

## **Response from International Association for the Study of Popular Music (IASPM) UK and Ireland Branch the Gowers Review of Intellectual Property**

These comments represent the views of the UK and Ireland branch of IASPM, the International Association for the Study of Popular Music. IASPM is the professional association of scholars (from a variety of disciplines) concerned with the serious study of popular music. In response to your review we would like to express our strong agreement with the position outlined to you by our musicological colleagues in CHARM (the AHRC Research Centre for the History and Analysis of Recorded Music). In particular we would draw attention to two aspects of the CHARM statement.

### **a) *fair dealing***

Popular music scholarship frequently entails copying of protected materials for purposes of research and private study, as well as the communication of results, and such activity is generally covered by the fair dealing exceptions to copyright. Thus study involving sound recordings entails copying for purposes of data capture, while presentation of research entails, for example, the copying of excerpts to hard disc for integration within PowerPoint and similar presentations. The problem is that while sound recordings are covered by the fair dealing exceptions for criticism and review, they are not covered by the exceptions for non-commercial research and private study. This is illogical and unjustifiable in two respects: it makes no sense (i) that criticism and review is allowed but the research necessary to generate criticism and review is not, and (ii) that fair dealing exceptions should enable scholarly study across all media except sound recordings (and film).

In practice it is widely assumed that the fair dealing exceptions do cover sound recordings; official sources such as the government Intellectual Property website (<http://www.intellectual-property.gov.uk/index.htm>) contain no suggestion that this is not the case (indeed the FAQ page at [http://www.intellectual-property.gov.uk/faq/copyright/licence\\_music.htm](http://www.intellectual-property.gov.uk/faq/copyright/licence_music.htm) specifically refers to the fair dealing exceptions in the context of sound recordings). The consequence is that a great deal of popular music research and research-led teaching is proceeding on a legal basis which is at best unclear; the curtailment of such research would skew the study of music in an altogether arbitrary manner, and disadvantage UK researchers as against other countries such as the US, where sound recordings fall fully within the fair use provisions.

In short, the exclusion of sound recordings and film from the fair dealing exceptions for non-commercial research and private study is unjustifiable in principle and incompatible with scholarly practice. IASPM strongly recommends that the fair dealing exceptions should apply uniformly across all resource types.

### **b) Proposed extension of copyright term**

There has been a vigorous campaign on the part of the record industry, spearheaded by the British Phonographic Institute (BPI), to extend the copyright term on sound recordings, currently 50 years, to a much higher figure (possibly 95 years, on the American model). IASPM opposes such an extension; the current 50 year term provides a return on investment already far in excess of the normal investment cycle in the music industry. We do not support compromise measures because we do not

accept that there is a problem in this area or that there is any compelling argument for an extension to the current term. We support all the detailed points made about this topic in the CHARM submission.

Dr Martin Cloonan

Chair

IASPM UK and Ireland