



Modern music options abound for pizzerias.

Nicholas Day

When Arlene Spiegel, a New York restaurant consultant, designs a restaurant, she has strong opinions about what customers hear. "The last thing I'd ever do is put on a radio," Spiegel says. "That's the kiss of death." Instead, she says, a restaurant should choose music which coheres with its identity -- and with satellite radio, retail sound designers and mp3 play lists, there are more ways to do this than ever before. As Spiegel says, "what we're seeing now is the customization of music with a brand." But all the options can get confusing. Here's a primer.

First off, it is critical to confirm that the music you're playing is legal. In late July, the American Society of Composers, Authors and Publishers (ASCAP) filed infringement actions against 26 restaurants and bars in 17 states, claiming that they played copyrighted music without permission. Playing music from a personal collection -- even for on-hold music only -- requires permission and royalty payments. (Simply playing a radio station, however, is legal.) ASCAP's lawsuit is not trivial: a Seattle restaurant, for example, is being sued for \$30,000.

A service like Royalty Free Music eliminates any worrying about legal compliance. The company, which was founded in March and has clients like McDonald's, offers generic music produced by studio musicians rather than original artists, so there are no ongoing royalty obligations. "We wholly own these tracks," says general manager Mike Bielenberg. The site includes more than 7,000 tracks, but it only allows subscribers to download 30 per month and its steep fees seem intended for limited-time use: \$299.95 for a single month and \$999.95 yearly. If a client cancels a membership, however, any songs downloaded can be used in perpetuity (but at that business only).

The commercial-free satellite radio stations, XM and Sirius, are upstarts in the background music industry, but they've both recently made moves to recruit more business clients. (XM and Sirius also recently proposed a merger, which is also still unapproved.) Although neither provides customized programming, they both offer short-term contracts and relatively low



prices -- Sirius Business starts at \$24.95 monthly (the installation equipment costs \$250). Last year, XM introduced 15 background music channels, which share play lists with the other channels but are uninterrupted by hosts or announcements; the Sirius business service has identical programming to its consumer service. Both services pay all royalties and they include a feature that Tom Miner says is crucial: managers can block stations from being played. "The most common mistake is to put the music in and not have an understanding as to what should be played," Miner says. "A lot of times, the staff is allowed to select the music and that shouldn't happen." Texas-based Cici's Pizza allows its franchises to select music from Muzak or Sirius, but Tom

Koenigsberg, the chief marketing officer, says the company only permits certain stations. "That's just a matter of controlling the brand," Koenigsberg says. "When families are in there, we don't want anything racy. We want something customers have a positive connection to."

Miner points out that Starbucks, by carefully designing and controlling its music, has created a highly successful marketing program. "You're not going to get that by letting the first line worker choose the music," he says.

Arlene Spiegel says that other restaurants are now emulating Starbucks. "What many of my clients are doing is cherry-picking music and creating an MP3 mix" -- a separate mix for lunch and for dinner -- "and running it off their computer," Spiegel says. The restaurants are also burning the mixes and selling the CDs to customers. But if a restaurant handles its own music, it has to pay its own royalties: in general, Spiegel says, a letter from an attorney setting up a fee structure should do the trick.

Although music is important, Miner says, keep in mind your business structure: "The more focused you are on the transaction and the throughput, the less impact it'll have because customers are there for less time." But for sit-down pizzerias, Miner stresses, "music could help to define your customer set as a social group and bolster your sales."