

Promoting Changes in U.S. Copyright Law to Preserve Our Audio Heritage

The Historical Recording Coalition for Access and Preservation urges changes in U.S. copyright law to facilitate preservation of and public access to America's audio heritage, which stretches back to the late 19th century.

The Music Modernization Act of 2018 was a good first step--at last!--at addressing some of these issues. It showed that change is possible. But more needs to be done.

We support strong and effective copyright to protect the legitimate interests of creators and preserve jobs. But we also believe that copyright should not be used to lock up our history.

The Problem: United States copyright law has placed historical sound recordings at significant risk of loss and made it difficult for students, scholars and the general public to hear and appreciate the vast majority of music and spoken word recordings produced in the U.S. during the first century of commercial recording. Recordings as diverse as those of 1890s “march king” John Philip Sousa, the very first African-American recording artists, immigrant groups, early jazz bands, symphony orchestras and even some U.S. presidents are difficult to hear due to copyright restrictions. (Examples are at www.recordingcopyright.org).

U.S. law treats older recordings differently, and more harshly, than other intellectual property. That needs to change.

Our Proposal: We have recommended five essential changes to federal copyright law, most of which remain to be fully addressed:

1. Bring pre-1972 recordings under federal law. *This was essentially accomplished by the 2018 Music Modernization Act.*

2. Harmonize the term of coverage for U.S. recordings with that of most foreign countries, i.e. a term of between 50 and 75 years.

3. Legalize the use of “orphan” recordings, those for which no owner can be located, for any purpose. “Orphan Works” legislation has repeatedly been considered by Congress, and is supported by many stakeholders.

4. Permit the reissue by third parties of “abandoned” recordings, those that remain out of print for extended periods, with appropriate compensation to the copyright owners. *A limited start was made on the last two points by the Music Modernization Act, however it permits only non-profit streaming, and even that can be forbidden by an owner. All uses should be permitted.*

5. Change copyright law to permit the use of current technology and best practices in the preservation of sound recordings by non-profit institutions. The Copyright Office has recommended such changes in its “Section 108 Report.”

Our goal, simply, is to work for laws that permit and encourage the preservation of our rich and varied audio heritage, and—equally important—access to it by all Americans.

For more information go to www.recordingcopyright.org.
Contact: Tim Brooks, Director, HRCAP, at info@recordingcopyright.org

Members of the coalition:

Association for Recorded Sound Collections
Music Library Association
Society for American Music
Popular Culture Association

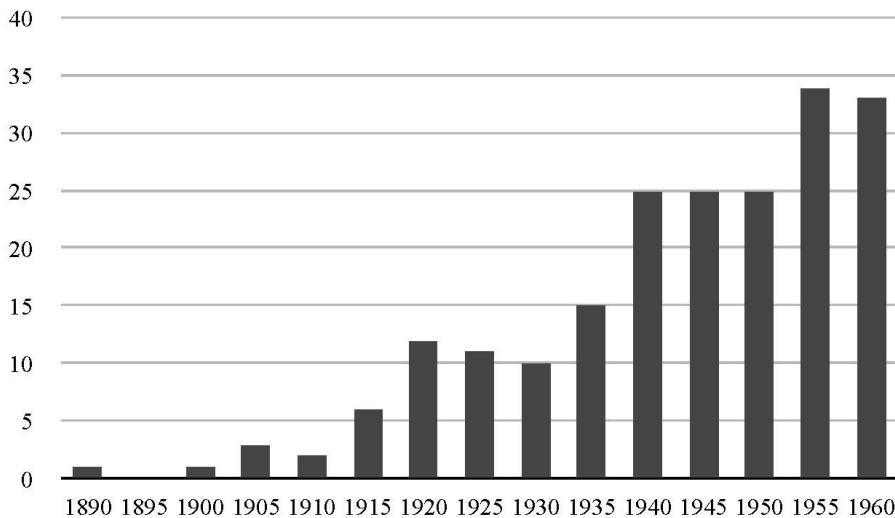
In addition the following have formally endorsed some or all of our goals:

American Library Association
Association of Moving Image Archivists
International Association of Jazz Record Collectors
Society of American Archivists

Fact: An average of only 10% of historic recordings made before 1955 are available from (or licensed by) rights holders. Moreover this figure is heavily skewed toward more recent periods. Historic recordings from the 1930s, 1920s and earlier are rarely made available to the public by rights holders. (Source: *Survey of Reissues of U.S. Recordings*, Council on Library and Information Resources and the Library of Congress, 2005.)

Reissue Availability

(% Available from Rights Holder)



10-17-2018