Submission to the CMA Market study into music and streaming services on behalf of the All Party Parliamentary Jazz Appreciation Group.

1 Foreword

The All Party Parliamentary Jazz Appreciation Group (APPJAG) currently has over 116 members from the House of Commons and House of Lords across all political parties. Their aim is to encourage wider and deeper enjoyment of jazz, to increase Parliamentarians' understanding of the jazz industry and issues surrounding it, to promote jazz as a musical form and to raise its profile inside and outside Parliament. The Group's officers, as at the Annual General Meeting of 22nd March 2021 are Co-Chairs, John Spellar MP and Lord Mann, Secretary, Sir Greg Knight MP, Deputy Chairs, Alison Thewless MP and Chi Onwurah MP, the Treasurer is Ian Paisley MP. Officers are: Lord Colwyn and Sarah Champion MP

The Secretariat is Chris Hodgkins with the assistance of Louis Flood. The Secretariat operates on a pro bono basis and no expenses of any kind are paid to the Secretariat. Chris Hodgkins was the Director of Jazz Services Ltd the national organisation for jazz for 29 years; he is also a jazz trumpet player, band leader, composer, own record label and music business educator. The contact address is: [redacted]

APPJAG is submitting evidence to the inquiry to ensure that musicians and composers achieve equitable payment for their music and to ensure a level playing field through regulation will enable ethical business models to become the norm.

2 Summary

The dominant organisations are the likes of Spotify, Apple Music and Amazon Music. They are effectively a mass market with millions of subscribers.

The payment system used on the major streaming services is the "pro rata" model. With this system, the total revenues are divided and distributed according to the share of total streams for the given payment period.

For a jazz musician to earn the average household disposable income (after taxes and benefits) of £30,800 from Spotify for the financial year ending [1]2020, their music would have to be streamed 10.1 million times.

Both jazz and classical music are disadvantaged. On a major streaming service a 10 minute long symphony movement or a 7 minute long jazz recording is paid the same amount as a 31-second instrumental hip-hop interlude.

An analysis of the total of monies accruing to record labels, performers and the collecting societies from the monthly breakdown of a French streaming company; showed the record labels taking the lion's share of 75.7%.

Playlists and curators whilst appearing to provide a service to consumers are having an insidious effect on music especially with regard to non featured musicians and bands. The impact of playlists, curators and 'play listing' by Spotify has pretty clearly shown that whether by design or not, the big streaming platforms are creating winners and losers while they are driving what some characterize as a "revival" of the music entertainment industry.

The complexities of streaming royalty calculations and the fact that streaming has resulted in the 'unbundling' of albums means that musicians receive a fraction of the revenue once received from physical album sales.

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[1] Office For National Statistics. *Average household income, UK: financial year ending 2020 (provisional).* 22nd July 2020. Available at:https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/bulletins/householddisposableincomeandinequality/financialyearending2020provisional Accessed on 11th November 2020

The underlying malaise is that digital distribution has allowed a scale of mass consumption of music hitherto unknown and in the process lowered people's expectations of the price they should pay.

There is a crucial need for UK copyright protection with teeth.

With copyright protection there needs to be greater transparency amongst record labels, music publishers, streaming platforms and other licensing entities so that creators can effectively use their right to audit music companies they are signed to or who administer royalties for them. Furthermore assignment of rights to a music company should have a maximum term, after which the rights should automatically return to the creator, who could decide to extend or place their rights elsewhere.

Finally there needs to be a programme that educates all types of music creators regarding their rights and the operations of the music industry.

Currently revenues are paid out under the pro rata system. A change in the way revenues are distributed to a "user-centric payment system" – or UCPS would be far more equitable. Under this model, subscriber revenues are distributed according to what the individual user has spent their time listening to.

3 Addressing the terms of reference:

3.1 Introduction

The International Federation of the Phonographic Industry (IFPI) report for 2020 showed the total revenues for the global recorded music market in 2019 grew by 8.2% to US$20.2 billion.

Streaming revenue grew by 22.9% to US$11.4 billion and for the first time accounted for more than half (56.1%) of global recorded music revenue. Growth in streaming more than offset a -5.3% decline in physical revenue, a slower rate than 2018.

This growth was driven by a 24.1% increase in paid subscription streaming with nearly all markets reporting growth in this area. There was a 33.5% increase in paid streaming services at the end of 2019 with 341 million users accounting for 42% of total recorded music revenue.[2]

Sales from streaming music services in the UK exceeded £1 billion in 2019. [3]

For a jazz musician to earn the average household disposable income (after taxes and benefits) of £30,800 from Spotify for the financial year ending [4]2020, their music would have to be streamed 10.1 million times.

