

EDITORIAL

The main substance of the Editorial appearing in the Spring/Summer 1970 issue of the ARSC Journal dwelt on the urgent need for codification and implementation of ground rules governing duplication of sound recordings materials and dissemination of same, particularly in an educational and scholarly context.

Special stress was placed on the failure of the recording industry and the U. S. Congress alike to act constructively toward providing a viable legal foundation for such codification and implementation; and on the all-too-evident fact that technological developments--especially in the area of cassette record-playback equipment--had reached a point where effective legal policing of "unauthorized duplication", or "pirating" if extended to include public sale of such duplication, was becoming a virtual impossibility, save in the most blatant instances involving major recording artists in whom the industry had invested vast sums of money.

The concluding sentence promised a report on the thinking of the ARSC Fair Practice Committee concerning this whole matter. Herewith is a progress report, offered against a background of fast moving developments on both the record industry and Congressional fronts.

As noted in the ARSC Bulletin reporting on the 1970 Business Meeting in Nashville and circulated to the membership, the undersigned as Chairman of the Fair Practice Committee submitted a preliminary draft of a resolution covering recommendations to be made on behalf of the entire ARSC membership to industry and legislators regarding legal rights protection and fair use in the field of sound recordings. The meeting voted that the preliminary draft be recommitted for further study with the aim of eventual submission to membership referendum prior to being publicized to industry and legislators.

Between early December and late January new developments boiled up on both of these latter fronts:

1. An international industry conference has been called to meet in Paris in July to deal with the entire record "piracy" question.
2. Moves are underway in the U. S. Senate to force separate passage this spring of the sound recordings sections of the Copyright Law revision bill, substantially as embodied in the Senate bill S-543, which failed of passage in the last Congressional session.

It was with the July international conference in mind that a re-drafted resolution was submitted to the ARSC Board meeting held in Washington on January 28, and approved,

subject to minor revisions of wording in the interest of legal clarity.

The resolution to be submitted for mail referendum to the ARSC membership takes the form of an open letter to the forthcoming Paris international conference, and covers the following points:

1. It sets forth the basic interests and concerns of ARSC as a body concerned with preservation of and exchange of information concerning sound recordings materials.
2. It expresses the concern of ARSC that the current industry uproar over record "piracy", while not without justification, may lead to a shutting-off of any possible avenues of duplication and dissemination of sound recordings for bona fide educational and scholarly purposes.
3. It recognizes that composers, authors, performers, producers and/or the organizations or agents that represent them do have vested rights to the sound recordings that are the product of their creativity and work, and that within reasonable limits to be defined by law, they are entitled to financial compensation when the product of their labor is employed in a profit-making venture.
4. It notes that the present lack of legislative groundwork in the form of a revised U. S. Copyright Law defining time-limitations of protection for and fair use of sound recording, together with the unwillingness of the recording industry thus far to work for national and international codification in these areas, has led to a situation of de facto anarchy in the area of sound recordings duplication that in the long run will work equally against the interests of the producers of sound recordings and against the interests of those involved in preservation and information coordination/exchange.
5. It urges upon the conference the importance of extending its deliberations beyond the immediate "piracy" question as it affects commercial product, to include development of an international "fair practices" duplication code, particularly as pertaining to recorded sound materials nominally owned by record companies, broadcasters, and film/theatrical producing organizations, yet which fall outside the normal recording industry retail distribution channels.
6. It defines ARSC's area of interest in the above field to include most especially: out-of-print commercial recordings, broadcast recordings, film sound tracks unissued as commercial recordings, "live" location

recordings, unpublished recordings of all types, and special compilations derived from varied sources for educational use.

7. In view of the virtual impossibility of individual policing of duplication-dissemination operations outside the mass-production industry level, the proposed resolution suggests that the conference consider blanket licensing procedures as a means of assuring basic recompense to those owning legitimate interests in legally protected sound recording materials; or failing this, to consider establishment of an international mechanical copyright bureau to act both as a permissions clearing house and licensing authority.

The basic principles underlying the proposed ARSC resolution include: (a) limited-time copyright protection for sound recordings; (b) maximum access with minimum red tape to sound recordings on the part of prospective users, especially in the research and educational fields; (c) a workable "fair use" code covering duplication and dissemination of sound recordings for educational and scholarly purposes; (d) simple licensing/permissions procedure allowing compensation to producer interests, where legitimately due, for sale or dissemination of their sound recordings beyond the bounds of recognized "fair use".

It is hoped that every member of ARSC will read carefully the full wording of the proposed "Fair Practices" resolution when received by mail, and that he will register his vote, bearing in mind the manifold considerations set forth above and in the Spring/Summer 1970 Journal editorial.

--D. H.