

## Sound and Film Guidance

### 1. What is copyright in terms of sound and film?

The owner of an in-copyright work is not the person who owns the physical item but the person who originally created it. Copyright law, which to the best of our knowledge exists in all the countries in which the Endangered Archives Programme is active, creates a series of rights, known as “exclusive” rights, for creators.

These can be complicated for sound and film as these types of works can contain many different types of copyrights.

### 2. What types of copyright exist in an oral history?

Different countries seem to treat oral histories differently but in the UK the following exclusive rights are created:

<b>Sound Recording</b>	This normally belongs to the person / organisation who makes the recording
<b>Performance</b>	This right is created by the person who is “performing” on the recording
<b>Literary</b>	Although different countries appear to treat this right differently in the context of an oral history, the fixation of the words in a sound recording may create a literary copyright

### 3. What types of copyright exist in a musical performance?

It will depend on the recording but the types of rights that are likely to exist are:

<b>Sound Recording</b>	This normally belongs to the person / organisation who makes the recording
<b>Performance</b>	This right is created by the person who is “performing” on the recording
<b>Literary</b>	If the lyrics have been written down this will attract a literary right
<b>Musical</b>	The musical right relates to the musical notations

#### 4. What types of copyright exist in a film?

A film is the most complicated type of copyright work there is because of the many different layers of rights. It also depends on the type of film whether more or less rights exist in the film.

A film **may** contain the following different layers of rights:

<b>Sound Recording</b>	This normally belongs to the person / organisation who makes the recordings – so if for the film whoever made the film. If not made for the film, whoever made the original sound recording.
<b>Performance</b>	This right is created by the person who is “performing” in the film.
<b>Literary</b>	The words spoken or sung in the film – irrespective of whether written down or not. Or they can include adaptations from original literary works such as a translation, dramatisation etc.
<b>Musical</b>	The musical right relates to any musical notations.
<b>Artistic</b>	Designs that appear in the film such as stage sets.
<b>Film</b>	Who owns this right will depend on the country you are working in. It may be the person taking the film, or it may be whoever paid for the film to be made.

#### 5. What should I do if the music, dance, or performance is traditional?

Traditional content, such as sound recordings, is complicated as it may or may not have been written down, and may or may not have been adapted significantly over time to attract new copyrights. As an organisation committed to the ethical use of creative works we would ask that you make an informed decision, perhaps by talking to the communities involved, as to whether copyright exists in the recordings.

#### 6. How long do the different rights last?

Countries all have varying durations of copyright. The duration of copyright also varies upon the type of work – so a literary or musical work will generally have a longer duration of copyright than a sound recording. It is your responsibility to accurately establish whether the item to be digitised is in copyright or not and tell us.

In most countries pre 1875 published material is in the public domain – though some countries have durations of copyright longer than life + 70 years. Generally civil law countries would treat pre 1875 unpublished materials also as being in the public domain, though there are many exceptions even to this rule.

We ask that you consult with people who are conversant with the copyright law of the country that you are working in. In many countries the government’s Copyright Office will sit within the Ministry of Justice and they will often have a website explaining the basics of copyright law in that country.

## **7. I am not sure I can clear all the rights**

We appreciate that clearing all the rights in the sound recording or film in the country from where it originates can be very complex. However in order that the British Library can legally preserve the collection and make it available we need the permission from the rightsholders or communities involved.

We appreciate that this may be complex and if you have any questions please contact [copyright@bl.uk](mailto:copyright@bl.uk)

## **8. The material might be sensitive – what shall I do?**

Are there any cultural or political sensitivities that may contravene local norms, be construed as derogatory, cause offence, endanger a person/people or be considered libellous? Consider what action needs to be taken to ensure sensitive material has been cleared for use. Please explain to us what issues you are concerned about and what steps you have taken to address them.

## **9. Who should sign the agreement?**

The agreement can only be signed by individuals who represent, or are the rightsholders who created the work and therefore is the copyright owner. Please note this should not be signed by the owners of the items to be digitised unless they are also the copyright owner.