

Copyright auctions: a source of information on the asset value of a copyright work

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Abstract

As part of a project on the economic history of copyright and music publishing, I turned up an unusual source of data on the value of copyrights, namely detailed accounts of auctions that were held in London between 1794 and 1960 of inter alia, the engraved plates of musical works. The standard contract up to the 1920s between song writers/composers and music publishers bought out all rights and therefore, the sale of the plates was also the sale of the copyright to the work. This enabled the new owner to print and distribute the work more quickly than the process of commissioning and setting up the production process for a new work and there was quite a trade in the plates which facilitated entry and exit from the industry.

This paper describes the historical circumstances of copyright and the market for printed music and presents some of the more notable data, with calculation of their present day values. Though insufficient for a full statistical analysis, the paper provides some hard evidence of the asset value of copyright in musical works.

1. Introduction

One of the issues that has plagued research in the economics of copyright is the value of copyright, either in microeconomic terms as an incentive to supply or in macroeconomic terms, as the contribution it makes to GDP and to economic growth. Various ways have been adopted for valuing copyright indirectly: in macroeconomic measures of the GVA of industries in which copyright content is used (the creative or ‘copyright’ industries – see Towse 2015 for a survey of these terms and the method of measurement adopted). Those approaches fail to deal directly with the value of the underlying copyright and it is almost impossible to estimate because copyright works are not marketed directly but are integrated into products that have been subject to investment after the work was created and so the contribution of each cannot be separated. The microeconomic approach involves considering the motivation copyright offers creators on the one hand and on the other hand, the provision of empirical evidence about royalties and other remuneration earned by creators (authors, composers, performers); estimates of these have been made from surveys (for example, Kretschmer (2005).

This paper looks at a unique historical source of data on the value of copyrights as traded assets and the circumstances to which it relates, namely so-called ‘copyright auctions’ that took place, mostly in the 19th century, in the UK. Copyrights are clearly assets and attempts have been made to measure their asset value like any other financial instrument (Haskel et al, 2014; Goodridge, 2013)¹. This case is somewhat different: Puttick and Simpson was an auction house (now part of Phillips) which specialized in auctions of musical copyrights. Access to the information on these auction sales and prices has been made possible by the devoted scholarship of Professor James Coover, who has assembled a book based on reports of the Puttick and Simpson auctions from 1794 until 1960 (Coover, 1983). The bulk of the items sold in these auctions were musical instruments but included also were the ‘copyright auctions’ of the engraved plates of musical works. Coover used the reports on the auctions published in the trade journal *Musical Opinion and Musical Trades Review* (MO&MTR), kept at the British Library (now available through ProQuest). Also at the British Library are the catalogues of the auctions, which, however, are very difficult for the uninitiated to read. A brief inspection of these catalogues suggests that the MO&MTR reports are not comprehensive but pick out specific results presumably of special interest to the industry. They very likely report the highest prices and ones by the better known composers and songwriters (most are songs). Moreover, Coover makes a point of emphasising the highest prices. However, further detailed research of the catalogues might yield more information on items sold and their prices and offer a less biased picture.

I had hoped to find in Coover’s book details of repeat sales which would enable statistical analysis of the type used as data on art auction sales; sadly there were too few for that purpose. Even so, the sales and prices I report here are informative, as is this historical feature of the music industry. I have picked out of some figures on prices paid for individual items (operas and songs) and present them in 2013 values using the Bank of England Inflation converter (did this work in 2014). These few items have their own interest as explained below but also suggest the basis for further research.

2. Why do the sales prices of plates value the copyright asset?

As with literary publishing, engraved copper plates were used as the basis for printing. Printing music required greater skill on the part of the type-setter, and was accordingly more expensive, but also required less paper, which was also very expensive (and taxed in the UK until the middle of the 19th century). Copyright in musical works was recognized later than that for literary works: the 1710 Statute of Anne was only interpreted by the court case of *Bach v. Longman* in 1777 as being applicable to printed music. The mechanical right was enacted in the 1911 Copyright Act and the performing right for non-dramatic performance was not exercised in the UK until 1914.²

¹ Moreover, there is an accounting system for the valuation of works for the purposes of inheritance tax, which has not to my knowledge yet been explored by economists.

