Review of Economic Research on Copyright Issues, 2021, vol. 18, pp. 26-55

ARIA RENTALS: THE 'GRAND' PERFORMANCE RIGHT AT WORK IN THE ROYAL SWEDISH OPERA DURING THE TWENTIETH CENTURY

STAFFAN ALBINSSON

Abstract. This study describes how composers were compensated during the twentieth century for their work in the Royal Swedish Opera through a performance right for drama, known as the 'grand right'. The study is based on primary data until the end of the 1980s. During this period a percentage-based tariff was used. The main finding is the doubling of the percentage rate claimed by publishers during the three decades following the end of the Second World War. The trade agreement concerning the commissioning of new music, the monopolistic position of publishers, the lack of reuse of new operas, and audience tastes are also discussed.

1. Introduction

Opera is the art form that combines all other art forms. They are, at best, assimilated into a grand total which is more than the sum of its separate artistic ingredients. Music is for many the most vital part in the construction of an opera. Without music there would be no arias. A composer might be inspired to create music for a new opera by the spotlight that will be directed on him (still rarely her!) if successful. The boost in market value will then, hopefully, come in handy in the future career. Alternatively, a new piece is created out of the sheer joy of composing. However, one vital variable, especially in the long run, is the pay attached to the work. Is it financially worthwhile to invest one's time in opera composing? Historical individual composers' incomes are not available to an extent necessary to answer this question. As a proxy this study deals with what was paid to composers and their representatives by one employer, namely the *Kungliga Operan*[1] in Stockholm (The Royal Swedish Opera). The overall perspective here is that of a description over time of the data found in the *Kungliga Operan* archives. Hence, the study is fundamentally empirical.

For a full rendering of the various forms of financial compensation to opera composers – before and after the introduction of performing right royalties – the reader is kindly asked

[1]Below the Stockholm Opera will be referred to by its post-1997 name *Kungliga Operan* (The Royal Opera).

to consult the author's recent publication on the issue of the tariff-based royalty structure in the Paris Royal Opera during the nineteenth century (Albinsson, 2021a). Here two of the current ways to be compensated are brought into focus: the percentage-based royalty and the commissioning of new pieces.

Before returning to academia the author spent more than three decades in music management. His own experience – and what he heard from colleagues – was that a 14% royalty was the industry standard for dramatic pieces such as operas. Why was the percentage not set according to potential market values of composers or operas? Furthermore, in discussions with colleagues and composers it was as if the 14% royalty standard had always been the case. This study seeks to explore the royalty percentages historically. To this end information on the legal history of performing rights in Sweden is included below. The study shows that the 14% rate of the 1970s was new and that it had increased substantially during the post-war period.

The specific royalty scheme for dramatic music, for instance music to operas, is labelled the 'grand right' (GR; from the French *grand droit*) and the terms of the compensation is agreed between the originators or their publishers per operatic production. Despite its diminutive designation, the 'small right' (*petit droit*), which applies for concerts and broadcasts in radio, TV and streamed music on the Internet, is, contrary to intuition, all in all much bigger in monetary terms than the GR studied here. It is licensed through the 'blanket' use of all music covered by a royalty collecting association. Much has been written about the 'small right' form of performance right. However, the GR has hitherto remained under the radar. The aim of this study is to provide new information on the function of GR. Have GR royalties increased or decreased over time?

Apart from his own recent contribution (Albinsson, 2021a) the author has found only one previous – also recent – article concerned with the GR specifically: Alex Cuntz's 'Grand rights and opera reuse today' (2020). No in-depth GR studies have been found other than Cuntz's. It will be referred to below. Indeed, the author finds it slightly surprising that GR is more or less unaccounted for in, for instance, Agid and Tarondeau's

(2006) book on the Paris Opera, their multi-opera comparative study (2011), and Annunziata and Colombo's (2018) compilation of articles on 'Law and Opera'. The recent article by Giorcelli and Moser (2019) about the effects of French copyright on operatic creativity in the parts of Italy under Napoleonic rule does not deal with the GR, although it is the Intellectual Property Right (IPR) item peculiar to the opera stage. Together with Cuntz's article and the author's previous study this presentation is, thus, a contribution to a little-researched field.

Data for this study have been found for the *Kungliga Operan*. The study includes additional information on commission fees for new operas. Because the *Kungliga Operan* was originally a royal – now 'state' or 'national' – opera, and because the provisions put in place in 1618 in Sweden for the archival duties of royal/state government departments and their activities, opera managements have been required to contribute to the national archives. The opera has built its own archives, the *Kungliga Teaterns Arkiv* (KTA; The Royal Theatre Archives). Most operas in other countries are private enterprises. Their archives are less extensive, and it is more difficult to get access to them. The Stockholm opera archives are open to the public. They include information on the topics studied herein to an extent not found in other opera archives frequented by the author. Although this study is focused on one single source, it is, however, likely that what is shown from the *Kungliga Operan* data is also relevant for other opera houses and theatres. The *Kungliga Operan* operates in an industry that is characterised by a very high degree of transnational business conditions. Freelance composers, as well as solo singers, conductors, stage directors, set and costume designers, and others work on short-term contracts in many different theatres. As opera houses all around the globe programme similar repertoire it seems that worldwide audiences demand similar repertoire in every country (Heilbrun, 2001).[2] Hence, publishing houses negotiate the same repertoire for opera houses in every

[2]This can be exemplified by the New National Theatre in Tokyo (website) which for the first half of 2021 offered *Tosca*, *Le Nozze di Figaro*, *Die Walküre*, *Don Carlo*, and *Carmen*. In addition, during 2019, the Teatro Colón in Buenos Aires (website) staged, for instance, *Tosca*, *Macbeth*, *Don Giovanni*, and *La Traviata*. All of these operas were performed in Berlin in 2019 (operabase.com). Most of these operas were also performed at the Metropolitan Opera, New Your City, during the programme for the year of 2019 (operabase.com).

global region. Moreover, according to François Velde (2015), for all six of the major opera houses he studied, the average age of operas performed has increased since 1750.

Section 2 of this article gives details regarding the method used in the study. In Section 3, the evolution of performing rights in Sweden and royal regulations for the financial compensation of composers and librettists are presented. Section 4 presents actual findings regarding GR remunerations. Royal regulations were succeeded by trade union agreements in 1977 (see Section 5). They set the lump sum compensation according to a standardised estimation of work hours and demand GR royalties on top. In section 6, "Discussion", GR and the compensation of composers are set in a larger context. Some trends are presented. The paper is concluded in section 7.

2. Method

This study is based almost entirely on archival material. Because it explores a domain not covered in earlier studies, several European archives were visited to search for information. The largest volume of relevant data was found in the KTA archives. Most of these data cover the period after 1884 – i.e. when the previous study of the Paris opera and its tariff-based royalty system ceased. In the KTA, data from the first half of the twentieth century were found in documents such as contracts with the original publishers or Scandinavian publishers acting as their representatives. From the 1950s onwards, the archived data include payoffs to copyright holders. Only publicly available data from before 1990 were collected. Since then, data have been kept at the *Kungliga Operan* and have not been made public. Due to concerns for the personal integrity of currently active composers, the author decided not to ask for permission to study these data. The extensive time span for the KTA data is regarded as an asset in itself as longevity is a crucial factor in the study of economic history.

The data were transferred to an SQL relational database. In total, 283 operas, 166 composers, 166 librettists and 60 publishers have contributed to a total of 1,355 posts of contracts or payoffs. A few posts include both publisher contracts and royalty fees. The composers who occur the most in these contracts are Giuseppe Verdi, Giacomo Puccini

and Richard Strauss. These are composers who have had remaining post mortem royalty coverage during the twentieth century, and who are frequently performed in other opera houses around the world (www.operabase.com). The information found in Stockholm is most likely relevant for these composers from in an international perspective.

As a back-drop to the numerical data, the study begins with a presentation of the evolution of performing rights in Sweden and royal regulations for the financial compensation of composers at the *Kungliga Operan*. The documents referred to belong to the collection at the *Kungliga Biblioteket* (KB; The Royal Library) in Stockholm. Trade union agreements regulating the commissioning of new operas after 1977 were collected from the *Svensk Scenkonst* (Swedish Performing Arts Association) and *Föreningen Svenska Tonsättare* (FST; Union of Swedish Composers). Unfortunately, these agreement parties could not provide documents for some years before the trade union agreements were relinquished in 2012. However, data for a few additional years were found in KB.

