

Ladies and Gentlemen,

I am concerned to note that there appears to be considerable pressure building up for an increase in the present 50-year period for sound copyright in the United Kingdom. Reports in the media indicate that certain people in the music business (1960s pop groups have been specifically mentioned) are lobbying the Government for a change, but what particularly worries me is that the public are being fed information which is often one-sided and shallow. I have yet to see a report on television which attempts to deal with this important matter in a serious manner, since there are far-reaching implications involved.

Sound recording has been around for well over 100 years. Why has the question of sound copyright suddenly arisen? In my view the copyright act of 1988 was a sensible piece of legislation which struck a fair balance, and I cannot accept that a change is now necessary. Of course, the entertainment business thrives on publicity, and the cynical among us might believe that the current controversy is doing some aged pop groups no harm. But to suggest that they are about to lose a significant amount of income when their original recordings are more than 50 years old is questionable, to say the least.

The public are not being informed that there is a difference between sound copyright (which is owned for 50 years by the company making the recording) and composer royalties (currently payable for a generous 70 years after the composer's death). If we take pop groups as an example, many of them from the 1950s onwards used to perform music they composed themselves – the prime example being The Beatles. Their royalties will continue to be paid, whoever reissues their music on CDs or whatever formats may be used in the future to provide music.

From now on I will use the terms 'record companies' to denote the major companies making original recordings, and 'independents' to refer to the often very small (sometimes only two or three people) record labels that specialise in reissues of old material.

It has been claimed that the record companies continue to make payments to artists for recordings over 50 years old, and that this money would be 'lost' if the same music was reissued by independent labels. The record companies should be required to provide written proof to support this statement. From my knowledge many of them used contracts around 50 years ago that involved single payments to the musicians for the session, with minimal royalties being paid to the main artist named on the label for a stated period. I would go further to suggest that it is unlikely that documentation still exists in the majority of cases that would allow the record companies to calculate such continuing payments, in the unlikely event that they wished to do so.

One aspect which seems to have escaped attention from the media is: 'why should independent labels wish to reissue old material'? The simple answer is because it has been ignored for many years by the major record companies. It is a well-known fact that accountants are in control, and recordings are deleted (often with indecent haste) as soon as sales slip below a certain figure. This can happen in as little as two years after the release of a disc, which means that probably as many as 90% of recordings can remain unavailable for up to 48 years until they fall into the public domain. This means that the composers of the music are deprived of royalties for their work. When reissued by independents, the royalties start flowing again.

Another factor which is escaping attention is the blindingly obvious fact that there is nothing to stop the original record companies from continuing to make their recordings available after 50 years have elapsed. If they wish to be generous to their former artists, they can continue making payments to them, over and above the

composer royalties. It would be interesting to know how often this happens. To take The Beatles as an example once again, if EMI continue to reissue their recordings attractively packaged, and reasonably priced, why would an independent label wish to duplicate such material? EMI possess the master tapes and (provided that they have carefully looked after them – this is not always the case with every company) they are in a privileged position to be able to produce a superior product that could not be matched by an independent.

The truth is that the independents are often better at exploiting the archives than the record companies themselves. Having worked in both, I can confirm that a small company will take greater pains to use modern digital technology to produce sound quality that is often superior. The big companies have large overheads, and they cannot allow their sound engineers sufficient time to devote to sound restoration. This is an area where a growing number of small British companies excel, and their expertise is recognised internationally.

Yet these independents are, in the majority of cases, only dealing with recordings for a small minority of collectors who have long been ignored by the record companies. Make no mistake – sound restoration is an expensive business, and the small independents are certainly not making a fortune out of old recordings. The majors are simply not interested in releasing CDs unless they sell in tens of thousands, yet the dedicated enthusiasts who operate the small independent labels can survive with sales in the hundreds. They are providing a valuable extra dimension to the music scene, and preserving a culture for our country that might otherwise be completely lost.

Another reason why collectors find the independent labels appealing is the research which goes into providing detailed information in the booklets inside the CDs. Reading many of these it is clear that the CD has been produced as a labour of love; the corresponding booklets in many CDs from the major companies are poor in comparison.

I could continue at greater length, but you are busy people and I hope that I have already written enough to convince you that this is a matter that has far-reaching implications.

I would summarise my main objections to an increase in the present 50 year period for sound copyright as follows:

1. 50 years is a reasonable (even generous) period of time in which record companies can recoup the cost of their recordings.
2. A change to more than 50 years would deprive many composers of the royalties upon which they rely, and which are paid by independent companies who reissue their material.
3. If the major record companies continue to release their older recordings, there is no attraction for small independent companies to duplicate such CDs, and probably lose money as a result.
4. A number of older singers have enjoyed a welcome revival of interest in their music as a result of independent CDs. This might not have happened if their fate had remained in the hands of the major companies.
5. The British independent labels have gained an international reputation for the quality of their work, which has generated valuable export sales that could be lost if the period for sound copyright is extended.

In conclusion I would make two important points. If it is decided to increase the period for sound copyright I urge you to insist that it is not made retrospective, and that a reasonable period of grace is allowed before any change is implemented. A date of 1960 would not seem unreasonable, with all recordings prior to that still being subject to the present 50-year period of sound copyright.

As an alternative to a blanket extension of sound copyright, a more equitable solution may be to allow recordings to fall into the public domain if they have not been made available by the original record company for at least two years during a certain period of time – I would suggest 25 years would be fair. This would allow independent labels to continue making available in relatively small quantities recordings of a minority interest that the record companies have long decided is of no further interest to them.

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