² It had existed since 1842 but ignored by music publishers (see Towse, 2016).

Standard practice in music publishing the UK from its beginnings up to and even beyond WW1 was the complete buy-out of all rights – known as ‘the copyright’ – from the composer (and sometimes the lyricist see Boosey, 1937) for a flat fee.³ When the plates were sold, the copyright was sold with them, hence the term ‘copyright auctions’. The buyer of the plate therefore acquired the right and well as the ability to publish (to reproduce and distribute) the work thereon. Incidentally, this facilitated easy entrance and exit from music publishing (which today is characterized by mergers and acquisitions of publishing houses in order to acquire catalogues). The practice continued into the 1920s, during which there were mixed contracts, some which were still buy-outs and others in which there were per unit (not ad valorem) royalties but by then the auctions of ‘copyrights’ were very few anyway. Even in the 1920s, though, well known composers were selling songs outright for 10 gns (1 guinea = £1-1/-. 2014 value = £420)⁴.

Only in a couple of instances is it mentioned that a royalty is due on the work (for the mechanical right (Coover, 1983; 304). Part of the story is that composers were very wary of the Performing Right Society formed in 1914 by publishers in the UK (rather than by composers as in Germany in Italy and Spain). The reason, as I document in detail in Towse (2016) is that the main business model of music publishers, and one approved by many songwriters, was plugging works with performers, such as singers and bandleaders. Accordingly, the performing right was held to be a disincentive to the dissemination and popularity of works. Sound recording was also regarded with suspicion by performers in the first instance as displacing employment. Ehrlich (1985) discusses the loss of employment of musicians in the UK in the 1920s due to a combination of their replacement by sound recordings transmitted by radio and the decline in music halls displaced by cinema and the rearguard efforts by the Musicians’ Union. They were fighting an irreversible trend, as present day record labels have done with digital music.

3. Market for published music

For centuries, the main market for published sheet music had been the Church and home performance. Theatrical performance, mainly of operas, was by far the most lucrative market for composers but not necessarily for music publishers. Contracts for grand rights did not need to involve a publisher and music was not necessarily even printed. Songs and tunes from operas were frequently pirated and sold on the street, as were ballads, often by performers singing or playing the music by way of advertisement. Public concerts bridged the two markets but were on a very small scale until the mid 19th century when music hall flourished in the UK. By the last quarter of the 19th century, though, music publishers themselves were promoting concerts, of their own music of course, by hiring or even building their own venues. Some publishers specialized in particular genres: Novello and Curwen aimed at the choral society and church choir part of the market. Copying, ranging from copying music by

³ One or two very well-known composers were paid flat rate royalties of one or two pence per copy after a certain level of sales was achieved eg 20,000 but only on ‘12 in 13’ of copies sold (and hundreds were distributed for free).

⁴ My research on Boosey and Hawkes archive available via the Royal College of Music library.

hand in choral societies to highly organized and lucrative wholesale piracy of printed sheet music was rife and was only effectively controlled by the turn of the 20th century.

The basis of the market was the sale of sheet music for home production of music, which flourished until the widespread adoption of sound recording at the end of the 19th century and then the development of radio in the 1920s. By the last quarter of the 19th century, ownership of a piano or harmonium was widespread and many people could play and sing from sheet music. New works ('novelties') were advertised by plugging in music and concert halls and sold in music shops to the consuming public.

Prices of printed songs in sheet music remained fairly constant and there were distinct market segments: Boosey & Co. maintained a high price (even when sales were falling) of 2/6d (£14 in present day terms) while Novello & Co. specifically kept prices down to support the choral society market (see Towse, 2016 and forthcoming)

4. Researching sale prices of plates as a measure of the asset value

Auctions of plates were business to business transactions and we can assume that the buyers were well-informed and knew the 'lineage' of the titles being auctioned. Music publishers were (and are) profit-maximising entrepreneurs and we can therefore also assume that the price paid represents the present value of a song to the publisher.