The author has worked professionally previously with the production of music theatre performances. At one time several decades ago, he consulted the person in charge of IPR matters at the *Kungliga Operan* at the time. One item in this conversation will be referred to below. In order to discuss the author's later experiences of GR matters, to confirm some of the findings, and to obtain comments regarding some unresolved issues, an interview was conducted with the person in charge of performing rights contracting at the *Kungliga Operan* at the time of the research. This was Erik Hvitfeldt who, then, had recently been recruited by the *Kungliga Operan* from the *GöteborgsOperan* (The Gothenburg Opera) where he had worked in a similar position. Mr. Hvitfeldt was interviewed in his office on 23 April 2019.

3. The development of performing rights in Sweden – regulations for opera compensation to composers

To better understand the twentieth-century situation, the period covered by the primary data in this study, the development of Swedish performing rights in general, and regulations for the *Kungliga Operan* in particular will be explained. Although most of these events

are particular to Sweden, performing rights were established in a similar way in most European countries, more or less simultaneously. Albeit a bit tardily, even reluctantly, Swedish legislators seem to have followed the development of German and French laws and regulations and adopted Swedish versions of them. The Berne Convention of 1886 was successively ratified by more countries than the few that signed the original agreement. This has led to more or less identical global business procedures for all opera companies today.

3.1. **The nineteenth century regulations.** The 1834 'Royal Majesty's Gracious Regulations for the board and administration of the Royal Theatres' (Kongl. Maj:t, 1834), had called for the support of domestic 'writers for the stage' (including composers), writing in §28: 'The Executive Board shall be obliged... to encourage and reasonably reward the work of domestic writers for the stage.' According to the 1834 regulation, 272 *Riksdaler banco*[3] should be drawn from the gross takings as a standard calculation of the 'evening costs' before royalties were to be given (according to a box office percentage system), see Table 1. Compensation was only provided to composers and librettists residing in Sweden.[4] In 1851, Jacopo Foroni (1824–1858), Italian conductor and composer at the *Kungliga Operan*, was awarded a lump sum of 100 *Riksdaler banco* for his music to the 'divertissement of song and dance in one act' entitled *En Folkfest i Dalarne* (A people's festival in Dalecarlia) (KTA code G1 AA, Vol. 3).

King Oscar I (1799–1859) was himself a capable composer. So, it comes as no surprise that he was favourably inclined towards the composer trade. The King issued a law regarding the prohibition of public performances without the consent of the 'owner' (Kongl. Maj:t, 1855).[5]

> §1. Swedish dramatic works must not be performed in public, unless the author has allowed it. At the author's death this prohibition ceases. However, if the author has publicly published the work, but dies before five

[3] *Riksdaler banco* was used before 1858. Then the Swedish currency was changed to *Riksdaler riksmynt* with a conversion rate 1 *Riksdaler riksmynt* = 1.5 *Riksdaler banco*. In 1873 the former was renamed "*krona*".
[4] Prior to the Berne Convention, this was the norm in other countries too.
[5] The author is responsible for all translations of Swedish documents.

> years have elapsed after the year in which the printing took place, his heirs are afforded the same protection during the time that can then remain.
>
> §2. The lowest amount for which damages are brought for each time, is twenty-five *Riksdaler Banco* [approximately €200 in 2021[6]], even if there is proof that that much has not come in.
>
> §3 What is thus established concerning dramatic works is also applicable to such musical works by Swedish authors which are intended for the stage.

Hence, the 1855 law includes both a kind of proto-post-mortem and a provision concerning fines. The fines established as a result of the 1848–1849 Bourget vs. Morel case in the Parisian courts (Albinsson, 2014) enticed French composers, librettists and publishers to create a 'small rights' licensing and royalty collecting society in 1850: SACEM (*Société des auteurs, compositeur et éditeur de musique*). The fine defined by the Swedish 1855 law could have called upon a similar society in Sweden and set a standard for its user fees. It, however, did not. Although the law demanded consent, still no royalties were paid.

The 1863 'Royal Majesty's Gracious Regulation for the board and administration of the Royal Theatres' (Kongl. Maj:t, 1863), issued by Oscar I's son and successor Karl XV (1826-1872), shows a fundamental increase in the composer remuneration. It states that (§72) 'to a piece originated in Sweden and accepted for a first performance an acceptance fee shall be immediately paid; for a spectacle for the full evening it is settled at 225 *Riksdaler riksmynt* (approximately €1,890 in 2021). §73 provides royalties for performances following the first, see Table 1. Hence, a mix of the percentage and the tariff systems was to be used. Here there is no standard sum drawn from the gross takings when calculating the royalties.

[6]Comparisons with 2021 have been calculated with the use of the *Riksbanken* historic CPI-series. For calculations of values in € the exchange rate of 22 December 2021 was used.

Table 1. Tariffs for royalties in 1834 and 1863 for large scale operas

	1834	**1863**
1st class Full spectacle for the evening	1/10 (2 houses)[7]	1/4 for performances 2–20, thereafter 6 *Riksdaler riksmynt*/perf.
2nd class Half a spectacle or more, but less than full	1/15 (1.5 houses)	2-1/6 for performances 20, thereafter 4 *Riksdaler riksmynt*/perf.
3rd class Less than half a spectacle	1/20 (1 house)	1/12 for performances 2-20, thereafter 3 *Riksdaler riksmynt*/perf.

Sources: Kongl. Maj:t (1834, 1863)

§77 provides a possible extra compensation of between 100 and 600 *Riksdaler riksmynt* for 'the best Swedish original work or works that during each theatrical year have been performed and found being of a particularly high value, if they have not already provided the authors with a thus comparable compensation through the royalty payments'. At this time, the *Kungliga Operan* performed operas and ballets, but also dramas without music.

In 1877, King Oscar II (1829–1907) signed an updated version of the 1855 law issued by his father (SFS, 1877:28). Its §7 extended the post-mortem to 50 years; however, chapter two, 'on the use of written documents on the theatrical stage' proclaims that when the author has given his consent to a producer, the latter may (§13) 'perform the piece as often as he finds proper, but not to transfer any right to another'. Conversely, the author was not allowed to give his consent to more producers unless the first producer did not stage the work within five years. §14 reduces the 50-year post-mortem, stating that 'The author's or translator's right according to this chapter is valid for his lifetime and five years after his death.' Hence, the post-mortem differed between the right for copies and the right for staged performances. If a theatrical producer violated the law concerning the right for performances (§15), 'he shall, in damages to the claimant, submit the entire

[7] i.e. the full box office takings from 'benefit performances'.

amount incurred at that time, without deduction for costs or for what the income may amount to for another piece, which was performed at the same time'.

Although regulations in a manuscript from 1897 is not signed, it nevertheless probably depicts the actual standard practice. In fact, it is referred to in a later document (SOU 1923:66, p. 48). The 1897 manuscript includes a few paragraphs on how composers should be compensated. According to §95 an award of 600 Swedish kronor (SEK) was to be given as an acceptance allowance (approximately €3,540 in 2021), for the composition of a piece which comprised 'the duration of a full representation', i.e. '1st class'. The amount was 74 per cent of the average annual earnings of blue collar workers in Stockholm, but only 17 per cent of the average annual income of white collar clerks (Bengtsson and Prado, 2020). For each of the performances, there should be a royalty fee of six per cent of the gross box office income for the part that did not exceed 1,800 SEK, and 10 per cent for the remaining box office income. For pieces that only comprised a part of a full night's representation, the compensation was set at lower rates. According to §100, fees and royalties for works by foreign composers were to be accepted only if there was a legally binding agreement between the theatre director and the composer or his publisher.

This 'acceptance fee' system is an ex-post award or a 'blue-sky-prize' (Scotchmer, 2006. Ch. 2.3 and 2.5) for an opera found to be of high enough quality to be performed. The use of this model suggests the absence of the current most common practice, namely that of commissions for new compositions which, together with continuously increased royalty schemes, have replaced the acceptance fees.

