



Australian Government

Department of Education, Employment and Workplace Relations

CUSPUR501A Establish and manage recording contracts

Revision Number: 2

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Modification History

Release	Comments
Release 2	Created to fix formatting errors only. Released with CUS09 Music Training Package version 1.2

Unit Descriptor

This unit describes the performance outcomes, skills and knowledge required to negotiate and enter into recording contracts and to monitor compliance with contract conditions.

Application of the Unit

Artist and repertoire (A&R) managers in record companies and artist managers typically apply the skills and knowledge described in this unit. They are responsible for negotiating the terms and conditions of contracts with artists to record their performances and for liaising with legal representatives to finalise contracts. A thorough understanding of the rights of all parties to recording contracts is essential.

Licensing/Regulatory Information

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of endorsement.

Pre-Requisites

Not applicable

Employability Skills Information

Not applicable

Elements and Performance Criteria Pre-Content

<i>Elements describe the essential outcomes of a unit of competency.</i>	<i>Performance criteria describe the performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge section and the range statement. Assessment of performance is to be consistent with the evidence guide.</i>
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Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Maintain currency of knowledge of rights of parties to recording contracts	1.1 Access reliable <i>sources of information</i> about the <i>rights of performers</i> in <i>recording deals</i> 1.2 Access reliable sources of information about the rights of <i>parties</i> entering into recording deals with performers 1.3 Identify and participate in <i>professional development activities</i> to consolidate music business knowledge 1.4 Participate in <i>industry networks</i> to maintain currency of music business knowledge
2. Establish contracts	2.1 Clarify <i>terms and conditions</i> of contract with all parties, ensuring all parties understand their contractual rights and obligations 2.2 Ensure contract complies with relevant <i>legislative and regulatory requirements</i> 2.3 Draft contract using specialist legal advice as required and distribute to all parties for comment 2.4 Use <i>effective negotiation techniques</i> to resolve any issues to the satisfaction of all parties 2.5 Adjust contract in light of advice received and reconfirm variations with all parties 2.6 Seek agreement from all parties to sign contract
3. Finalise and monitor contracts	3.1 Conduct final check on terms and conditions of contract with all parties to ensure their observance 3.2 Ensure contract is signed, exchanged between all parties and appropriately stored and safeguarded 3.3 Monitor performance against/observance of contractual terms and conditions by all parties 3.4 Enforce compliance and provide recommendations for contractual variations as required 3.5 Ensure changes to contracts are negotiated with and agreed to by all parties

Required Skills and Knowledge

This section describes the skills and knowledge required for this unit.

Required skills

- research skills sufficient to access relevant contractual/legal information
- literacy skills sufficient to:
 - draft and finalise contracts
 - interpret contractual documentation
- numeracy skills sufficient to negotiate financial agreements
- communication skills sufficient to negotiate contractual terms and conditions
- planning and organisational skills sufficient to:
 - develop strategies for achieving contractual outcomes
 - monitor observance of contractual terms and conditions
- learning skills sufficient to maintain currency of knowledge of music business trends
- problem-solving skills sufficient to clarify and resolve contractual discrepancies and variations
- technical skills sufficient to:
 - download contractual and legal information
 - use standard word-processing software

Required knowledge

- common terminology, features and requirements of contractual arrangements
- relevant federal and state/territory legislation as it applies to recording contracts, including:
 - accuracy and clarity of information
 - anti-discrimination, equal employment opportunity and affirmative action
 - copyright and intellectual property
 - industrial relations, including relevant awards and agreements
 - OHS
 - privacy and confidentiality
 - terms and conditions of employment
- revenue structure of the performing/recording industry
- typical features and requirements of recording contracts
- issues and challenges that typically arise in the context of establishing and managing recording contracts

Evidence Guide

The Evidence Guide provides advice on assessment and must be read in conjunction with the performance criteria, required skills and knowledge, range statement and the Assessment Guidelines for the Training Package.

Overview of assessment	
Critical aspects for assessment and evidence required to demonstrate competency in this unit	<p>Evidence of the ability to:</p> <ul style="list-style-type: none"> • establish and manage contracts • monitor contractual compliance with legislative and regulatory requirements • work cooperatively with all parties to contracts.
Context of and specific resources for assessment	<p>Assessment must ensure:</p> <ul style="list-style-type: none"> • access to: <ul style="list-style-type: none"> • appropriate technology to obtain contractual and legal information • clients and financiers • relevant legislative and regulatory material regarding contractual arrangements • use of culturally appropriate processes, and techniques appropriate to the language and literacy capacity of the candidate and the work being performed.
Method of assessment	<p>The following assessment methods are appropriate for this unit:</p> <ul style="list-style-type: none"> • case studies to assess ability to interpret relevant federal, state and territory legislation • direct observation of candidate establishing and managing contracts • written or oral questioning to assess knowledge as listed in the required knowledge section of this unit • problem-solving activities to assess ability to resolve contractual discrepancies and variations.
Guidance information for assessment	<p>Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended, for example:</p> <ul style="list-style-type: none"> • BSBPUR402B Negotiate contracts • CUFCMP501A Manage and exploit copyright arrangements • CUSMGT401A Manage distribution of music and associated products

