



*t o n y s m i t h*  
*p e r s o n a l m a n a g e m e n t*

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**SUBMISSION TO THE GOWERS REVIEW OF INTELLECTUAL PROPERTY**  
**SUBMISSION BY TONY SMITH ON BEHALF OF TONY SMITH PERSONAL**  
**MANAGEMENT, GENESIS, PHIL COLLINS, MIKE RUTHERFORD, TONY BANKS,**  
**PETER GABRIEL AND STEVE HACKETT**

I would like to thank the Treasury for the opportunity to participate in this review. Tony Smith and Tony Smith Personal Management have represented the group Genesis and it's members since 1973 and as we have been involved in the music industry for some 35 years we feel we have a unique insight into the workings and development of the industry and it's effect on the UK economy. We have represented various artists including Genesis and it's members throughout this period during which they have collectively sold in excess of 500 million records. Although your review covers a very wide area of intellectual property we have limited our comments to what we feel are two of the most pressing issues effecting artists, performers and (as the majority of managers are normally remunerated by way of a percentage of the artist's income they have precisely the same interests as the artists in the same way as a business partnership) their representatives.

TSPM is a participating member of the Music Managers Forum and we fully support the majority of the points raised in their submission however, we felt it important to add weight to that submission and to emphasise the issues that our artists feel most strongly about.

**Term of Protection:**

With regard to the current length of the term, we believe that this term was arrived at when life expectancy was much shorter. We think that it is unacceptable that a performer/artist and their heirs should cease to benefit from their work during their lifetime; which is increasingly the case as people live and continue to perform into their 60's and beyond (thus promoting and increasing the value of their past work). In addition, the fact that the U.K. has one of the shortest periods of copyright protection, creates an imbalance and an uneven playing field (particularly in world markets from which most of the performers/artists income is derived). The earlier ending of copyright protection will allow works to be exploited copyright-free and exported to the rest of the world, thus reducing the artist's or copyright holders income flowing to the U.K. from overseas sales. In our opinion, the longer period of copyright protection that is enjoyed by artists/performers in countries such as the USA, Europe and other territories, has enabled a longer term policy with regard to investment by record companies, publishers and management companies in both new artists and the continuing support of long term careers; both of which benefit from continuing income flowing from catalogue sales. We feel strongly that the length of copyright protection enjoyed by composers and songwriters should be extended to performers and recording artists as there is no logical reason why the length of copyright should not be the same.



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There is no doubt in our minds that as one of the world's prime centres of music creation, it would be not only just, but also in the interests of the creative and commercial music community in the U.K. to extend the term of copyright protection to that which exists in most of the territories from which the majority of the artists/copyright holders income is derived. Our opinion is, that this should apply both to new works and also to existing works that currently benefit from copyright protection. Notwithstanding the above, some thought should be given to the definition of "Life of Copyright", as contained in recording contracts between artists and recording companies, as we do not believe that the commercial terms entered into would have anticipated a longer copyright term. We believe that any extension of the term of copyright protection to the artist/performer should not apply to the recording companies, but should be vested in the artist/performer thus enabling the artist to enter into commercial terms with their record company should they so desire but always with the artist having the right to retain any such extension of protection for the benefit of themselves or of their heirs. In fact, there is a strong argument for the limitation of the rights of record companies to a term of 25 years.

#### **FAIR DEALING:**

The current drafting of the copyright exceptions in regard to fair use/fair dealing is unfortunately open to abuse and should be changed, so as to prohibit commercial exploitation for commercial and/or financial gain. At present, there are many examples of the abuse of the "exception rule", whereby recorded works by many of the country's major recording artists, have been, and are being, commercially exploited. One such example is the Classic Rock series where the use of CDs containing large portions of visual and audio recordings are used royalty free and passed off under the guise of a "critical review". These so called critical reviews are nothing but thinly veiled exploitations of the artists work and are purely used for monetary gain. Not only do they severely damage the artist's reputation for quality with their core public, but they also serve to divert income from the rightful owners of the copyright. We believe that at least one other artist i.e. Pink Floyd are making a fuller submission via their lawyers, Sheridans with regard to this issue and we urge you to take note of this.

We request that the government take urgent action on both these issues, so as to protect what is a significant part of the UK economy.

Tony Smith  
TONY SMITH PERSONAL MANAGEMENT