3.2. **The introduction of the "small" performing right and the new union of composers.** In 1914, a royal committee presented a proposal for a new copyright act, which would include some basic performing right clauses concerning financial compensation for all possible performances in the realm (Committee Report, 1914). The bill was debated at length. In 1918 the government planned to revise the bill in a way that was detrimental to the interest of composers. Songs and dance music were to be exempt from performing rights. The composers were quick to organise the *Föreningen Svenska Tonsättare* (FST

- Swedish Union of Composers). Valter Kant, president of the district court in Uppsala and a Member of Parliament, had motioned for the inclusion of, at least, songs in the new law. *Kungliga Musikaliska Akademien* (The Royal Music Academy) decided on a pronouncement supporting Kant's suggestion. FST followed that example and sent a declaration to the *Riksdag* in support of Kant. The general conception was that it would be futile, at that point, to also suggest the inclusion of music for social dancing in the labour movement's People's Parks and Houses, as well as other ballrooms. The *Riksdag* eventually accepted the Kant revision in its final decision on May 30, 1919. It was a close call that was decided by a single casting vote (Atterberg, 1943, p. 3).

There were three major changes in the new law: 1.) a *droit moral* clause defending the composers and their music from distortive treatment; 2.) a *droit économique* clause also including 'fragments' of pieces in the performing rights; and 3.) the Berne Convention, providing international safeguarding of the interests of Swedish copyright owners that was finally ratified by Sweden (Treaty, 1919) – 33 years after several mainland European countries.

Another early FST decision was to, in the spring of 1919, confront the *Kungliga Operan* regarding its allegedly much too crowd-pleasing programming:

> The opera had begun to be frequented by a new audience category consisting of the newly rich 'goulash barons' from the war years. This audience was regarded as less artistically sophisticated than the old opera audience and it demanded more luxurious productions and costumes, abundant dance elements with un- or scarcely clad ladies, and, above all, a lot of operettas. (Hanson, 1993, p. 27)

The opera did not, however, change its policies. In 1922, the FST returned to this issue with a memorial to King Gustav V in which the complaints were repeated. It was added that the *Kungliga Operan* neglected the domestic repertoire through sloppy stagings, first performances when the theatrical seasons were almost ended, and a systematic scheduling of the performances at the least favourable dates. The government decided to appoint an investigation regarding the programming policy and the management of the opera.

It confirmed the FST's criticism (SOU 1923:66, pp. 10–12). One of its effects was the substitution of the legendary singer John Forsell for the prior general manager. Peace was established, at least temporarily (Hanson, 1993, pp. 28–29). The 1923 investigation also suggested an increase in the acceptance fee to 1,000 SEK (SOU 1923:66, p. 48). The rise should emphasise the importance of a more dignified output of highly qualified domestic composers of operas with higher artistic merits. The same kind of issue was to have an extensive importance in the 1970s, see below.

4. Royalty, honorarium, tantième – the grand performance right

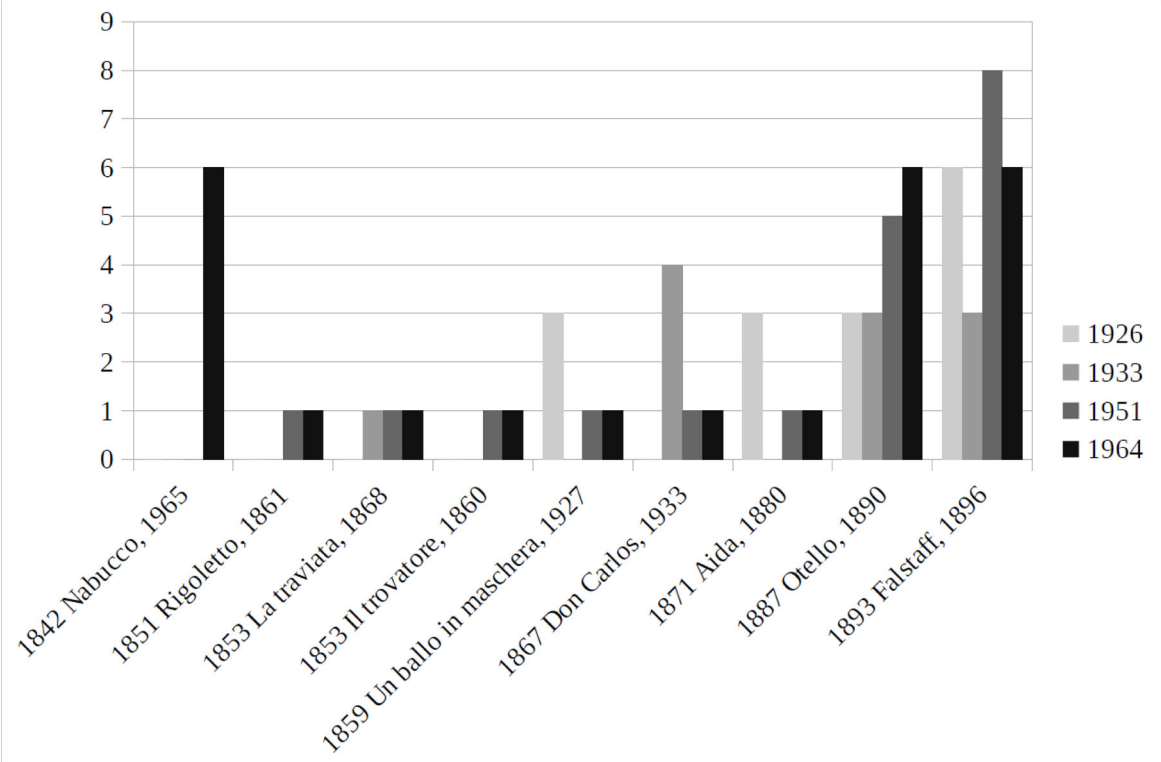
Kungliga Teaterns Arkiv (KTA; The Royal Theatre Archives) has a contract from June 1878 with *Königl. Sächs. Hof-Musikhandlung von C. F. Meser* (*Adolph Fürstner*) concerning the rent of the sheet music for Wagner's *Tannhäuser* (KTA F3 B, Vol. 2). Its §6 indicates that an additional *revers* (promissory note) should be signed with Wagner's legal advisor, Carl Voltz in Wiesbaden, for the performance rights. It seems that such an agreement was not negotiated for the previous season. In correspondence with Voltz, the opera management claimed that '... theatre regulations prohibit the royalty calculation you suggest...' and 'as there is yet no international convention regulating these issues', the theatre only intended to pay the same amount as it had for *Lohengrin* four years earlier (namely 1,000 French francs, approximately €3,540 in 2021), as *honorarium* (royalty). Herrn Voltz had asked for more, namely 5–10 per cent of the box office revenues. He accepted the Stockholm offer a bit reluctantly with reference to the theatre regulations in Stockholm. The Swedish law of 1855 was applicable to domestic composers only (Kongl. Maj:t, 1855, §3); however, Voltz hoped that an exception could be made 'by the grace of the King' (KTA F3 B, Vol. 2).

When Bizet's opera *Djamileh* was first staged in Stockholm in 1889, there was a contracted author's fee set at 25 francs (approximately €100 in 2021) per performance with the publishing house MM. de Choudens père et fils in Paris. While Choudens collected the fee for the sheet music hire of Bizet's opera (250 SEK), a lump sum of 150 SEK (approximately €450 in 2021) for the performance right (*droits d'auteurs*) for all performances

during the 1933–1934 season was contracted separately by the *Kungliga Operan* with MM. Chevrier & Leroy (KTA code F3 B, Vol. 2).

