



March 29, 2018

The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
U.S. House of Representatives

The Honorable Jerry Nadler
Ranking Member
Committee on the Judiciary
U.S. House of Representatives

Re: The CLASSICS Act

Dear Chairman Goodlatte and Ranking Member Nadler:

We appreciate the changes made to the CLASSICS Act, now title II of the Music Modernization Act, to address some of the concerns we had raised in our August 9, 2017, letter. Specifically, we welcome the addition of 17 U.S.C. §§ 110(1) and (2) to the list of exceptions, and the exclusion of pre-1923 sound recordings from the scope of the bill.

However, we remain concerned that the CLASSICS Act would provide an unreasonably long term of protection for sound recordings fixed between 1923 and 1972. Under current law, a musical composition published in 1930 would remain in copyright for 95 years, until 2025. In contrast, the CLASSICS Act would provide a 1930 sound recording of that composition protection until 2067—a term of protection of 137 years.

Libraries own thousands of sound recordings fixed between 1923 and 1972. The vast majority of these—certainly those fixed before 1950—have little commercial value. But they often are rare, or even unique, and thus have significant cultural and historical value. Under the CLASSICS Act, a library would not be able to stream these sound recordings to researchers and other users unless the library concluded that such streaming would constitute fair use. Smaller libraries without ready access to legal counsel would be particularly hesitant to rely on fair use to stream these older sound recordings.

Extending CLASSICS protection for over 130 years to these sound recordings would interfere with the dissemination of a large body of cultural artifacts while providing compensation to the estates of a handful of artists. Few, if any, of the still-popular recording artists from the 30's and 40's are still alive. The CLASSICS Act should be amended to provide pre-1972 sound

recordings with protection for 95 years from fixation, thereby bringing their term into parity with other works published before 1978.

We look forward to working with the Committee as this legislation moves forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Band'.

Jonathan Band
Library Copyright Alliance Counsel
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