

Thoughts on Recorded Music Copyright Legislation

Ian Anderson, flautist and singer of Jethro Tull

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I have been fortunate enough to spend over 40 years doing something that I love – making music. Along with my band, Jethro Tull, I have released over 30 albums in the course of the last four decades and sold over 60 million records. Today, I still play around 100 concerts a year and continue to push the boundaries of progressive contemporary music in the recording studio.

You may be relieved to know that while the sartorial excesses of tights and codpiece have long been disposed of in charity auctions or forgotten in some bottom drawer of my farmhouse home in Southwest England, what remains is a lifelong commitment to music as a profession. I feel much too young to hang up my hat, or my flute. And I expect I can find the codpiece on E-bay, if I really need it....

However, I am horrified that, along with countless other great artists and bands of the 60's and 70's, Jethro Tull's earliest recordings will progressively fall out of copyright in the foreseeable future under current UK legislation. The band's first album, "This Was" (1968), is due to fall out of copyright in just 12 years' time. From this date onwards, every year will see more and more of Tull's records slipping into the commercial quagmire of the public domain along with the all the other great works of British pop and rock music. Sir Cliff Richard's first recordings start to come out of copyright protection in just over two years time. The Beatles in six.

This means loss of Royalty income not only to the (perhaps well-off, perhaps quite poor) performers on the records but, more importantly from the industry perspective, the loss of income to the record companies, and ultimately to the UK exchequer.

Our recordings are protected for 95 years in the U.S. Many other countries such as Australia, Singapore and Brazil protect recordings for 70 years, while India provides 60 years' protection. EU countries, including the UK, protect our recordings for just 50 years. In other words, our recordings enjoy much more protection abroad than they do back home. You would have to be "Thick as a Brick", to quote the title our 1972 album, not to realise that this situation puts European performers and producers at a competitive disadvantage.

Music is high-risk business and most recordings never turn a profit. Revenues from those few, precious hits have to be ploughed back in to discovering and developing new talent. As Katie Melua, a young artist who lives and breathes music, remarked: "I know that my record company had to take risks to invest in an unknown like me. Thankfully, my music quickly connected with audiences, so this risk is paying off. I am very aware that I owe my lucky break to revenues from recordings by many of the more established artists I admire."

Record companies typically use a substantial proportion of their income from successful recordings of the past to develop brilliant, new performers like Katie Melua, and that is something worth singing about. A longer term of copyright protection would promote this kind of investment.

As a songwriter, vocalist and musician, it also seems completely anomalous to me that my compositions are protected for my lifetime plus 70 years, while my performances will fall out of copyright after just 50 years from the date of the original recording. I put just as much heart and soul into my performances as I do into my compositions and lyrics. So why should my song writing be valued so much higher than my creative efforts as a singer and flute player?

I would go even further to express the personal view that such copyright is as real to me as Real Estate. If I can own the freehold, and thus the investment, in my home property, why can't the value of the investment in my recordings be a longer-term or even indefinite heritable, saleable right? I would have better protection as the bricks-and-mortar builder of my house than a "builder" of recorded music.

Who could possibly argue that the Beatles' Sergeant Pepper album is worth less than the slab-sided freehold concrete-box semi down the Viaduct Road? After all, both probably cost less than £100,000 to build, even in today's money. Which would you rather see stand forever as a living testimony to the best of the 60's? Which would you rather protect in terms of its long-term asset value?

I am always delighted to see that new fans are still discovering Jethro Tull every day. While some will discover Tull via their parents' record collections, others will now be able to find our music for themselves via legal online services. The Internet provides an amazing opportunity to market earlier recordings that may no longer be available in record stores with limited and expensive shelf space. All of this potential for lateral expansion in sales of recordings from the Sixties onwards will be lost, if these recordings are allowed to fall out of copyright just at the time when the "replacement" sales of digital downloads might be beginning to compensate for the downturn in sales of conventional, physical product.

There is also growing evidence, ascertained recently, that the small and potentially "fly by night" companies now engaged in manufacturing and selling newly out-of-recording-copyright works are **also failing to pay Mechanical (composer's) Royalties** to Publisher and Composer. This, in my opinion, will become ever-more prevalent with more and more small companies, or individuals, operating ad hoc and with little fear of prosecution given their small size and turnover in the now growing field of out-of-copyright re-manufacture. A double whammy to industry and singer-songwriter alike.

The UK has, arguably, produced close to half of the world's output of the most artistically and financially valuable recordings since the earliest days of 78 rpm and vinyl records. The loss of this huge cultural and financial asset to the UK Revenue and the copyright owners is surely to be lamented. Gordon Brown would like to see us all fly the flag. Time to fly the flag for our great British recorded music heritage! The Beatles, Pink Floyd, The Rolling Stones – side by side with the forgotten one-hit wonders from the story of British Pop, Rock, Classical, Folk and Jazz music – will soon be traded for a mere pittance in the public domain with not a penny going, via the record companies, to invest in the future of British music and to nurture the artists of tomorrow.

Anyone familiar with Jethro Tull will know that our line-up has changed many times over the years, as various band members left to follow their own paths. I am now really concerned that very soon the many musicians who contributed to the success of our and others' recordings over the years will no longer be entitled to any income

from their performances. This is a real problem for the less-fortunate band-members and session musicians who still rely on royalties from previous records to help make a living. For some, such monies account for all, or nearly all, of their current income. Why should we perhaps have to see these musicians struggle in old age without heat for their homes or the wherewithal to pay their nursing home bills while their American counterparts are taken care of for life by ongoing royalty income?

The European Union is now looking at its copyright legislation to see if they need to be updated to the digital age. As just one of thousands of UK performers, I would hope that the UK Government will push for term of protection to be to be at the very least put on a par with the highest international standards. After all, equal talent deserves equal term.

And equal opportunities for tomorrow's young musicians.

A handwritten signature in black ink, appearing to read 'Ian Anderson', with a stylized, cursive script.

Ian Anderson