3.1.1 Simplified Structure of the UK music streaming business

Set out below is a simplified chart showing the flow of recordings to the consumer. Appendix 1 has a detailed flowchart of the life of a sound recording by the TheMusicChart.com and how music royalties are paid to those involved.

[2] IFPI. *Global Music Report 2019*. Available at: https://www.ifpi.org/ifpi-issues-annual-global-music-report/ Accessed 1st November 2020
[3] Entertainment Retail Association. Available at: https://eraltd.org/news-events/press-releases/2020/uk-music-streaming-market-exceeds-1-billion-for-the-first-time-video-is-fastest-growing-sector-in-2019-games-are-the-entertainment-hit-of-the-decade-up-76-on-2010/ Accessed 1st November 2020
[4] Office For National Statistics. *Average household income, UK: financial year ending 2020 (provisional).* 22nd July 2020. Available at:https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/bulletins/householddisposableincomeandinequality/financialyearending2020provisional Accessed on 11th November 2020

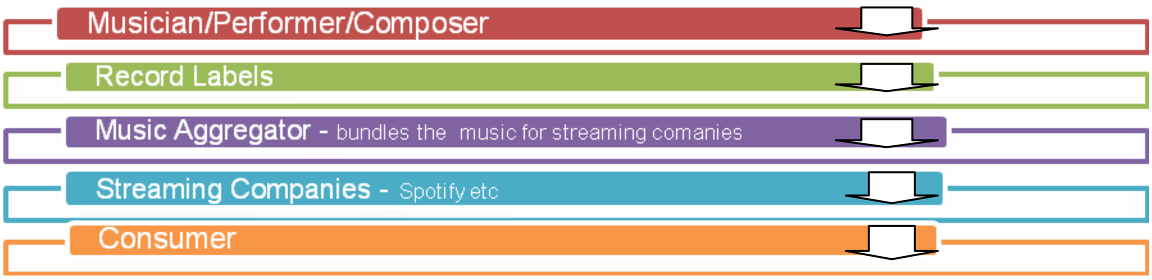

Figure 1 © Chris Hodgkins

3.2 What are the dominant business models of platforms that offer music streaming as a service?

Cherie Hu writes of an emerging landscape for music streaming companies that can be shown can be shown as a four tiered pyramid: [5]

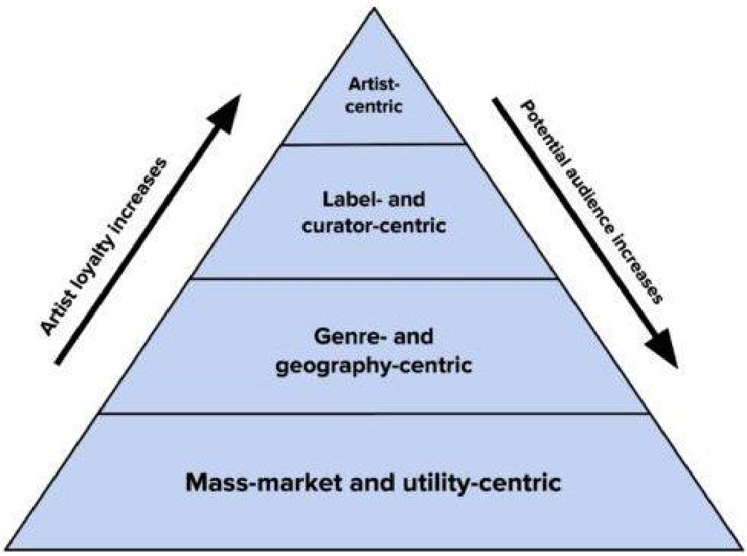

Figure 2. Reproduced by kind permission of Cherie Hu

> *"Subscription services further up the pyramid attract relatively smaller audiences with a higher degree of loyalty to a given artist. In contrast, those further down the pyramid attract much larger audiences, but tend to face more fleeting attention spans and listening habits from consumers."*[6]

The organisations such as Spotify, Apple Music and Amazon Music are at the base of the pyramid. They are the mass market with millions of subscribers. The next level are the those streaming companies who occupy a geographical are or are genre specific such as Melon (South Korea) and Tencent Music (China) As you move up the pyramid the streaming organisations become more genre specific IDAGIO (classical), and Quincy Jones' Qwest TV (jazz).

The top two levels are focused on the artist consisting of label and curator centric and artist. The two differentiating factors separating these levels from the lower two are they do not have large catalogues with millions of and secondly they are more focused as they interact with music communities or subscribers on a regular basis.

Spotify is a good example to use to see how the business model works in practise. Spotify stores over 35 million songs on its own servers with millions of end-users. Instead of miring its servers, internal computers, and internet bandwidth to stream audios, Spotify relies upon P2P network. (In

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[5] Cherie Hu, *The Four Types of Music Subscription Models in 2019.* Music Business Worldwide. 28th January 2019. Available at: https://www.musicbusinessworldwide.com/the-four-types-of-music-subscription-models-in-2019/ Accessed on 3rd November 2020

[6] Ibid 3

a P2P network, no single provider is responsible for being the server. Each computer stores files and acts as a server. Each computer has equal responsibility for providing data).

