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HRCAP Applauds Historic Legislation Mandating Study on Bringing Pre-1972 Recordings under Federal Law

HRCAP strongly endorses the recently authorized study on the desirability and means for bringing sound recordings made before February 15, 1972, under federal jurisdiction. These recordings—which include most of America’s rich audio heritage—are presently under state laws, which contain few if any allowances for preservation or public access, and allow no public domain, even for the oldest recordings. State coverage is not scheduled to expire until 2067, by which time access to our audio heritage will have been denied to generations of Americans, and some of it may be lost altogether.

The Association for Recorded Sound Collections (ARSC), a member of HRCAP, has been working for more than a year to secure this legislation, and was critical to its enactment. We gratefully acknowledge the House Appropriations Committee for including the study directive in H.R. 1105, the Omnibus Appropriations Act, which was signed into law by President Obama on March 11, 2009. It directs the U.S. Copyright Office to solicit public comment and report back to Congress within two years with its recommendations. The study will look at the impact on preservation and access, as well as any economic impact on current rights holders. Most early recordings are currently unavailable in the commercial marketplace.

Wording of the legislation can be found at www.thomas.gov (under H.R. 1105, Explanatory Statement page H2397) or here:

http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?dbname=2009_record&page=H2397&position=all

We believe that this study will shine a light on this dark corner of copyright law, and that it represents a first step toward according historical sound recordings the same level of federal protection and public access as other intellectual property. It may also lead to the establishment, for the first time, a public domain for the earliest recordings. The U.S. is the only country in the world that does not offer legal protections or a public domain for its oldest, most endangered recordings.

HRCAP and ARSC are proud of the role they played in bringing this study about, and look forward to working with the Copyright Office and stakeholders toward a common goal of preserving our audio heritage and making it accessible to the public.

Note: The Historical Recording Coalition for Access and Preservation was founded in 2008 to “advocate for changes to the law that respect creators but at the same time encourage the preservation of our rich and varied audio heritage, and enable greater public access to that heritage.” Current members of the Coalition are ARSC, the Music Library Association, and the Society for American Music. Website: www.recordingcopyright.org.