

Dear Mr Gower,

INTELLECTUAL PROPERTY - MECHANICAL COPYRIGHT

My attention has been drawn to the proposed retrospective extension of mechanical copyright and the damaging effect this could have on the availability of historic recordings such as folk music.

Any retrospective legislation is usually bad and I would urge your committee not to extend the present limit because this would undoubtedly inhibit the re-release of material that is often of great importance to understanding and maintaining our folk music heritage. Many historic recordings, originally released on vinyl in small quantities, have now changed hands so often through mergers and the like, that the chances of them now being in the hands of someone who is either interested in the material or can make a profit from re-release is exceedingly small. The result is that the second-hand market for many recordings has gone through the roof. Some material has been re-released in small runs through the efforts of enthusiasts but this remains a very small proportion of the original output. And it is a scandal that some artists have been deprived of publicity and income through the refusal of some mechanical copyright owners to re-release material or allow anyone else to do so.

Rod Stradling, who is nationally known for his expertise on folk music and knows a lot more about the way the recording industry works than I do, has summed it up as follows:

/"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."/

I would argue that the test for those sitting on mechanical copyright should be 'use it or lose it', with the onus being on them to demonstrate why the public good is better served by the material being unavailable. If the material they 'own' has not been re-released and/or is currently unavailable, they should enable others to explore the market. They should certainly not be able to argue that they might take action 'when the market is right'. If the solution should be seen as some sort of licensing arrangement, then it is vital that conditions are imposed to ensure that enthusiasts are not effectively debarred by licensing fees that would exacerbate the financial risks facing those undertaking re-releases.

I hope, therefore, that your committee will give careful consideration to these points and not only enable enthusiasts to continue to serve niche markets but positively stimulate their ability to do so.

Your sincerely

Mike Feist