Content is licensed from labels, artists, publishers, and other right holders for streaming their music on its platform Spotify earns revenue from two different sources, a free tier supported by advertising and a premium tier with paid subscriptions

In terms of revenue and costs Spotify in 2019 earned €6.76 billion with a cost of revenue of €5.04 billion producing a gross profit of €1.72 billion.[7] The gross profit margin is 25%. The margins are small due to the high cost of paying rights' holders, i.e. the record labels and the song publishers, for their music. The problem with low gross margins is the difficulty in making a profit [8]

Where does the money go and to whom? Set out below are the amounts a musician could earn per stream from any one of the 9 of the major streaming companies in 2020.

Music streaming royalties 2020[9]

Company	Per stream £	Per 1000 streams £	Per 100,000 streams £
Napster (Rhapsody)	0.014	14.00	1,400
Tidal	0.00971260	9.71	971
Apple	0.00592264	5.92	592
Google Play	0.00511315	5.11	511
Deezer	0.00484132	4.84	484
Spotify	0.00330565	3.30	330
Amazon Music	0.00304090	3.04	304

Figure 3. Source: Ditto Music January 2020

For a jazz musician to earn the average household disposable income (after taxes and benefits) of £30,800 from Spotify for the financial year ending [10]2020, their music would have to be streamed 10.1 million times.

In May 2020, the #PayPerformers campaign conducted a Performer Survey to ascertain and evaluate performers' opinions and experiences dealing with their current work environment.

In terms of remuneration from streaming services the survey found:

- *"Most performers earn less than €1000 a year, even when streamed over 100k times. This indicates that even successful performers earn nothing, or very little from streaming.*
- *90% of all performers indicate receiving no remuneration or less than €1000 per year from streaming services."*[11]

It is worth noting that both jazz and classical music are disadvantaged. On a major streaming service a 10 minute long symphony movement or a 7 minute long jazz recording is paid the same amount as a 31-second instrumental hip-hop interlude.[12]

The payment system used on the major streaming services is the "pro rata" model. With this system, the total revenues are divided and distributed according to the share of total streams for the given payment period.

Dan Kopf the data editor at Quartz illustrates the inequitable effect of the pro rata model.

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[7] Spotify *Income Statements 2016/2019*. Yahoo Finance. Available at: https://finance.yahoo.com/quote/SPOT/financials?p=SPOT&guccounter=1 Accessed 10th November 2020
[8] Ryan Stotland.*Gross Margin Blues.* Music Business Journal Berklee College of Music. June 2016.Available at: http://www.thembj.org/2016/06/gross-margin-blues/ /Accessed 10th November 2020.
[9] Ditto Music. *How much do music streaming services pay musicians?* 16th January 2020. Available at:https://www.dittomusic.com/blog/how-much-do-music-streaming-services-pay-musicians Accessed 11th November 2020.
[10] Office For National Statistics. *Average household income, UK: financial year ending 2020 (provisional).* 22nd July 2020. Available at:https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/bulletins/householddisposableincomeandinequality/financialyearending2020provisional Accessed on 11th November 2020
[11] C8 Associates. *2020 Performer survey.* External Report P1
[12] Ibid 3.

"Anna, a fictional Spotify subscriber, is a big jazz fan. She recently fell in love with a jazz trio called The Expressionists (also fictional). The Expressionist's new album accounted for 100% of her time listening to music last month on Spotify. Anna might reasonably assume that of the money that went to artists from her $10 monthly subscription, nearly all of it went to The Expressionists. She would be wrong.

"The way Spotify and Apple Music pay artists is simple. They take all of the money generated from users, whether by advertisements or subscriptions, and put in a big pot. They then divide that pot by the total share of streams each artist received. So, if Apple Music gave $100 million of their revenues to artists in a month, and Drake songs accounted 1% of all streams that month, then Drake (and the writers of Drake's songs) would receive $1 million. Essentially, 1% of Anna's money is going to Drake. (About 70% of Spotify and Apple Music's revenues go to music labels and artists.)"[13]

In February 2015 a report by Ernst and Young commissioned by the SNEP the French recording music trade body was published. The report showed where the money paid by the subscriber to Spotify and Deezer finally ends up.

