

Frequently Asked Questions (FAQs) regarding the AllOFMP3 legality under Russian legislation

**1. Is it legal in Russia for AllOFMP3.com to sell music by foreign artists in MP3 format from its website?**

It is fully legal in Russia according to the current Russian legislation. The company which manages the AllOFMP3.com site has licenses from organizations for collective management of rights of authors, performers and phonogram producers (record labels). Such organizations have the authority to license selling of music, including works recorded outside Russia.

**2. Does AllOFMP3.com have direct agreements with foreign artists and record labels to sell their music in Russia?**

AllOFMP3.com does not have such direct agreements because according to the Russian legislation such agreements are not necessary for using the music in question in Russia. Obviously the companies which are selling music in the Internet simply couldn't have direct agreements with thousands of performers and record companies worldwide.

Therefore commercial use of foreign recording is licensed according to a special scheme foreseen by Russian legislation. Such licensing is regulated by Articles 44 and 45 of the Law of the Russian Federation "On Copyright and Related Rights". This law authorizes organizations for collective management of copyrights to grant licenses on behalf of performers and record companies to entities which use and distribute music in Russia. AllOFMP3.com has licensing agreements with several such organizations which act on behalf of record labels.

**3. Do foreign artists and record labels receive royalties from AllOFMP3.com for the use of their music in Russia?**

In accordance with the licensing agreements AllOFMP3.com pays part of its proceeds from MP3 sales in the Internet to organizations of collective management for copyrights. They in turn distribute royalties to performers and record companies, including foreign ones. Foreign companies and performers are entitled to a royalty fee each time their song is sold. According to the law AllOFMP3.com is not responsible for the actions of the organizations for collective management of copyrights and cannot control relations between them and foreign companies. AllOFMP3.com pays due royalties regularly and in full to the organizations for collective management of copyrights which have granted the licenses.

**4. How can Russian organizations for collective management of copyrights license music recorded by foreign companies?**

Russian legislation gives them a right to do that. According to the Russian Copyright Law organizations for collective management of copyrights by default have a right to license use of any music (in the Internet as well) recorded in Russia or abroad.

According to paragraph 3 of the Article 44 of the Copyright Law they do not necessarily need to have direct agreements with foreign performers and phonogram producers. On the other hand any performer or record label can demand royalties for

the use of their music according to licenses issued by an organization for collective management of copyrights. Moreover, Article 47 allows rightholders to withdraw their music from licenses to be issued by organizations for collective management of copyrights. In this case an organization for collective management of copyrights informs thereof all entities which use and distribute that music. Thus a performer or a record label if they wish can manage their music by themselves without an organization for collective management of copyrights getting involved.

**5. Do the organizations for collective management of copyrights have the authority to license distribution of music via Internet?**

According to Article 45 of the Law “On Copyright and Related rights” organizations for collective management of copyrights can grant licenses to use music in any form including recording music on disks and cassettes, public performance of music including on the radio or TV as well as distribution of music stored in files via the Internet (in any format including MP3). Distribution of music via the Internet has been termed “making available to the public” in the Russian law. Organizations for collective management of copyrights which grant licenses for making music available to the public in doing so do not violate current international agreements of which Russia is a party. Foreign companies can forbid organizations for collective management of copyrights to grant licenses to use in the Internet music which those companies own. However, they will need to provide documents proving that the music in question is owned by those companies.

**6. Is the Internet music download service of AllOFMP3.com legal as regards foreign legislation and international treaties as users can access the AllOFMP3.com site from all over the world and download music to their PCs?**

The AllOFMP3.com business is absolutely legal as regards Russian legislation (see Question 1) as well as international treaties ratified by Russia. All OFMP3.com doesn't have to bring together all requirements of all laws in every country as legislation may differ to great extent from country to country. All OFMP3.com runs its business exclusively on the Russian territory and has to comply with Russian laws only. Related foreign laws have no force in Russia. Every user of All OFMP3.com who comes outside Russia has to realize that downloading files from the Internet can be illegal in his or her country. All OFMP3.com cannot be held responsible for actions of foreign users.

**7. Have foreign record labels and performers tried to get AllOFMP3.com banned from distributing music from its site in the Internet?**

In 2005 a lawsuit against the company managing the All OFMP3.com site was filed in a Russian court by one of the USA record companies with a view to remove some music from AllOFMP3.com. However, the suing company could not provide to the court documents which could prove that it has copyright over the music in question. Therefore, this company couldn't further demand that this music is removed from AllOFMP3.com. The case was dismissed. AllOFMP3.com business can be declared legal or illegal only by a court decision.

**8. Could users who buy and use music from the AllOFMP3.com site be sued?**

We believe that AllOFMP3.com business is legal in Russia and thus Russian users who download music from the site are not breaking any law. However, a customer who bought music should ensure that it is further used in accordance with Russian laws and will be solely responsible for breaking any law.

**9. Some time ago there had been news in Russian mass media that starting from September 1, 2006 Russian legislation would be changed and music could only be used in the Internet upon consent of rightholders. Have those changes affected AllOFMP3.com business in any way?**

True, on September 1, 2006 changes to Article 39 of the Law "On Copyright and Related Rights" came into effect. According to those changes distribution of music in the Internet is only possible if the distributor has a licensing agreement with a record company or an organization for collective management of copyrights. Before September 1 it was possible to use music in the Internet without the consent of a rightholder though with obligatory payment of royalty fees. The changes haven't affected Articles 44 and 45 of the Law "On Copyright and Related Rights" which authorize organizations for collective management of copyrights to grant to AllOFMP3.com licenses to distribute music in the Internet (see Questions 1 and 2 above).

**10. How will AllOFMP3.com business affected when Russia joins WTO?**

At the moment it is not possible to define exact terms and conditions of Russia's accession to WTO. Until the actual accession which is not soon anyway WTO rules do not apply to Russian companies. That is also true for any international intellectual property treaties developed under the WTO framework. It is possible that after Russia joins WTO some changes will be made to the national legislation and also that Russia will ratify some new international treaties. But for now it is too early to talk about effect that Russia's accession to WTO will have on AllOFMP3.com business.

**11. Will AllOFMP3.com business be affected when the Fourth part of the Civil Code comes into effect and which will be the basis of the intellectual property legislation?**

As long as the Fourth part of the Civil Code is being examined by the Parliament it is not quite possible to predict which new regulations will be introduced and when. The new regulations from the Fourth Part will be available for the analysis only after the Russian President signs the final version of the law. So far the second draft of the Fourth part contains a mechanism of licensing similar to the current one from the Law "On Copyright and Related Rights" (see Questions 1-3 above). Any further development is possible.