



Copyright term extended in Sound Recordings

By Gary Johnston

A recently passed EU directive has made significant changes to the term of copyright for fixations of performances in sound recordings and for sound recordings themselves. These can be best summarised as follows:-

- Counting from the date of publication or communication to the public the term of protection is extended from 50 to 70 years
- During the extended period of 20 years, record companies/studios are required to pay 20% of revenues earned into a central fund which will then be distributed to session musicians who have received a one-off and non-recurring fee for their performances
- Where a record producer is not making sufficient quantities of the recordings available to the public after 50 years, performers have the power to terminate the assignment of copyright to the record producer and reclaim it, thereby terminating the record producer's copyright in the recording
- In a situation where a performer is entitled to recurring payments which themselves are subject to an agreed advance payment or other contractually agreed deductions, then those deductions will no longer apply throughout the extended term

Recital 5 to the Directive provides an insight to the reasons for this change:-

“Performers generally start their careers young and the current term of protection of 50 years applicable to fixations of performances often does not protect their performances for their entire lifetime. Therefore, some performers face an income gap at the end of their lifetime. In addition, performers are often unable to rely on their rights to prevent or restrict an objectionable use of their performances that may occur during their lifetime”.