Throughout the 19th century, music publishers faced a market in which there were many competitors and in which demand for a title was uncertain (William Boosey, the head of Thomas Chappell, seems to have originated the much-quoted 1 in 10 success ratio in evidence to the enquiry that preceded the 1911 Copyright Act – see Peacock and Weir, 1975). In the 1890s, a title that sold 200,000 was regarded as a 'hit'.

What we need to know to interpret the asset value of the copyright is when the title was created and how long the copyright would last. The Puttick and Simpson (S&P) catalogue provides information on the seller (publisher), the title and composer of the works being sold. Coover and the MO&MTR report that information along with price and the buyer. There is also online information available from the IMSLP/ Petrucci library, Wikipedia, Allmusic and similar sites for many titles, providing information on the composer, librettist/lyricist, publisher of a musical work, but not necessarily for the first publication. For instance, for the title *Four Jolly Smiths* (listed below) the IMSLP/ Petrucci Library gives a publication date of 1877, when the first sale at the S&P auction took place in 1868!⁵ So, though the buyer knew what he was doing, we need more information to interpret the price paid! Finally, it could also be that the condition of the plates affected the price at auction but there is no information about that. Many of the items sold at auction were basically cleared as scrap metal – the then equivalent of being 'shredded'. The value of 'spent' plates in 1899 was 6 pence in old money (£3 in 2015).

⁵ See [imslp.org/wiki/The_Four_Jolly_Smiths_\(Leslie,_Henry_T.\)](https://imslp.org/wiki/The_Four_Jolly_Smiths_(Leslie,_Henry_T.)).

As to the copyright term, that was not straightforward either. In the early 19th century, it depended upon the date of publication but later, on the life of the author. The 1842 Literary Copyright Act extended the previous copyright term of 28 years (or life if the author were still alive upon expiry) for works published in the UK to 42 years after publication or 7 years beyond the life of the author, whichever was the longest. The Copyright Act 1911 set the copyright term to life of the author plus 50 years. For this research, one would have to check the publication and authors' death dates of each song title and check into any retrospective award of the term in intervening legislation.

5. Titles sold at auction and prices paid

(Figures in brackets are the equivalent 2013 values)

1. *Four Jolly Smiths* by Henry T Leslie (d.?) lyrics JL Rockcliffe. Published Novello?
Part song SATB.

Sold: 1868	£5-5s.	(£ 580)	
1884	£265	(£28,734)	
1892	£261	(£28,934)	
1895	£182-14s	(£20,962)	
1896	£156-16s	(£18,197)	(with arrangements and polka)

Still in print; copies on sale for £14 on

(<http://www.sheetmusicwarehouse.co.uk/details.php?ref=89778>)

2. *Cleansing Fires* Songs with piano (hymnlike) by Virginia Gabriel (1825-77); lyrics Adelaide Procter (1825-64). Published 1883?

Sold: 1892	£330	(£36,385)
1895	£300	(£34,420)
1904	£13-15	(£ 1,459)

(<http://whiskeyclone.net/ghost/songinfo.php?songID=1244>)

3. *Fairy Barque* piano work by William Smallwood (1831-97)

Sold: 1891	£1,008	(£113,022)
1896	£1,810-10s	(£210,167)

1904	£1,424-10s	(£151,135)	+arrs. Comment: sells 10,000 annually
1912	£ 730	(£ 71,720)	
1931	£ 494	(£ 29,363)	10 arrangements

4. **Six songs** by Sterndale Bennett (1816-1875). (NB There are 2 sets: op.23 and op.35)

Sold: 1865	£324	(£35,521)
1869	£260	(£27,004)

5. **May Queen** by Sterndale Bennett (1816-1875). (Commissioned for 1858 Leeds Festival) for chorus and orchestra (thus arrangements = piano and vocal scores) and parts, in all 662 plates.

Sold: 1864	£554-8s	(£60,781)
1872	£1,837	(£181,257) – 750 plates included copyright, libretto and performance rights
1877	£1,875	(£190,728)

6. **Lurline** by William Wallace (1812-65); libretto Edward Fitzball. Opera (first performed 1860) Wallace sold the rights to the opera in 1858 to the company that premiered it, Pyne and Harrison, for 10/-.

