

## **I. Effect of federal protection upon preservation and public access**

### **Gives greater public access and societal economic benefits**

Currently an estimated 70% of all commercially recorded music has become collected under the control of a handful of mega-multinational corporations. They underutilize the music and have for all intensive purposes "abandoned" the majority of the music they now currently claim to own. Major portions of many major artist's catalogues remain unavailable to the digital download buying public. By creating a federally recognized copyright this will then allow the artists to reclaim after the proscribed period the fruits of their hard labors (their recording efforts) that currently are underexploited.

With only a few companies controlling the majority of the commercial music they can pick and choose its availability. Their monopolistic tendencies have consolidated the majority of recorded songs into the hands of a few companies. Hence they can control the output and demand on the music as would any cartel.

By creating a federally recognized copyright, this would after the proscribed time allow the music to return to the artists/creators of the music and then allow them to more readily market and get it into their hands directly. This would in turn make the music more readily available to the consumer. This in turn would fuel the world economy and help to create a new economic engine that would more readily spread the wealth, rather than to monopolize it all into the hands of a few companies. More artists and more people would then indirectly receive economic benefit by spreading the wealth generated by these recordings.

The local artists are in a better position to now distribute and market their particular music. Hence the music can spur on economic growth at a much greater pace by the artists themselves. So by creating the recognized Federal copyright, it would enable the artists to then better define the 56 year copyright period that has been claimed by contract by the record labels and companies. The companies have received 56 years to exploit the music for their economic gain. The federal copyright protection will benefit them for that 56 years, and then would and allow the heirs and artists to then put a time limit on the original grant that they gave the companies. When that time period expires it would then be put back into the hands of the artists who are better equipped and able to monetize the music with their fans directly (thanks to the digital age and the economic power of the internet).

The public as a whole would gain a tremendous advantage of having more and more music being readily available to them from more sources.

Further, the "entire" life works of an artist could be made available. Currently on a smattering of "hit" recordings are available. Completists, collectors, and fans demand to have all the recorded output of a commercial artist they know and love. With rare exception are all the recordings of any artist available as they should be made available.

Originally the artists did their deals with the companies with the expectation that they would be paid royalties and be in "partnership" with the record labels. However, over time these royalty arrangements dropped off and the labels neglected to exploit the entire recorded work of an artist. Hence, the general public is limited as to the availability of the works they can get on any one artist. Despite the fact that the artist wants to make and earn money from their recordings (this was what was agreed to at the time of the recordings), the companies and labels drag their feet in making them commercially available. The companies either do not want the

competition to their other releases or are just too large to even bother with trying to exploit all the songs they have contracted to control.

Hence, by finding for a Federally protected copyright you will then allow for the artists to limit to a very, very reasonable time... --56 -- years that the companies have had to benefit from the music... This is truly a great benefit from their initial bargained for exchange.

Further, for equal protection of the laws a recognized Federal Copyright should exist in sound recordings. It simply defies logic to recognize a federal protected copyright for an artist of 1979, 1989, 1999 and 2009, and to give a sub-class of rights to an artist from 1969, 1959 and 1949. It smacks of age discrimination to not allow the same bundle of rights to exist with artists young and old. Why should a young artist have claim to more rights of their musical creation than that of an older artist? It truly is arbitrary and capricious application of the law to draw such an ad hoc and random bright line test as to the existence of a federal copyright.

## **II. Effect upon the economic interests of rights holders**

The current corporate rights holders bargained for a 56 year, life of the copyright use of the musical work. That was their intention and belief at the time of acquiring the music rights. Hence to not allow for a federally recognized music copyright and allow them to benefit economically from this music for a period longer than the prescribed 56 years would be a true unearned "windfall" to the company. They never contemplated receiving a benefit for longer than the 56 year term.

All the parties from 1925 onwards have fully expected that they have had a federally protected copyright anyway. The state and common law copyright have acted as a de-facto copyright anyway, hence it has been assumed that there was a federally protected copyright... Because in practice there have always been laws to use to enforce one... there just was never a formally recognized one.

Many, many times congress had proposed recognizing a federally protected copyright since the 1920s... the issue had always just been put on the back burner, or more pressing legislation took precedents. Further, why enact something wherein the state and common law already provided some protection and relief... It was just never until now formally recognized... but in fact people have felt as if they did have federal protection on their copyrights.

Further, the 1950s and 1960s copyright holders/record labels have been collecting from Sound Exchange as Federal Copyright holders now for 14 years. If they didn't have a Federal Copyright as required by the law, then why is Sound Exchange paying them. They have all filled out paperwork provided by Soundexchange that has them declare they are the "copyright holders" in order to make claims under the federally created law. They have readily accepted hundreds of millions of dollars in benefits as de-facto federal copyright holders already under this federal law. For them to expect to collect indefinitely under this law is ludicrous. The now ripening digital copyright rights should become formally federally secured and put back into the hands of the artists who are best equipped to capitalize on them economically and fuel the engine of the struggling U.S. and world economy.

## **III. How the incorporation of pre-1972 sound recordings into federal law might best be achieved.**

All commercially recorded Pre-1972 music has a catalogue label number. This is the same number that is found on the spine of every LP or on the label of every 78 RPM,

45 RPM, 33 1/3 LP, or cassette or 8-track tape. That label number could easily be converted to becoming the registration number. All distributors and labels recognized that catalogue number as the "unique identifying" number of that particular recording. Hence, each commercial recording from this period already has a copyright registration type number that could easily be converted and recognized as the registration number.

Further, the commercially available release year can be the year of copyright for the recording. The cost to government or copyright agency for registering and cataloguing these works is very minimal. The Goldmine Recordings Guide to American Recordings 1945-1977 readily documents a label and catalogue number that could easily be used and transferred over as a copyright registration number. The Guide also readily documents the year of commercial release. The Guide is available in electronic format... so easily and readily searchable. The cost for labor to create a copyright registration numbering system would be very minimal, and basically the work has already been done.