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Considerations for Gowers review

Term of protection on sound recordings and performers rights

I have a personal interest in listening to and reissuing historical recordings, both in disc form and as media for operating mechanical musical instruments such as player pianos. I regard the present 50-year limit on mechanical rights as a practical and effective approach to balancing the interests of producers, artists and consumers.

1. The present rules arise from a view that recordings over 50 years old have little commercial value. Although the nature of the present popular music market means that some such recordings have a residual, but falling, commercial value, the majority are still worthless. Any revisions to rules should consider this majority, and not just the needs of a vocal minority.
2. The present rules have facilitated a market that gives access to much material that the original recording companies have not made available, and to novel presentations of the material such as chronological reissues spanning multiple recording companies. This is exactly the intent of long-standing public policy rules that restrict exclusive control of ideas, be it patents or artistic rights. Arguably the time before being permitted to issue material not otherwise being marketed should be reduced to encourage access.
3. Performers who originate their own material continue to receive royalties regardless of who issues the recording, under the “life plus 70-years” artistic rights. By encouraging reissue of recordings that would otherwise not have been sold, considerable additional royalties have accrued to the composition owners.
4. The viewpoint that does not offer life plus 70 years rights to those who “merely” interpret other people’s creations could certainly be challenged. If the interpreters’ rights are extended, this should be done in a similar manner to composers’ rights, so that royalties are paid by whoever issues the recording under some form of automatic license. The present approach to royalty tariffs provides a sensible approach where a fair proportion of the sale price is charged.

In summary, public policy is well met in the current model, but arguably performers deserve a longer royalty period.

What must be avoided from any revision of the rules is the granting of explicit or inadvertent, ongoing monopoly control over material, as this inevitably reduces access to all but the most commercial material. This would be detrimental to artists and consumers alike.