The contracted percentages for Verdi's operas depended on two things: (1) the amount of time since their very first performance (first year in Figure 1), and (2) when the opera was first performed in Stockholm (second year in Figure 1). The Verdi post mortem period reached its end in 1951. However, significant royalties were contracted at least until the 1960s (KTA code F3 B, Vols. 5 and 6).[8]

Figure 1. Contracted royalty rates (%) for Verdi operas in Stockholm



Source: KTA code F3 B, Vols. 2-10; the first year for opera titles is the world premiere, the second year indicates the Stockholm premiere

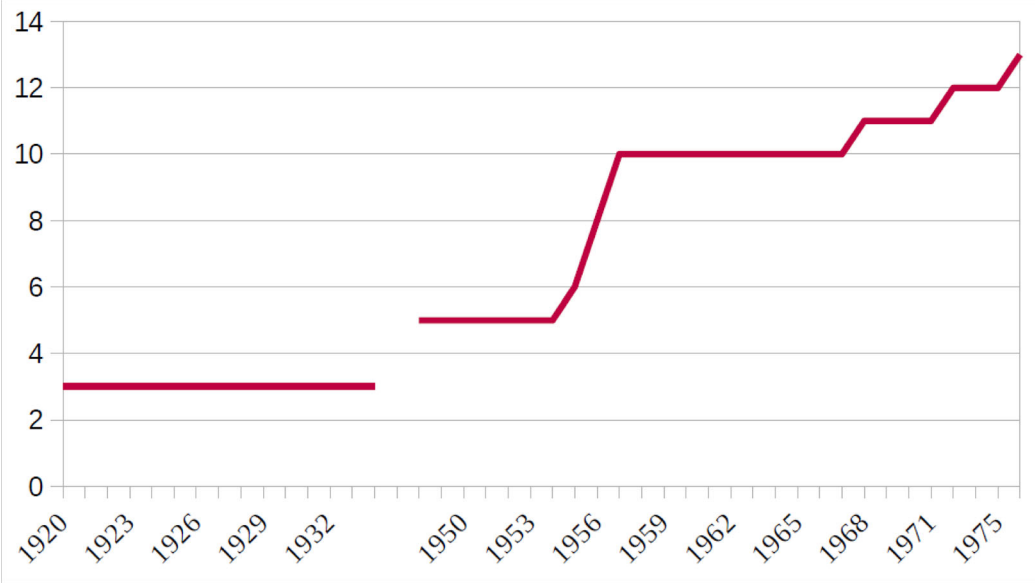
The first publisher contract found for Verdi operas in KTA, *Otello* in this case, was signed in 1908 by Casa Ricordi in Milan. It only stipulates the rental fee for score and

[8]The Swedish copyright law of 1960 (Lag 1960:729) granted a post-mortem of only 50 years. It was prolonged in 1995 to meet the recently instituted European standard of 70 years (based on Proposition 1994/95:151).

parts and lacks a contracted percentage of box office incomes as a GR compensation – though they were included in contracts from 1920 onwards (KTA code F3 B, Vol. 2). The new Swedish copyright law passed the previous year probably played a decisive role here. Between 1949 and 1966, the Ricordi contracts were signed by their intermediary agent *Symphonie-Verlag* in Basel (KTA code F3 B, Vols. 3–5). From 1968, contracts were signed by *Nordiska Musikförlaget* in Stockholm on behalf of Casa Ricordi. Giacomo Puccini was represented the same way as Verdi. In a similar way, Richard Strauss was represented by Boosey & Hawkes in London, who used *Carl Gehrmans Musikförlag* in Stockholm as its intermediary from 1949.

During the economic rebuilding of Europe following the Second World War, publishers tested the pain threshold of opera companies by a stepwise increase in the percentage rates of royalties. A normal rate at the outbreak of the war in 1939 was seven per cent. The rate was stable at 10 per cent during the 1950s. It rose to 12 per cent around 1970 and finally peaked at 14 per cent a few years after the 1973–1975 recession, see Figures 2 and 4. According to Erik Hvitfeldt and the author's own experience-based knowledge, it has not increased further during the last four decades.

Figure 2. Growth of royalty percentage of Puccini's Tosca



For the 1957–1974 seasons, KTA contains data on what was actually paid to Gehrmans in Stockholm as GR remuneration. For the 88 performances of Tosca during this period, Gehrmans collected 114,174 SEK (see Figure 3). The peak during the 1965–1966 season is most likely due to the new production that premiered in September 1964, with prominent guest performers such as Aase Nordmo-Lövberg and Nicolai Gedda. They were soon replaced by house performers and the audience interest decreased. In the spring of 1974, Birgit Nilsson made a guest appearance as Tosca and was succeeded for the two remaining performances by the American soprano, Donna Roll.

Figure 3. Average grand right (GR) income per performance of Tosca (value in SEK, year 2015)

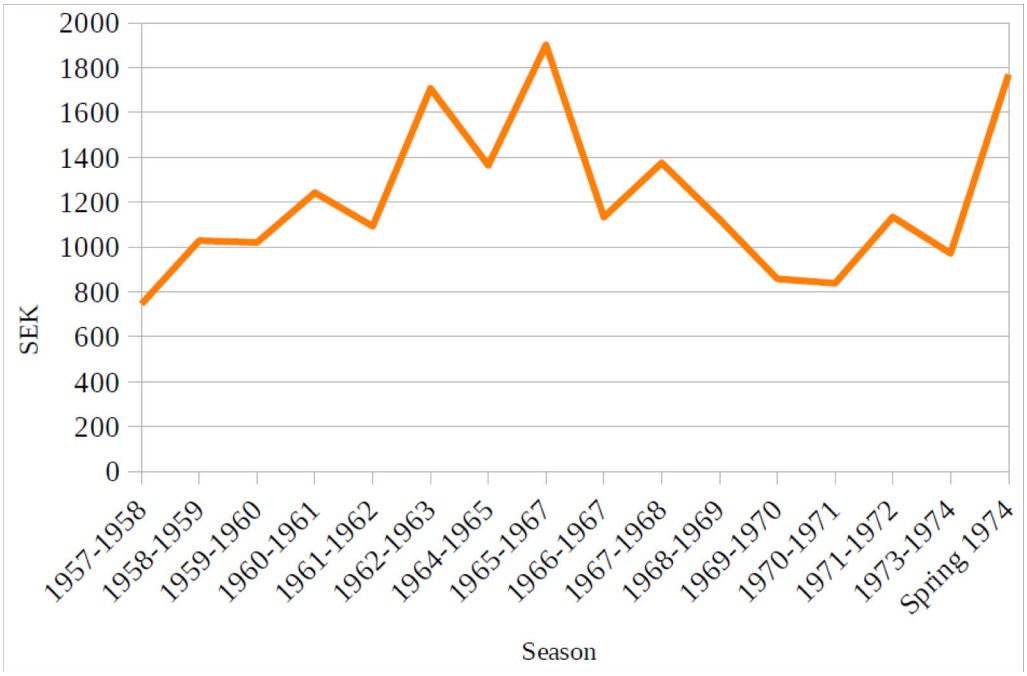
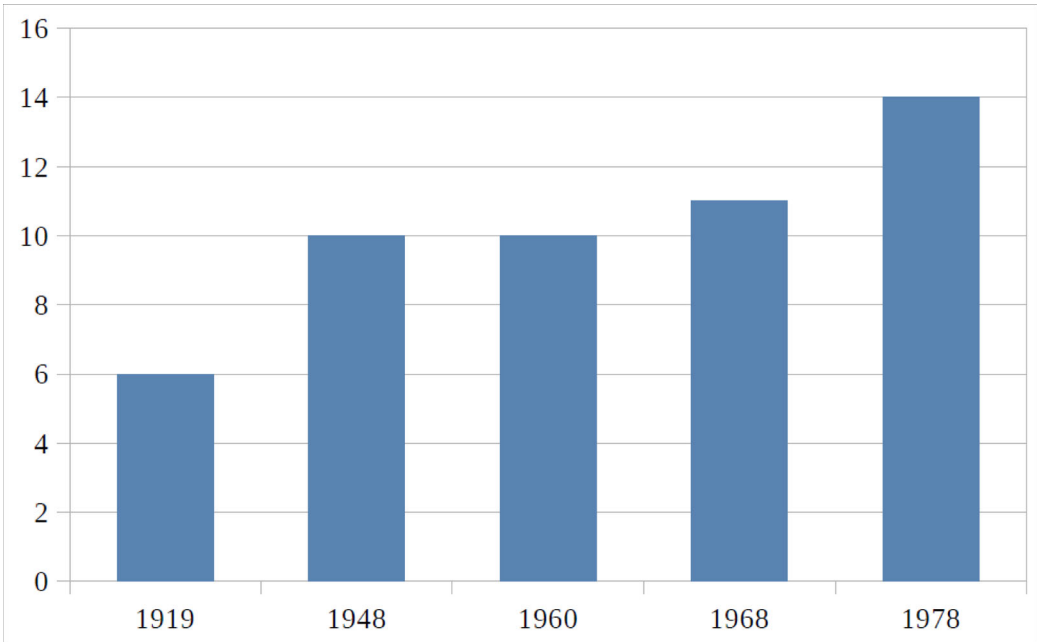


Figure 4. Growth of royalty percentage of Richard Strauss's Der Rosenkavalier



Verdi, Puccini and Strauss are composers who top the repertory charts not only in Stockholm but globally. Are the findings regarding their royalty compensations representative also for less popular works and composers? As seen above the Verdi royalties decreased over time until his post mortem period ceased. From the 1950s Puccini's publisher managed to negotiate a slightly higher royalty percentage than what was contracted for other composers, see table 2. However, the difference is small. It seems that the size of royalty compensation does not depend on popularity of operas and market value of composers. The data rather indicate that the size of royalties followed general industry standards. Immediately after the Second World War a somewhat higher royalty rate – at 10 per cent - was negotiated by London-based Boosey & Hawkes for Benjamin Britten and Richard Strauss than the 8 per cent in contracts with the Milan-based Ricordi for Puccini.