	<ul style="list-style-type: none">• CUSMGT404A Administer artists' royalty income• CUSMGT502A Manage artists and their careers• CUSMGT503A Develop artists and repertoire.
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Range Statement

<p><i>The range statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. Bold italicised wording, if used in the performance criteria, is detailed below. Essential operating conditions that may be present with training and assessment (depending on the work situation, needs of the candidate, accessibility of the item, and local industry and regional contexts) may also be included.</i></p>	
<p>Sources of information may include:</p>	<ul style="list-style-type: none"> • Arts Law Centre of Australia • Media Entertainment and Arts Alliance • Musicians Union of Australia • Australasian Performing Rights Association (APRA) • Australasian Mechanical Copyright Owners Society (AMCOS) • Australian Recording Industry Association (ARIA) • Copyright Agency Limited (CAL) • Australian Copyright Council • Live Performance Australia • Music Council of Australia.
<p>Rights of performers may relate to:</p>	<ul style="list-style-type: none"> • obtaining performers' permission to record • ownership of copyright in the recording, including joint ownership of copyright • moral rights • right of attribution • right against false attribution • right of integrity.
<p>Recording deals may include:</p>	<ul style="list-style-type: none"> • audio and audiovisual recordings: <ul style="list-style-type: none"> • solo • band or group • 360 degree deals, including for example: <ul style="list-style-type: none"> • live performances • tour earnings • recordings • merchandise • brand placement.
<p>Parties may include:</p>	<ul style="list-style-type: none"> • record companies • concert promoters • tour companies.
<p>Professional development</p>	<ul style="list-style-type: none"> • conferences • master classes

activities may include:	<ul style="list-style-type: none"> • seminars • symposiums • training programs • workshops.
Industry networks may include:	<ul style="list-style-type: none"> • professional industry associations • legal advisers • advisory committees • government agencies • lobby groups • unions.
Terms and conditions may include:	<ul style="list-style-type: none"> • royalties • royalty splits • advances • overseas income • allowances • artistic control and restrictions, including: <ul style="list-style-type: none"> • advertising • approval of test pressing • choice of producer and material to be recorded • copyright ownership • coupling and television compilations • cover art • packaging • image and likeness • editing, mixing, remixing and re-recording • promotional goods and endorsements • synchronisation uses • pay or play provisions, such as: <ul style="list-style-type: none"> • recording obligations • release commitment (domestic/foreign) • liquidated damages • termination rights • product commitment, such as: <ul style="list-style-type: none"> • amount • timetable for delivery • suspension • exclusivity • injunctive relief • promotional commitment and tour support

	<ul style="list-style-type: none"> • terms and territory • warranties and indemnities • accounting • bookkeeping • recordkeeping • credits • enforcement of rights • insurance • jurisdiction • obligation to exploit • partnerships • performance requirements • sick leave • unspecified amendments: <ul style="list-style-type: none"> • evolving styles and genres of artists • new and evolving technology • new levels of success for artists • unforeseen changes to recordings and performances • superannuation.
<p><i>Legislative and regulatory requirements</i> may include:</p>	<ul style="list-style-type: none"> • anti-discrimination • equal employment opportunity • affirmative action • industrial awards and agreements • copyright and intellectual property • OHS • terms and conditions of employment.
<p><i>Effective negotiation techniques</i> may include:</p>	<ul style="list-style-type: none"> • adopting collaborative negotiating style • assessing strengths and weaknesses of opposing positions and determining viable alternatives • clarifying purpose, content and desired outcomes • communicating results to all parties within appropriate timeframes • conducting negotiation in a professional manner • ensuring final position is agreed and understood by all parties • identifying consequences of non-agreements • maintaining contact with all parties • managing conflict/disagreement between

	<p>parties</p> <ul style="list-style-type: none">• treating all parties courteously and in ways that acknowledge their contribution• using effective questioning techniques:<ul style="list-style-type: none">• closed questions, allowing yes/no answers• open questions, allowing range of responses• reflective questions, provoking clarification.
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Unit Sector(s)

Administration - purchasing and contracting