

I understand there are plans to extend mechanical copyright on sound recordings to 95 years and that you are the person to contact should one object to this proposal. I most certainly do object to any extension beyond the present 50-year period and would like this to be noted. A year ago, Norman Lebrecht of London's EVENING STANDARD expressed similar concerns and I wrote to the paper agreeing with and expanding upon his comments. Below is the full text, which was published by them in only slightly abridged form. My opinions, then, are as follows:

I share the concerns expressed by Norman Lebrecht (13 April) regarding last week's New York court decision under which archive recordings - even those whose copyright has elapsed - may only be reissued on CD by the original labels, and the moves to have EU law conform to this decision. Lebrecht names not just a key reissue label - Naxos - which seems likely to suffer, but also Hyperion, one of the smaller but no less dedicated companies. In 2003 I wrote and compiled a BBC Radio 4 documentary, MUSIC-HALL RECLAIMED, which centred largely on the cottage industry that has grown up of lone workers transferring, restoring and issuing on CD recordings dating from the 1890s to the 1930s. For the most part, these discs sell enough to satisfy the collectors' market, but not in sufficient numbers for any of the major labels to consider such releases worthwhile. Also, in many cases the recordings are drawn from rare - if not unique - copies that survive only in the hands of collectors, and thus are unlikely to appear in a reissue from the originating label (should it even exist today). For both reasons, it suggests that any promise of more, compensatory archive releases from the major labels would be a hollow one. The small independents do not make a fortune but serve a valuable purpose in terms of preservation and accessibility. An amendment to the present law - by which the mechanical copyright in sound recordings expires after fifty years - would make their activities impossible and, as Lebrecht states, would also hinder public access to cultural achievement. At its inception, copyright law was intended to allow a reasonable period during which the originator of a creative work, and that person's heirs, might profit from the endeavour, after which the work in question was deemed to belong to the world. Some of the recent extensions to the duration of copyright - a few of them noted by Lebrecht and, one feels, prompted by an industry in panic over the expiry of what had seemed initially an unbridgeable length of time - do not in my opinion relate to the purpose for which the law was created.

I was amused to see an article about this last year in the ALCS newsletter, quoting Cliff Richard to the effect that copyright lapse on his early recordings would deprive him of an income! Somehow one suspects that he may have made enough over the years for this not to be quite the hardship implied ...

----- Original Message -----

Subject: Copyright extension proposals

> Dear Sir,

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> I believe you are soliciting comment regarding the possible extension of
> copyright to 95 years.

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> Such a proposed extension to copyright protection may attract sympathy
from those presented with the 68 year old artist whose recordings made fifty
years' ago fall out of copyright. Where has his 'pension' gone as he sits alone,
his fame and riches gone?

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But the proposal to extend copyright protection to 95 years is an extreme
response to such sad situations. If a change to reflect the fact that artists are
living longer, needs to be made, it might better be directed to a change linked
to the artists' lifetime plus a period after. My thoughts on this are given below.

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I have always believed that copyright legislation aims to strike a balance between the rights of the holder and the wider world. The aim should be to allow the eventual free dissemination of knowledge after a decent period of protection for the creator. Thus the work of novelists are reprinted in cheap editions after the copyright period expires, enriching our knowledge, records of the great opera singers not only entertain, but tell us of performing styles, popular music from the Great War brings home to a younger generation the period with such intimacy, and so on.

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I write with some authority: first, I am a university law lecturer who believes that the proposed 95 year rule may offend established Human Rights (Freedom of expression) case law, second, as a producer of CDs containing ancient popular recordings mainly drawn from the Edwardian period, and third as an author myself. Those early popular recordings found on my label have to be sourced, restored, and notes must be written – it is hardly a money-spinning business. If money be made it is ploughed back into the "project" to issue as much from the past, to educate, to inform, to move, to show the creativity of the past. I note also that I am quite happy for my own books to fall out of copyright after 50 years.

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So to conclude, if the law must be changed (and I do not think it should), I propose the following compromise: mechanical copyright should remain for the lifetime of the artist plus twenty-five after the death of that artist, but copyright protection should never be less than fifty years after the issue of the recording. Thus the heirs of an artist who dies one day after his last recording is issued, would benefit for fifty years (as they would now).

In addition the eighty year old faded pop star of the early 1950's, whose early records are at present no longer copyright protected would benefit - copyright in his lifetime and twenty five years after his death for the benefit of his heirs. This seems a sensible compromise and a fair balance between dissemination of knowledge, the interests of the artists and their families.

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> Julian Myerscough