Table 2. Contracted royalty percentages.

	Verdi	**Puccini**	**Others**			
Decade	*Average*	*Average*	*Average*	*No. composers*	*max.*	*min.*
1920s	3.75	3.44	2.00	5	3	0
1930s	2.07	4.00	5.20	15	8	0
1940s	2.25	5.07	7.88	8	10	6
1950s	1.00	7.14	7.92	16	14	2
1960s	2.36	10.19	8.82	13	12	3
1970s	0	12.00	9.76	14	12	4

5. Collective agreement regarding commissions

The *Saltsjöbaden* Agreement, regarding a common negotiating procedure was signed in 1938 by the employers' union, now *Svenskt Näringsliv* (Swedish Enterprises), and *Landsorganisationen* (LO) – i.e. the workers' trade union confederation – in order to avoid further strikes. It took four decades after the *Saltsjöbaden* Agreement before the *Teatrarnas Riksförbund* (TR; National Union of Theatres – now *Svensk Scenkonst* (Swedish Performing Arts Association)) and the FST (Union of Composers), in 1977, agreed on a regulation for commission fees for new music. The composer of a large-scale opera was to be compensated with a minimum of 66,000 SEK (approximately €27,800 in 2021). At least in principle, the fee was open for increase from individual negotiations. According to protocol note no. 12, 'when performing a musical drama, the customary royalties according to practice shall be granted' (TR/FST, 1977). The TR-FST agreement was – and is – not the global model. The international norm is that composers' unions issue 'recommendations' for commission fees. Since 2012, this has again become the situation in Sweden. In the years before the 1977 agreement was negotiated, this situation (which is now again the case) was deemed by the FST as 'working under the jungle law' (Hanson, 1993, p. 209).

Apart from being an example of the general Swedish labour market model, the occurrence of this trade union contract, the TR-FST agreement of 1977, should be analysed in view of the broad and lively cultural policy debate in Sweden during the 1960s and 1970s.

The nation's first Cultural Policy Act/CPA was accepted by the *Riksdag* in 1974. The preceding parliamentary investigation (SOU, 1972:66), its referral round, and the bill (Kungl. Maj:t, 1974:28) did not dig deeply into the matter of new music. In fact, composers were hardly mentioned at all. However, one of eight objectives in the 1974 CPA was: 'The cultural policy shall enable cultural and artistic renewal' (Kungl. Maj:t, 1974:28, p. 295). The new objective was handed over to national cultural institutions without any targeted new funding. This particular period of Swedish cultural policy making was focused on institutions rather than artists. It was about the well-being of old, established institutions, the strengthening of the newly inaugurated organisations and the foundation of those that were formed as a consequence of the new CPA.

Artists were to benefit indirectly from the new CPA through the institutions. There was a tendency in the 1970s to talk about employees in these institutions – and also about freelancers – as 'cultural workers' just as necessary in society as workers in factories, services and agriculture. It was a mild, revisionist version of the Chinese Great Proletarian Cultural Revolution. Lennart Holm (1964, p. 14) argued that cultural assets should be put 'to everybody's disposal'. Anders Frenander (2014, p. 148) interprets Holm: 'His reasoning regarding the planning of the production, distribution and consumption of cultural products was permeated by welfare and equality arguments targeted at increased "availability" and "accessibility"'. Cultural goods were to be produced by cultural workers under similar labour market conditions as any other good, i.e. by salaried employees.

Apart from *Kungliga Operan* and the already existing opera companies in Gothenburg and Malmö, new regional opera ensembles were established: The *NorrlandsOperan* in Umeå and the *Wermland* Opera in Karlstad. This put further pressure on TR and FST to agree on commission fee tariffs. The 1977 agreement did not explicitly replace the royalty system. As mentioned above, composers can receive both commissioning fees and per performance royalties. This became the *Kungliga Operan* standard. Of course, it added a new cost to the Swedish opera houses' budgets.

One of the leading people on the then domestic music scene was Eskil Hemberg, composer and member of the Royal Music Academy. While working as programme director

at *Rikskonserter* (National Concert Foundation), he also acted as FST chairman and as a board member at the *Kungliga Operan*. In 1973, he had received an acceptance fee of the not very impressive sum of 20,000 SEK for his opera *Love, love, love*, plus royalties at 12 per cent (KTA code F3, Vol. 5). The opera was performed 14 times. Hence, he had first-hand knowledge of the prior poor compensation for new works. Additionally, he was in a position where he had the possibility to directly affect and complete the process that resulted in the 1977 TR-FST agreement. The year after the settlement Hemberg temporarily left *Rikskonserter* to fight for the implementation of the new agreement as the first FST ombudsman (Hanson 1993, p. 151). Hemberg later went on to become the *Kungliga Operan* general manager from 1984–1987.

The TR-FST agreement covered all sorts of newly commissioned music (not only operas), and it was revised several times (Table 3). From 2012, the tariff system for commissioned music from member organisations of TR/*Svensk Scenkonst* has ceased. Commission fees are now negotiated individually. Currently, however, the *Kungliga Operan* claims to respect an FST recommendation directed to its members. It suggests that the minimum commission fee shall be calculated as a product of labour time and monthly salary. The minimum monthly salary is currently set by the FST at 45,000 SEK (approximately €4,100 in 2021). As shown in Table 3, the labour time for a large-scale opera was agreed to be approximately $7\frac{1}{2}$ months – if calculated with the current FST recommendation for monthly salary.

Before the 1977 agreement, the only actual commission contract found in KTA was signed in 1965 with György Ligeti for *Le grand macabre*, which was premiered more than a decade later on 12 April 1978. As an internationally well established composer he received more than his domestic colleagues. Ligeti's commission fee was set at 75,000 SEK (KTA code F3 B, Vol. 6) – considerably more than the 66,000 SEK tariff amount set out a decade later in the 1977 TR-FST agreement.

Table 3. Commission fees for large scale operas, TR-FST agreements.

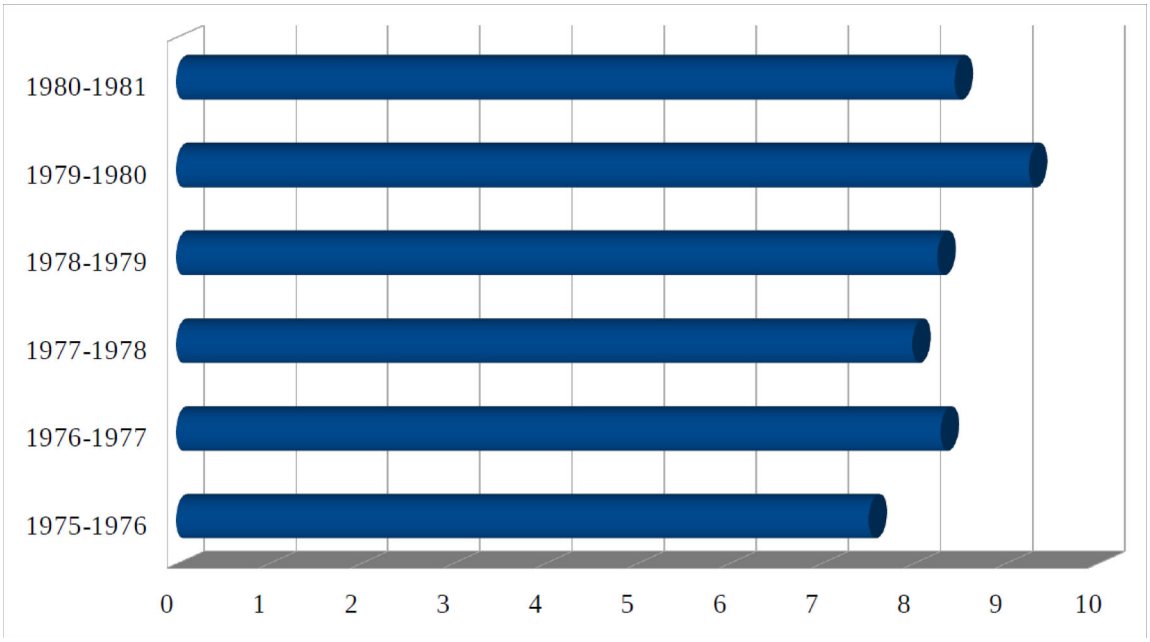
Year	Min. Fee (SEK)	Equiv. SEK 2021	Equiv. Euro 2021
1977	66,000	305,840	27,778
1978	66,000	277,805	25,232
1979	66,000	259,227	23,545
...			
1986	118,622	255,942	23,246
...			
1996	172,108	232,438	21,112
1997	177.787	238,830	21,692
1998	181,700	244,477	22,205
1999	185,334	248,177	22,541
...			
2002	260,930	330,647	30,031
2003	266,149	330,868	30,051
2004	271,500	305,543	30,543
2005	277,000	341,500	31,017
2006	282,500	343,585	31,206
2007	282,500	336,218	30,537
2008	296,625	341,288	30,997
2009	302,588	349,103	31,708
2010	302,588	344,694	31,307
2011	308,609	342,590	31,116

