](https://releaseforms.org/artistartwork-release-form/(2)https://eforms.com/release/media/) and (3) <https://contributors.gettyimages.com/img/articles/downloads/f8b94abd-6b9b-451e-8f88-3d2d4d5d9b67.pdf>

Additional licenses and permissions for the use of any trademarks or for the depiction of real persons, including permissions for rights of privacy and publicity and waivers of defamation. Forms that might be used for such licenses and permissions can be found at: (1) <https://cdn2.hubspot.net/hubfs/2438218/Brand%20and%20trademark%20release%20Form.pdf> and (2) <https://www.sampletemplates.com/sample-forms/publicity-release-form.html>

For general information on releases for streaming artwork, click here: <https://nysba.org/copyright-considerations-as-art-galleries-and-museums-move-online-in-the-wake-of-covid-19/>



## Rights Clearance for Streaming Music

A license is needed for sound recording, underlying musical composition, and public performance of the sound recording and underlying musical composition.

If an organization wants to stream music or hold a concert, the artist or producer must give clearances.

Commercial live streaming platforms may already hold the type of licenses needed for performances, however, if you are holding your virtual concert from your own website or platform, it is important to obtain the necessary licenses.

Online uses of a copyrighted composition without formal permission may be a copyright law violation. Unless you know why it is a permitted use, ask permission!

Licensing for concerts and performances may include: (1) a Synchronization (Sync) License (2) a Master Use License and (3) a Public Performance License.

A sync license is needed to synchronize music with visual media. This license should be obtained if you are sharing any form of video while playing music. This also includes performing songs. The sync license should be obtained from the musical composition owner (songwriter or publisher). Industry experts suggest pre-recording the show, securing the sync licenses for songs, mixing the content with a video editing software, then live streaming the edited version.

A master use license is needed to use a specific sound recording in a visual media (online, film, tv). These are usually obtained from the record label. To get in touch with the right people at record labels, contact the licensing department or business and legal affairs department.

Lastly, a public performance license can allow you to play songs in public, whether the performance is live or online. A public music performance occurs when music is played "outside a normal circle of friends and family". Public performance license can be obtained through performance rights agencies such as ASCAP, BMI, SESAC, and GMR. Streaming platforms such as Youtube, Facebook, Instagram, and TikTok have public performance license agreements with ASCAP, BMI, SESAC, and GMR as well!

## Resources

The following links and the forms and educational resources they contain are provided solely for informational purposes. Please consult an attorney for further guidance and in connection with the preparation of releases and other documents that you may require for an actual production.

- The ASCAP Music License Agreements and Reporting Forms includes many business and licensing forms (including public performance licenses). This website also includes licensing forms for: Concerts, Orchestras, Private Clubs, Annual and one-time events & more.
  - <https://www.ascap.com/music-users/licensefinder>
- Here's are resources for more information on licenses needed for virtual music events:
  - <https://copyrightalliance.org/what-you-need-to-know-about-licensing-music-for-virtual-events/>
  - <https://blogs.jwpepper.com/copyright-for-virtual-concerts-what-you-can-and-cannot-do/>
- Below are templates for Sync and Master Use License Agreements:
  - <https://www.sxsw.com/wp-content/uploads/2019/03/Master-Use-Synch-License-Template.pdf>
  - <https://www.docracy.com/7844/synchronization-license-agreement>
  - <http://www.newmandecoster.com/pdf/masteruse.pdf>