

**From:**

**Subject:**

**Date:**

comments concerning pending copyright measures

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Working in the academic arenas, I've run across intractable copyright barriers to scholarship and preservation in two key areas:

Music recordings for student performances and auditions

Dance faculty at our institution, and at other institutions—higher education as well as K-12 schools—are running into impossible situations when they need to program student concerts, and when those students need recordings of their own works to send forth as auditions for schools and professional jobs.

For instance, record labels typically ask for impossibly high fees for licensing the use of their recordings in such concerts and, further, require that the permission of all personnel involved in the recordings is obtained (an impossible task for busy professors and teachers—librarians too). **The usual copyright dispensations for fair use and classroom use presently do not extend to sound and video used in school and university performances, which *should* be considered as classrooms**—for the students, this is what they are; they cannot learn to perform without going on stage, and they must have music to dance to in order to do this. Here at TCU our Dance faculty and I have had to replace professional music recordings with student ensemble recordings, wherever we can find them, in order to avoid breaking the law (permissions are obtained from recording participants). This is time-consuming also and often involves changing tempos and other parameters in order to make these noncommercial recordings usable. More times than not, however, it is impossible to find usable noncommercial recordings. In the realm of student auditions, video recordings can be made of students' work, but the sound must be stripped out in order not to break copyright law—this makes it very hard for audition judges to gauge students' artistic merit, since the music they express cannot be heard.

**Not having fair use or classroom use provisions allowing commercial sound and video recordings to be used on the student concert stage and for student audition recordings seriously interferes with the educational mission—ironic, considering that student performers often mature into dancers and musicians who make recordings for the industry, which then profits.**

Video recordings for preservation, study and scholarship

I recently attempted to obtain a copy of an archived television program--a PBS Great Performances program from the 1980s—containing a very rare and important dance work not available for purchase in its entirety. It's very important to dance scholarship. The repository was unable to give me a copy to place in our library even on limited availability (scholarship only); I would have had to contact the estates of all the performers in the film (many of whom are long deceased), plus contact and gain permission from every participant in all archival film clips and in the documentary program itself, and pay any and all fees demanded by all of these. **There needs to be a means by which important and rare works can be copied (important for preservation) and made available for scholarship without such an onerous and expensive licensing and permissions process. Any**

**legal measure needs to embrace even creations from the early part of the 20<sup>th</sup> century.**

These, of course, are just a few examples of the barrier current copyright regulations for music and video recordings pose to scholarship, study and preservation. Sadly there's little time to make comment and this exposition is not thorough.

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