Sources: KB, Svensk Scenkonst, KTA, and FST (Union of Swedish Composers). Note that these sources have not archived copies of agreements for missing years.

Unfortunately, no contracts based on the TR-FST agreements have been found in the opera archives. Nevertheless, the repertory list on the *Kungliga Operan* website shows an average of one first performance per year of operas by Swedish composers during the

previous decade. They had acceptance fees in the range of 10,000–25,000 SEK (KTA code F3 B, Vol. 5). Only Lars Johan Werle received an exceptional acceptance fee at 45,000 SEK for *Tintomara*.[9] Following the introduction of the TR-FST agreement, there is a timeline gap when it comes to first performances of large-scale operas by Swedish composers. What was commissioned were operas with shorter durations, 'chamber operas' or short operas for children that were performed in the smaller venues frequented by the *Kungliga Operan*. The substantial fee raise in the TR-FST agreement seems to have hampered the *Kungliga Operan* from staging new large-scale operas. Despite this, total costs for the composer, author and translator fees as shares of total costs did not alter, see Figure 5.

Figure 5. Sum of composer, author and translator compensations as percentage shares of total costs



Source: Annual reports, Kungliga Biblioteket (Royal Library)

It took until October 1986 before a new large sized opera by a Swedish composer was staged, this was Hans Gefors's [Queen] *Christina*. In contrast to the normal less than

[9]Both Ligeti's *Le grand macabre* and Werle's *Tintomara* were planned to be first performed during the *Kungliga Operan*'s 200 centenary in 1973. However, only *Tintomara* was premiered that year. It has been played a total of 18 times in Stockholm.

10 performances attributed by the *Kungliga Operan* to new Swedish pieces, *Christina* was a success with its 27 performances. The royalty, set at 14 per cent of net box office takings, collected by Gefors through STIM, was 110,673 SEK (approximately €21,700 in 2021). If the commission fee, which remains unknown, had been set at the minimum tariff Gefors should have collected another 118,622 SEK (approximately €23,250 in 2021). The composer who is lucky enough to acquire a commission seems to fare rather handsomely. The losers-out, of course, are all the other potential opera commission candidates. They get nothing.

6. Discussion

The current *Kungliga Operan* official responsible for IPR contracting, Erik Hvitfeldt, was interviewed for this study. He deems the GR situation to be 'monopolistic'. The opera company has two options: either accept the percentage rate that the copyright owner has decided or choose another piece. There is very little room for negotiations. Actually, it is likely that the alternative pieces are offered at the same percentage rate (E. Hvitfeldt, personal communication, April 23, 2019). Whether this finding is true for other opera houses is not established here, however.

In the negotiation of IPR compensation for operas, it takes more than two to tango. There are stakeholders other than simply the employer and the employee. The latter is usually represented by a publisher. The relations between composers and publishers are not studied here. Oskar von Hase (1918) provides some nineteenth century information on the relations between the publishing house Breitkopf & Härtel and opera composers. However, only for Meyerbeer and Wagner and for no other composers some very few compensation amounts are mentioned. Derek R. Strykowski (2018) provides information from written correspondence between prominent nineteenth-century composers and their publishers but does not supply numbers. Music publishers are reluctant to exhibit details regarding their negotiations with composers and claim that they are trade secrets. Nevertheless, compensation to composers from publishers remains a suitable and desirable area for further research.

A small number of publishers dominate the market from an oligarchical position. Of the 14 composers still covered by copyright and having had more than 30 performances worldwide during the 2019–2020 season,[10] eight were represented by Boosey & Hawkes or Universal Edition – namely, Benjamin Britten, Kurt Weill, Sergey Prokofiev, Igor Stravinsky, Marc-Anthony Turnage, Bohuslav Martinů, Béla Bartok and Leonard Evers. The data come from 823 opera houses. Apart from being the first publishers of important opera composers, Boosey & Hawkes and Universal Edition benefited from the acquisition of other publishing houses and, thus, the inclusion of more works by more composers in their catalogues.

Clearly the market is not very competitive. As Sir Louis Mallet defined in the 1878 'Royal Commission on Copyright' report, copyright 'creates scarcity in order to create property' (Plant, 1934). What has been created is a monopoly for the *droit économique* owner. Scarcity is extreme until the post-mortem period has ceased. It was this monopolistic potential – enhanced by the cartel-like market position of the two publishers – that was exercised when, after the Second World War, the royalty percentage rate doubled over three decades. Even if demand increased through the opening of new opera houses, it cannot imply that competition between them could have made the market price (the GR percentage rate) rise. The marginal cost for an extra set of score and parts is miniscule and there is no actual scarcity. Maybe the publishers identified that they, at the end of the 1970s, had reached a percentage level that was, and obviously still is, the pain threshold for the opera companies. A 14 per cent GR royalty is seemingly what they can cope with. According to Erik Hvitfeldt the *Kungliga Operan* grand right compensation – at least for his opera house – systematically falls within the scope 12-14 per cent '*pro rata temporis*' (E. Hvitfeldt, personal communication, April 23, 2019). This is regardless of the perceived popularity of the work. A popular work will run for a longer period and the copyright owner will earn more through the increased number of performances, higher sale of tickets and, perhaps, a higher ticket price.

[10] www.operabase.com.

The swift rise in GR percentage rates coincided with the establishment in many countries of ambitious cultural policy programmes. In Sweden, the first profound cultural policy act was passed in 1974. It came after a decade of discussions on the need for support for creative 'free' artists such as composers. A rise in the GR percentage rate could possibly be accepted based on the concern for the financially struggling freelance composers that was expressed in the cultural policy act. However, for the composers who do get their operas staged this has happened also without increased GR rates. In a recent paper this author (Albinsson, 2021b) finds that the current ticket price to the *Kungliga Operan* is five times higher in real terms than in 1974. Although this severely hampers the access to opera performances for low-income earners it will, if the mean audience number remains more or less constant, enhance composers' incomes accordingly.

It has been shown in recent studies that for every marginal income growth, an increasing share is used for the consumption of 'experiences'. Opera houses comprise an important part of the experience industry. Hence, the GR concept will become increasingly important. In Sweden 15 per cent of the population, or approximately 1.38 million individuals, attended a classical music concert or a music-based dramatic performance in 2007. In 2019 there was an increased interest at 18 per cent. Almost half a million more Swedes attended the same kind of events that year compared to 2007 (Falk, 2020, p. 4). There was a 19 per cent real wage raise between 2007 and 2019 (SCB, no date).

Richard Strauss's post-mortem period has recently ended. Erik Hvitfeldt predicts that his publisher, Boosey & Hawkes, would only offer *Salome* for the new production, which prior to the Covid-19 pandemic was planned to have its premiere in February 2021, in a revised 'critical edition' for which they claim that they can still demand royalties (E. Hvitfeldt, personal communication, April 23, 2019). Alex Cuntz (2020) supports that misgiving generally, but he has also found an argument for continued royalties after the post-mortem period:

> Industry stakeholders have proposed to continue collect licensing fees for works once copyright expires (such as Richard Strauss's *Rosenkavalier* in

2020) and re-invest these in the programming of new works by living composers.

