

## Copyright and Sound Recordings

**Resolved by the Board of Directors, Association for Recorded Sound Collections, Inc.**

**October 26, 2005**

Sound recordings are a vital part of America's, and the world's, cultural heritage. Since the first examples were created more than one hundred years ago they have served as a reflection of cultural and social history, captured and preserved in a uniquely compelling manner. History speaks to us, in its own voice, through sound recordings.

Whereas one of the principal purposes of the Association is to "foster recognition and use of sound recordings as sources of information by students and research scholars" (Bylaws, II.c); and

Whereas another purpose is to "develop standards of bibliographic control and access to cooperating sound recordings collections assembled for research or instructional purposes" (Bylaws, II.e); and

Whereas another purpose is "to foster improvement of techniques for the reproduction, storage and preservation of sound recordings" (Bylaws, II.f);

The Association for Recorded Sound Collections finds that several provisions of U.S. copyright law impede the effective preservation of historic recordings and unduly restrict public access to those recordings.

The Association recognizes the valid purposes of copyright in rewarding creators of recordings with a temporary exclusive right to the exploitation of those recordings, thus encouraging them to create. However, the Association believes strongly that neither creators nor the public are served by excessively long monopoly periods, especially those that exceed the period of commercial viability, or by restrictions on access to recordings that rights holders do not wish to exploit. The Association believes that both state and federal copyright terms for sound recordings are excessively long.

Regarding preservation, the Association believes that current copyright laws and regulation should be modified to eliminate many of the restrictions present in the law. For example, current law limits duplication to materials that are already damaged or deteriorating (sec. 108(c)), which virtually assures sonically deficient archive copies; and limits archives to no more than three backup copies, which does not take into account the need for distributed copies, mirror sites, and backups in order to responsibly maintain digital repositories of files created in a preservation environment.

There should be no legal barriers to the professional reformatting and preservation of published and unpublished historical recordings, with copies of the best possible quality sustained in perpetuity so that humanity's aural heritage may remain accessible for study and enjoyment.

Regarding dissemination, the Association believes that copyright law should encourage and facilitate the widest possible dissemination of out-of-print recordings, whether by physical reissues using modern technology (e.g., CDs), Internet availability, or other means.

The Association is concerned about the large number of older recordings originally produced for commercial purposes that are now virtually inaccessible due to current laws. The Association notes that hundreds of thousands of historical recordings are controlled by rights holders who have shown little commitment to the preservation or dissemination of these recordings.

The Association believes that when rights holders choose not to make historical recordings accessible, or are unknown, institutions and individuals should be permitted and encouraged to make those recordings available, on reasonable terms and without undue risk or encumbrance.

The Association believes that facilitating dissemination would serve to foster appreciation of our recorded cultural heritage by making recordings generally available for study, as well as increase the likelihood of the survival of the sounds embodied in those recordings.

The Association strongly urges that these concerns be taken into consideration in copyright legislation.