



## BRIEFING NOTE

# Amending Directive on Term of Protection

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September 2011

1. The EU has adopted legislation to give performers a fairer copyright term, following a vote in the Council of Ministers. The amending Directive on Term of Protection had already been adopted by the European Parliament.

## **BACKGROUND**

2. Performers had a shorter copyright term than other creators, losing their recordings 50 years after their release. A musician such as Pat Halling, who played the famous violin figure on the Beatles' *All You Need Is Love*, as well as thousands of other records, was facing reducing royalties each year as recordings go out of copyright. Composers and other creators have a copyright term of life plus 70 years.
3. 38,000 musicians from across Europe signed a petition calling on the EU to give them a fairer copyright term.
4. The European Commission proposed legislation in 2008 and a revised text was agreed between the European Parliament and the Council of Ministers, following a period of debate and negotiation. The amending Directive was adopted by the European Parliament on 23 April 2009 by 377 votes (with 178 against and 37 abstentions) and confirmed in a corrigendum vote on 12 May 2011. Any Directive must be approved by both the European Parliament and the Council of Ministers to become EU legislation. The Council of Ministers approved the Directive on 12 September 2011.

## **AMENDING DIRECTIVE ON TERM OF PROTECTION**

5. The main terms of the amending Directive are:
  - Copyright term – increased copyright term in sound recordings to 70 years from the date of release of the recording.
  - Session fund – an additional 20% of sales revenue to be paid to session musicians through collecting societies.
  - Use-it-or-lose-it – a provision enabling the artist to release the recording themselves if the record company fails to make it available physically and digitally.



- Clean slate – any un-recouped balances written off so all artists receive royalties in the extended period.

6. The full text of the Directive as adopted by the Parliament can be viewed [here](#).

### **IMPACT**

7. The principal impact of the Directive will be to extend rights for performers and record companies in their recordings from 50 to 70 years. As a result of the provisions negotiated by the Parliament and the Council, the benefits for artists and session musicians have been enhanced.
8. Opponents of the legislation have claimed that consumer prices will rise because of the Directive. However that ignores the evidence. iTunes, the main retailer in many markets, charges exactly the same for recordings whether in or out of copyright (€0.99). PwC also concluded in their study that consumer prices would not increase in the extended copyright term. Any negative impact will fall on the intermediary businesses that exploit old sound recordings – public domain record companies and their retailers.

### **NEXT STEPS**

9. The next step is implementation in Member States. The Directive will be published in the EU Official Journal in October and Member States will then have two years to implement into national legislation. From that point, sound recordings in the EU will enjoy a copyright term of 70 years from the date of release.

### **MORE INFORMATION**

Industry's reaction at [www.ppluk.com/en/About-Us/Campaigns/Copyright-Term/](http://www.ppluk.com/en/About-Us/Campaigns/Copyright-Term/)  
More on PPL's campaign at [www.music20-20.com](http://www.music20-20.com)  
Text of the amending [Term of Protection Directive](#)

**PPL**  
**September 2011**

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## **HISTORICAL TIMELINE**

March 2002	PPL and BPI raise copyright term with DCMS
May 2006	Petition to Gowers Review from 6,000 PPL performers
December 2006	UK Government accepts Gowers Review recommendation rejecting copyright term
December 2006	PPL takes ad in Financial Times on behalf of 6,000 performers
January 2008	IFPI delivers petition from 38,000 performers across Europe
February 2008	Commissioner McCreevy announces proposed Directive on copyright term
July 2008	Commission publishes draft Directive
November 2008	Performers send video message to Prime Minister Gordon Brown
December 2008	UK Government supports extending copyright term
Sept 2008 to March 2009	Draft Directive debated and amended by European Parliament and Council of Ministers
April 2009	European Parliament votes in favour of Copyright Term Directive
June 2009	European elections
May 2011	European Parliament agrees technical updates to the text of the Directive in Corrigendum vote
Sept 2011	Amending Term of Protection Directive adopted as Council of Ministers votes in favour

## **NEXT STEPS TO IMPLEMENTATION**

October 2011	Amending Term of Protection Directive published in EU Official Journal
TBC (after two years)	Copyright Term Directive implemented in Member States' legislation