The performance right is a 'default rule' as it can, at least in principle, be waived. The small right licensing organisations have so far claimed compensation for all pieces regardless of whether they have been registered with them by the composers or not. It has been practically impossible for song writers to offer their music for free. Lately, an alternative royalty-free compensation from users is demanded through various new distributors. For instance, the Stockholm based Epidemic Sound company provides 'production music' mainly for use in audio-visual productions where the composer name is not disclosed in closing credits. Originators are compensated through lump sum fees (Epidemic Sound, 2015). Hence, a system is evolving where a composer can demand either a lump sum fee, through the likes of Epidemic Sound, or a royalty through the likes of STIM (the Swedish 'small rights' licensing agency).

Such a choice between a royalty or a lump sum is not the normal procedure when it comes to the GR. The FST/TR-agreements stipulated that for commissioned operas, apart from the grand right box office percentage compensation, the composer also received a lump sum fee for the first performance. In effect, the commission fee is a compensation for the composer's working hours – not a copyright remuneration.

When an opera is available on CD and an aria is broadcast, the royalty is most likely handled by STIM in the Swedish case, or similar small right licensing organisations in other countries. This kind of royalty has not been studied here. However, when *Kungliga Operan* performances are transmitted live or recorded, on TV or through internet streaming, there is a prominent GR situation with case-by-case negotiations directly with publishers and transmitters (E. Hvitfeldt, personal communication, April 23, 2019).

A former *Kungliga Operan* official (who remain anonymous here) in charge of opera commission contracts, in conversation suggested that as the commissioning organisation invests in the creation of the new opera, it should also have a right to a share of the income from future stagings in other opera companies. It could, he claimed, become an incentive for the commissioning opera house to pitch the piece to colleagues. Perhaps, in that

pursuit, the transaction costs, which the case-by-case GR negotiations otherwise imply, could be reduced (Cuntz, 2020). This idea of shared investments is actually not new. Anders Wiklund (2006) claims that composers in seventeenth century Venice sometimes were co-investors in the opera productions. Francesco Manelli, Benedetto Ferrari and Francesco Cavalli were all involved in the S. Cassiano opera company (Glixon and Glixon, 2006, p. 141). Later, the composers were contracted per production and granted income both as a lump sum commission fee for the opera score, and then further income from per performance fees as musical directors (Glixon and Glixon, 2006, p. 151).

A reduction of transaction costs could, if not solve, at least address a constant problem with these commissions. Namely, that they are staged only once and only for a very limited number of performances. On 16 December 2019, the public service *Sveriges Radio's Kulturnytt* (Swedish Radio: Culture News) reported that:

> To commission a new opera will cost more than a million kronor just in fees to those who shall write it... Swedish opera houses spend millions of kronor on commissioning new operas that are placed in drawers after having been played for only short periods... During the recent decade none of the new operas has been picked up again for a new interpretation, by a new stage director or with a new ensemble. (Sveriges Radio, 2019)

While the issue was problematised in the radio broadcast, no solution to the dilemma was suggested. Alex Cuntz (2020) finds a 20 per cent performance number penalty for works under copyright compared to the older canon. He argues that 'while moderate copyright terms may induce the creation of additional opera when the composer is still alive, it also restricts reuse and follow-up creativity on stage.' An alternative understanding of the lack of reuse could, however, be that opera houses are – or at least 'feel' – obliged by cultural policy governing their funding, to commission new works. The author's music-management-based educated appreciation is that a first performance of a new opera adds to the opera company's trademark, while the reuse of another opera company's new successful piece does not. For the *Kungliga Operan*, there was a 52 per cent performance number penalty for works under copyright (post mortem set at 50 years) during the year

1969. In 2019 (post mortem set at 70 years), it had decreased to 40 per cent. However, it is arguable whether the penalty has to do mainly with the GR royalties. A more likely option is that the audience's taste is directed to the operatic canon of Mozart, Rossini, Bizet, Verdi, Wagner and Puccini. In 1969 they accounted for 65 per cent of the performances with an almost identical share in 2019 at 63 per cent. As Christopher Buccafusco and Jonathan S. Masur (2019) point at, opera is not like fashion which demands that consumers must turn to novel trends to keep up with the Joneses. According to Barton Beebe (2017), copyright law's approach to aesthetic progress has, largely, been accumulative. More works then, allegedly, result in more welfare. However, Beebe finds that 'at the same time that intellectual property law is emphatically technologically progressive, it can also be aesthetically regressive as well'. This suits well with opera-goer's preference of old pieces that have withstood the test of time. Buccafusco and Masur (2019) argue that 'more creative production will not necessarily produce more welfare'.

Imke Reimers (2019) finds that for books "consumer surplus would increase more than producer surplus would decrease for most titles when their copyright protection is lifted". Arguably, the same conclusion could be drawn from the opera example here. If opera houses put a higher ticket price on performances under copyright to cover royalties and commission fees that way the consumer surplus will diminish. However, with the uniform ticket pricing regime used by the *Kungliga Operan* and most other opera houses copyright protection has no influence on consumers' willingness-to-pay. We are left with the producers' willingness-to-pay the extra cost for a copyrighted work – especially if it is a new work with a substantial commission fee. The question in the Introduction whether it is financially worthwhile to invest one's time in opera composing should probably best be answered 'perhaps'. For those who get a commission for a new opera the minimum prospective pay-off is not bad. As previously found by the author (Albinsson, 2013) the composer's creation of music can be seen as a screening vehicle for new commissions or other, often more lucrative, employment such as music-related work in teaching and management tasks. Contrarily, for those who are not given commissions it would seem financially pointless, at least in the short run, to compose operas.

Georges Azzaria (2012) asks if 'this right, thought for a particular type of dramatic creations, does it have today the flexibility necessary to accompany the theatre in its heterogeneous manifestations without being distorted?' (pp. 155–156). Alex Cuntz (2020) notes that:

> In the case of opera, copyright's potentially chilling effect on access to new works and their diffusion on national and international stages, might have limited the full unfolding of the incentives to create as originally intended by those defining terms in the first place.

7. Conclusions

The most obvious finding in this study is that of a steep rise in the royalty percentages demanded from the *Kungliga Operan* in Stockholm by composers directly and, much more often, their publishers. While they were typically set at 2-5 per cent during the interwar period, see table 2, they rose stepwise from the 1940s. From the late 1970s they have remained at around 14 per cent. There are no tokens of a royalty discrimination between composers based on the popularity of their operas.

An agreement on commission fee tariffs was accepted in 1977 by employers and composers. The substantial rise from the previous acceptance fee system meant that the income gap between the one who got a commission for a new opera and those who did not was similarly stretched. The incentive to compose new operas with a hope for an ex-post award is now reduced to a minimum. Furthermore, the difference is expanded by the increased market-value which the lucky composer can gain. Which, in turn, can provide further commissions or music business job positions.

References

Agid, Ph. and Tarondeau, J.-C.. (2006), *L'Opéra de Paris: Gouverner une grande institution culturelle*, Paris: Vuibert.

Agid, Ph. and Tarondeau, J.-C. (2011), *Le Management des operas – comparaisons internationales*, Paris: Descartes & Cie.

Albinsson, S. (2013), "Swings and Roundabouts: Swedish music copyrights, 1980–2009", *Journal of Cultural Economics*, 37(2); 175-184.

Albinsson, S. (2014), "A Costly Glass of Water: The Bourget v. Morel case in parisian courts 1847-1849", *Swedish Journal of Music Research*, 96(2); 59-70.

Albinsson, S. (2021a, "Avoiding Silent Opera: The 'grand' performing right at work in nineteenth century Paris", *European Journal of Law and Economics*, 51(1); 183-200.

Albinsson, S. (2021b), "Workers' Access to Swedish Opera Houses and Concert Halls, 1898–2019", *Journal of Cultural Economics*, paper pre-published on the journal website.

Annunziata, F. and G.F. Colombo (eds.) (2018), *Law and Opera*, Cham, CH: Springer.

Atterberg, K. (1943), *FST – Kurt Atterberg's minnen 1918-1943* [FST – Kurt Atterberg's memories 1918-1943], Stockholm: Riksarkivet (Swedish National Archives), code of reference: SE/RA/730698.

