As an organisation with great interest in minority musics, we are concerned that measures designed to optimise mechanical copyright for the benefit of recording companies and artistes also address rather than worsen the deleterious side-effects of current legislation, particularly on items of historical and cultural interest. As a general comment, we believe that 25 years from the death of the Artiste would be an adequate period, although not easily applicable to group recordings.

Probably the best way to itemise these concerns is to suggest concrete strategies:

1) Companies having disposed of the relevant masters for particular recordings should be deemed to have lost interest in their copyright. Such material should be considered in the public domain unless claimed by the Artiste (and see no 2). Orphaned recordings should likewise be freed of restrictions after a suitable proving process. In general, it should be possible to make release of material into the public domain the line of least resistance – if you keep your head down, that is what happens.
2) The as-of-right mechanical copyright should continue to expire at 50 years, with renewal depending on an application by the current holder who must demonstrate possession of the master and pay a fee, suggested to be £50-£100 to discourage frivolous applications.
3) Companies should not be able easily to prevent the small-scale re-issue of any recorded material, whether within 50 years or during an extended period, **that they do not currently have on sale themselves**. To this end, there could be a fixed per-copy royalty fee of perhaps 20-50p per hour of recorded medium (the 'licence of right') and no additional charge for such material, although there probably needs to be a mechanism for arguing (in a tribunal) for the withdrawal of 'tainted' material (and a 'buyer-beware' policy). This regulation should perhaps come in at 25 years, with a first 25 years of complete protection. In most cases of small-scale re-issue, companies would be well advised to waive the fee, since it would, by design, cost more to collect than it was worth unless large sales were anticipated. There would appear to be no reason why they could not set a unilateral legal threshold of say 100 copies after which the royalty would be collected.
4) Fair use of recordings in the current catalogue clearly needs to include permission to make private copies, but not to distribute them outside the household within which ownership is held. This is not particularly policeable, but neither is the current blanket lack of permission which makes criminals of most record users. It is not clear that content owners need compensating.
5) Performance licensing is not currently well-adapted to small scale and partially improvisatory and traditional events. The PRS are unnecessarily over-zealous in this respect and the arrangements are cumbersome and expensive. We do not believe that fees collected in such circumstances go to the right people, although the situation is much improved over what it was. In addition, it is notorious that the combined PRS/PPS approach and blanket charge has resulted in one well-known pub/brewery chain (Samuel Smiths) removing all music from their premises. This has benefited no-one and was disastrous for a flourishing live music folk club. We believe that the PRS in particular could and should be encouraged to take a more lenient view of borderline events.