(NB In 1878 the 'Legal rights of representation' of **Lurline** and Balfe's **Bohemian Girl** were auctioned by P&S =£130 for **Lurline**; = £160 for the Balfe).

Sold:

1892	£836	(£92,683)	1658 plates
1894	£763	(£86,535)	

7. **Maritana** – opera (1845) by William Wallace (1812-65)

1871	£2,232-9s.	(£229,549)	
1884	£1,064	(£115,368)	
1908	£ 59-8s	(£ 6,235)	738 plates

8. *An Arab's Farewell to his Favourite Steed* by John Blockley (1800-82); songs with piano (many editions from 1844)

1883 £640 (£67,902)

1897 £4-5s. (£ 482)

9. *Odi tu* (English version *Oh hear the wild winds*) by Tito Mattei (1841-1914)

1884 £611 (£66,250)

1889 £427 (£47,877) bought in

1905 £513-10s. (£54,481)

10. Titles by Henry Pontet (1833-1902) chosen as several titles on sale.

(In 1891 permission to use the *nom de plum* H Pontet with the right to reproduce songs under that name was sold for £1 (£111)).

1892 *Nea* (£88) (£ 9,756)

1892 *Big Ben* (£200) (£22,173)

1894 *Name the day* (£18-14s.) (£ 2,121)

Finally, plates to several well-known 'classical works' were auctioned (NB copyright status).

Schubert *Erl King* 1896 £2-0-3d (£232-10s) pd

Handel *Largo* 1900 £1-5-6d (£146-5s) pd

Purcell *Nymphs and Shepherds* 1902 £73-3-3d (£783) pd

Elgar *Virelai* 1898 £ 5-12s (£635) in copyright

6. Final remarks

I had had high hopes of the Puttick and Simpson catalogues as source of data in the quest to value copyright assets. More might well be made of it that I have done - basically for lack of research time and finance. Doing so would require a thorough understanding of copyright in the 19th century as well as very basic research using British Library resources, few of which

are at present in digital form in this particular area. The examples of the catalogues that I read were virtually illegible.

There are other sources of data that I found useful on the same theme. Two books on composers' earnings – Drysdale (2013) on Elgar and Montgomery and Threlfall (2007) on Delius. These books, unusually, deal in detail with the composers' earnings; while they are viewed today as 'classical' composers, both wrote music that was popular in its day and still is. Both recently came out of copyright, having benefitted from the retrospective extension to 70 years in the UK's 1988 Copyright, Designs and Patents Act. That netted The Delius Trust an extra £1.5m in 2014 terms (paid by users – something people seem to forget!). Montgomery and Threlfall also list all Delius' earnings from the very beginning of his career.

Finally, a resource that could be explored is inheritance tax valuation of copyrights. A case I know of involved music for several films, one often replayed, and a popular TV series, frequently replayed, valued at £500k for UK inheritance tax purposes. That may not be the market value to a new owner but it demonstrates that at least the tax authorities will benefit!

All in all, I believe that there is scope for further research – maybe a PhD thesis – on the asset valuation of copyright.

Sources of information on song titles published in the UK

The UK Music Publishers Association used to publish a list of its members' catalogues but that ceased in 1997. They appear in the British Library catalogue but the holdings are missing or degraded (on old disc formats).

The British Library has huge holdings of other material in books, journals, pamphlets, original material, including the Puttick and Simpson Musical Auctions catalogues, etc and sound recordings. The British Library is currently digitizing the song catalogue from 1860 on (it did not regard popular songs as worthy of keeping records until recently!). RCharted in Towse (2016).

IMSLP is the online International Music Score Library Project aka Petrucci Library. It has 335,000 music scores of 100,562 works and 37,953 recordings by 13,513 composers and 351 performers all in the public domain (in Canada with some information for other jurisdictions). It is a source of information on composers' date of death, date of composition and publisher. See <http://imslp.org/>

Allmusic is an app that provides detailed information about albums, musicians and songs <http://www.allmusic.com/>

Wikipedia: looking up a song title usually give information on composer, lyricist, publisher and date of publication, with links to each. Also lists songs by various categories, such as genre, country of origin.

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