Azzaria, G. (2012), "Nécessaire évolution du droit d'auteur au regard de l'évolution de l'œuvre dramatique?" [Necessary Evolution of Copyright With Regard to the Evolution of the Dramatic Work], In S. Proust (ed.), *Mise en scène et droits d'auteur – liberté de création scénique et respect de l'œuvre dramatique* [Staging and Copyright - Freedom of Scenic Creation and Respect for the Dramatic Work], pp. 155–169. Éditions L'Entretemps.

Beebe, B. (2017), "Bleistein, the Problem of Aesthetic Progress, and the Making of American Copyright Law", *Columbia Law Review*, vol. 117 (2), not paginated.

Bengtsson, E. and S. Prado (2020), "The Rise of the Middle Class: The income gap between salaried employees and workers in Sweden, ca. 1830-1940", *Scandinavian Economic History Review*, 68(2); 91-111.

Buccafusco, C. and J. S. Masur (2019), "Intellectual Property Law and the Promotion of Welfare", in Deeporter, B. and P.S. Menell (eds.), *Research Handbook on the Economics of Intellectual Property Law, Volume 1: Theory*, Cheltenham, UK: Edward Elgar Publishing Limited.

Committee Report. (1914), Förslag till lag om rätt till litterära och musikaliska verk [Suggestion for a Law on the right to literary and musical works]. Retrieved January 25, 2020, from https://www.riksdagen.se/sv/dokument-lagar/dokument/statens-offentliga-utredningar/lag-om-ratt-till-litterara-och-musikaliska_DGE02b1/html

Cuntz, A. (2020), Grand Rights and Opera Reuse Today. Retrieved June 1, 2020, from https://www.researchgate.net/profile/Alex_Cuntz/publication/339738801_Grand_rights_and_opera_reuse_today/links/5e620d81a6fdccac3ceeb980/Grand-rights-and-opera-reuse-today.pdf?origin=profileFeaturedResearchPublicationItem

Epidemic Sound. (2015), About us. https://web.archive.org/web/20151007014026/http://www.epidemicsound.com/about/

Falk, Elisabeth. (2020), *Kulturvanor i Sverige 1987-2019* [Cultural Habits in Sweden 1987-2019], Gothenburg: SOM-institutet, University of Gothenburg.

Frenander, Anders (2014), *Kulturen som kulturpolitikens stora problem* (Culture as the Great Problem of Cultural Policy), Möklinta: Gidlunds förlag (second, revised edition).

Glixon, B. L., and J.E. Glixon (2006), *Inventing the Business of Opera: The impresario and his world in seventeenth century Venice*, Oxford: Oxford University Press.

Giorcelli, M. and P. Moser (2019), "Copyrights and Creativity: Evidence from Italian opera in the Napoleonic age", Retrieved from: http://dx.doi.org/10.2139/ssrn.2505776

Hanson, S. (1993), *Det praktiska tonsätteriets historia – Föreningen Svenska Tonsättare genom 75 år* [The History of Composing in Practice – The Swedish Union of Composers through 75 years], Edition Reimers.

Hase, O. v. (1918), *Breitkopf & Härtel. Gedenkschrift und Arbeitsbericht. Zweiter Band: 1828 bis 1918*, Teil I. Wiesbaden: Breitkopf & Härtel.

Heilbrun, J. (2001), "Empirical Evidence of a Decline in Repertory Diversity Among American Opera Companies 1991/1992 to 1997/98", *Journal of Cultural Economics*, 25(1); 63-72.

Holm, L. (1964), *Strategi för kultur* (A Strategy for Culture), Stockholm: Aldus bokförlag.

Kongl. Maj:t. (1834), *Kongl. Maj:ts Nådiga Regulatione för Kongl. Theaterns Styrelse och Förvaltning. Gifvit Stockholms Slott den 5 September 1834* [The Royal Majesty's Gracious Regulation for the Board and Governance of the Kongl. Theatern; given 6 September 1834], Stockholm: Kungliga Biblioteket, vardagstryck.

Kongl. Maj:t. (1855), *Kongl. Maj:ts Nådiga Förordning, angående förbud mot offentligt uppförande, utan egarens tillstånd, af Swenskt dramatiskt, eller för skådeplatsen författadt musikaliskt arbete; Gifwen Stockholms Slott den 20 Juli 1855* [The Royal Majesty's Gracious Ordinance Regarding the Prohibition, Without the Consent of the Owner, of a Swedish Dramatic, or for the Scene Written Work; Given at the Stockholm Castle, 20 July 1855], Stockholm: Kungliga Biblioteket, vardagstryck.

Kongl. Maj:t. (1863), *Kongl. Maj:ts Nådiga Reglemente för Styrelsen och Förvaltningen af de Kongl. Theatrarne, gifvet Stockholms Slott den 19 februari 1863* [The Royal Majesty's Gracious Regulation for the Board and Governance of the Kongl. Theatern; Given at the Stockholm Castle, 19 February 1863]. Stockholm: Kungliga Biblioteket, vardagstryck.

Kungl. Maj:t. (1974:28), *Den statliga kulturpolitiken* [The National Cultural Policy], Riksdagen.

Lag 1960:729. (1960), Lag om upphovsrätt till litterära och konstnärliga verk (Law on Copyright for Litterary and Artistic Works), retrieved April 29, 2021, from http://runeberg.org/svealag/sfs-1960-729.html

Plant, A. (1934), "The Economic Aspects of Copyright in Books", *Economica*, 1, 167-95.

Proposition 1994/95:151 (1995), Droit de suite och längre upphovsrättsligt skydd (Droit de Suite and Longer Copyright Protection), retrieved April 29, 2021, from https://lagen.nu/prop/1994/95:151

Reimers, I. (2019), "Copyright and Generic Entry in Book Publishing", *American Economic Journal: Microeconomics*, 11(3),; 257-84.

Scotchmer, S. (2006), *Innovation and Incentives*, Boston, MA: The MIT Press.

SCB. (n.d.), Konsumentprisindex (1980=100), fastställda tal [Consumer price index (1980=100) definite numbers], retrieved October 8, 2020, from https://www.scb.se/hitta-statistik/statistik-efter-amne/priser-och-konsumtion/konsumentprisindex/konsumentprisindex-kpi/pong/tabell-och-diagram/konsumentprisindex-kpi/kpi-faststallda-tal-1980100/

SFS. (1877:28), Svensk Författnings-Samling: Lag angående eganderätt till skrift, gifven Stockholms slott den 10 augusti 1877 [The Swedish Statutes Book: Law on ownership of written documents, given at the Stockholm Castle 10 August 1877].

SOU. (1923:66), *Utfredning rörande Kungl. Teaterns ekonomi och konstnärliga verksamhet* [Investigation into the Finances and Artistic Activities of the Royal Opera], P.A. Nordstedt & Söner.

SOU. (1972:66), *Ny kulturpolitik – nuläge och förslag* [New Cultural Policy – Current State and Suggestions], Allmänna Förlaget.

Strykowski, D. R. (2018), "The Negotiation of Nineteenth-Century Style: A case study in composer-publisher relations", *International Review of the Aesthetics and Sociology of Music*, 49(2); 217-42.

Sveriges Radio (2019), Nyskrivna operor sätts aldrig upp igen [Newly Written Operas are Never Again Staged], https://sverigesradio.se/sida/artikel.aspx?artikel=7366838

TR/FST (1977), Teatrarnas Riksförbund/TR (National Union of Theatres) – FST Agreement Regarding Commissions, typewritten original archived by FST.

Treaty (1919), *Sveriges overenskommelser med främmande makter, nr 6* [Sweden's Treaties with Foreign Powers, no. 6], retrieved January 25, 2020, from https://www.regeringen.se/49a9c6/contentassets/ce75966392a24bd88b334f6b3affe70f/reviderade-bernkouveutionen-angaende-skydd-for-litterara-och-konstnarliga-verk.pdf

Velde, F.R. (2015), "Economic History of Opera", Federal Reserve Bank of Chicago, retrieved April 30, 2021, from http://ehes.org/ehes2015/papers/Velde.pdf

Wiklund, A. (2006), "Kreativitet Kontra Kommersialism" [Creativity Versus Commercialism], in T. Pettersson (ed.), *Operavärldar – Från Monteverdi Till Gershwin* [Opera worlds - from Monteverdi to Gershwin], pp. 199-128, Bokförlaget Atlantis.

School of Business, Economics and Law at the University of Gothenburg. staffan.albinsson@gu.se