

LEGAL CONSIDERATIONS WHEN SCALING UP YOUR MUSIC BUSINESS

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So you're running a business in the music industry, maybe you're an artist, a manager, or you run a label or booking agency. You might have been operating for a few years and looking to grow your business, take on staff or just become more profesh.

Let's take a look at some things to consider when scaling up your music business from a legal and business perspective.

Building a team of professional advisors

Having a trusted team of professional advisors to assist with scaling up your business and advise on important matters is imperative. For most music businesses, this would include a lawyer, an accountant and maybe a bookkeeper. It is best if you find a team who has expertise in the entertainment industry so they can understand your business and provide relevant advice. They may also be able to introduce you to their networks or make suggestions regarding the growth of your business. When looking for the right professional advisors, it's good to get suggestions or recommendations from others, but it's also a personal decision, so it's a good idea to meet or chat with a few different options before making a decision.

Getting your legal structure right

Most small music businesses start off as sole traders or partnerships, but as your business grows, it's a good idea to consider whether a company or other structure would be more suitable for liability and tax reasons. It's a good idea to consult with your lawyer and your accountant early on in your business to make a decision on when/if it's appropriate to establish a company to operate your business.

What contracts do you need?

Most music businesses will need a range of different types of contracts in place with the people they work with.

- If you're employing staff, engaging contractors or working with third-party suppliers as part of your business, it's a good idea to have contracts in place to be clear on things like each person's obligations, payment arrangements, confidentiality, intellectual property considerations and any restrictions necessary to put in place to protect your business.
- If you have a business partner, it's a good idea to have a contract with them in place to set out things like ownership and income splits, decision making and what happens if someone wants to exit the business etc. This could be in the form of a partnership agreement if you're trading as a partnership, or a shareholder agreement if you're trading as a company.
- If your business involves working with artists or other creatives such as management, recording, publishing and promotion etc., it's a good idea to have a contract in place with the artist which clearly sets out the rules around your working relationship covering things like income splits, intellectual property creation and ownership and any exclusivity requirements etc.

Having clearly drafted professional agreements in place for your business can save you from a lot of issues down the track and so that you and the people you are working with have a clear understanding and expectation of the working relationship.

Protecting your brand

As your business grows, protecting your business' name and brand is an important consideration. As well as the business name that you use, you may also have a logo or a slogan that is part of your branding. All of these things are important assets to your business that can be sold or licensed in the future. You should consider how best to protect these assets. For example, if another business similar to yours comes along using the same or a very similar name or logo, you want to be able to legally defend your rights.

By using your name and branding and building a reputation, you start to accumulate legal rights in that name/brand. However, the strongest form of legal protection for a name, logo or slogan is registering it as a trade mark. This can be done in Australia through IP Australia or with the assistance of a lawyer. If your business trades overseas, you may also want to consider registering your trade mark in those countries.

If you haven't already, you should also consider registering the relevant domain names and social media accounts under your business name as widely as you can. It's a good idea to get some professional advice on how best to protect your brand early on in your business to avoid issues down the track, including potentially infringing another person's existing rights.

**** Please be aware this is general information and not legal advice. You should always seek legal advice from an experienced entertainment lawyer before making important decisions relating to your business.**