

Dear Mr Gowers

I have just been made aware of the current Review regarding Intellectual Properties, including the proposal to extend Mechanical Copyright retrospectively from 50 to 95 years. I am very concerned about the implications of this and would like to make my views known. As time is short, I am going to do it in a very lazy way, by copying below an article written by Rod Stradling in Musical Traditions magazine, which succinctly sums up his concerns, along with mine and I would imagine many other fellow musicians and enthusiasts of various types of minority music.

Yours sincerely

Simon Booth

## **Proposed Mechanical Copyright extension**

Most of you will be aware that the BBC initiated a programme of recording the remaining traditional singers and players in Britain in the 1950s. There was also quite a lot of other recording work in the same field going on during the same period. Some of this material has now fallen out of copyright (it's more than 50 years old), and more will do so in future years. This will undoubtedly result in some CDs being published by small companies or even individuals, containing elements of the rich results of the BBC's and others' trawl. Fans of Jazz, Blues and Irish music will already have seen the many recent releases of pre-1950s music by small companies which could not afford to - or were not allowed to - before.

However, there is currently a consultation exercise, or Review, initiated by the Government, regarding Intellectual Properties - that's Copyright, Patents, etc, to you and me - and to legislate some more up-to-date law on the subject. A small part of the new proposals includes a move to extend the Mechanical Copyright from its present 50 years to **95 years** and to make it **retrospective**. Mechanical Copyright is the copyright of the recording company in the actual physical recording - as opposed to the copyright of the performer in what was recorded.

If the 95 years copyright extension becomes law, and is applied retrospectively, the only people allowed to re-issue recordings made in the past 95 years will be the companies who now own the copyrights. Due to multiple takeovers in the past, these 'parent companies' are now giants like EMI, Polygram, etc. What chance do we have that they will ever reissue any of these old recordings? Their collective track record of re-issuing archive recordings in the last 30 years is between nil and negligible.

There are two simple reasons for this - firstly, the vast majority of the material has no commercial value whatsoever. Secondly - and this may surprise you - these record industry giants **don't actually have copies** of most of the 50-year-old records whose copyright they still own! Why? Because they have no commercial value whatsoever. Add to that the inevitable losses due to breakages, mistakes, etc, during takeovers. Even the BBC has lost a substantial proportion of its archive.

So we are faced with the ridiculous proposal that a huge multinational should be allowed to own a copyright to something they have already discarded as worthless years ago, for a further 45 years!

The current situation is as follows: small companies, even individuals, spend years collecting records (often sole remaining copies) and tapes relating to their own specialist interest which, thanks to modern technology, are now able to be published on CD or DVD for the small audience which values them. A copy is also usually lodged with the British Library. A not inconsiderable part of this CD re-issue programme involves material which is now out of copyright and has not been recently re-issued by the copyright owner. These recordings have sold in tiny quantities of

typically under 100, just about covering costs, but enthusiasts will continue to reissue them if allowed to. This is a task which no commercial company will ever undertake. To leave responsibility for the re-issue of historically important recordings in the hands of concerns with solely commercial interests will be fatal. Their track record speaks volumes. Enthusiasts have re-issued several thousand professionally re-mastered CDs so far - the tip of the iceberg, but already far more recordings than the majors have between them re-issued in the past 60 years.

To make any extension of copyright retrospective will be disastrous - we know that the major labels will not (could not afford to) re-issue the vast majority of their archive material - even if they actually still had any of it! The only effect would be to stop enthusiasts from publishing it, as they currently do. What we have to consider here is part of our country's collective heritage. This decision will determine whether future generations will thank us for our efforts to preserve a disappearing part of our country's culture, or curse a short-sighted decision which will deprive them of that valuable resource.