Where the subscription ends up - A breakdown of a monthly premium subscription of €9.99 of a music streaming company in France [14]

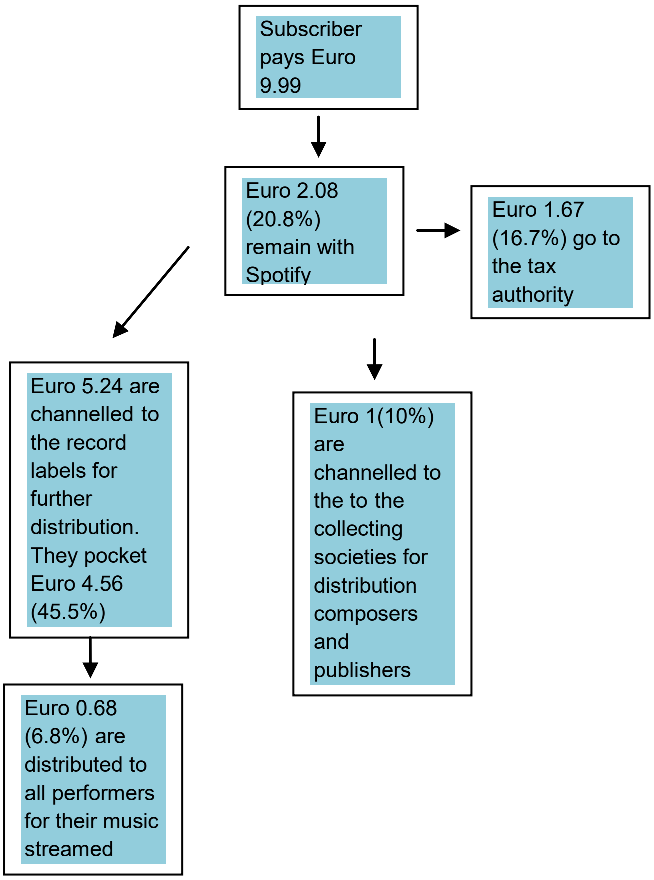

Figure 4. Source: SNEP-Ernst & Young study, February 2015

An analysis of the total of monies accruing to record labels, performers and the collecting societies from the monthly breakdown of the French streaming company above; the record labels take the lion's share of 75.7%

[13] Dan Kopf. Quartz.11th July 2019. Available at: https://qz.com/1660465/the-way-spotify-and-apple-music-pays-artists-isnt-fair/ Accessed 11th November 2020.
[14] Peter Tschmuck. Music Business Research. *Who Benefits from Spotify and Co.* 25th February 2015. Available at:https://musicbusinessresearch.wordpress.com/2015/02/25/who-benefits-from-spotify-co/ Accessed 12th November 2020

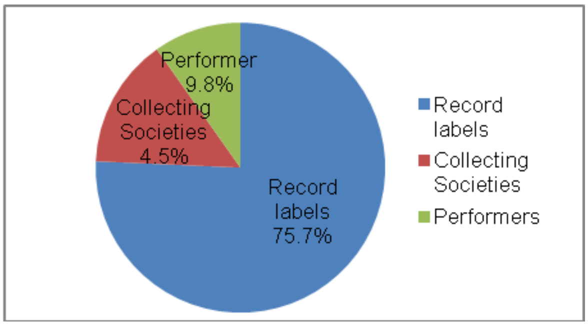

Figure 5 Monthly breakdown of French company payments

3.3 Have new features associated with streaming platforms, such as algorithmic curation of music or company playlists, influenced consumer habits, tastes, etc?

Bonini and Gandini argue that music streaming platforms are the new "gatekeepers" that was previously the domain of radio programmers, journalists and music commentators. The new gatekeepers perform a dual role of exclusive algorithmically driven and human curation. They suggest that this:

> *"Gatekeeping activity is a form of 'algo-torial power' that has the ability to set the "listening agendas" of global music consumers."*[15]

Playlists and curators whilst appearing to provide a service to consumers are having an insidious effect on music especially with regard to non featured musicians and bands. Ben Williams in his article "The Business Model That Makes Streaming A Black Hole For Musicians" articulated the problem:

> *"The impact of playlists, curators and 'play listing' by Spotify has pretty clearly shown that whether by design or not, the big streaming platforms are creating winners and losers while they are driving what some characterize as a "revival" of the music entertainment industry.*
>
> *Revival may be true for some (the big tech companies), but it certainly isn't for others (the musicians). But there is collateral damage in two forms. First, CD and download sales (which have higher payouts for musicians) are falling. Second, the focus on individual 'songs' at the expense of all else means the devaluing of albums and making music genres obsolete. When it's all about delivering 'the right song for the moment you're in,' who needs albums or genres? And, finally, the overarching impact is still the same: the continued devaluing of creative content and turning music into a commodity at the lowest price possible!"*[16]

Researchers at BuzzAngle Music found that in 2017, 377 billion streams were consumed, 99% of which were from the top 10% of 2017's most streamed tracks:

> *"Less than 1% of streams accounted for all other music. According to BuzzAngle Music, people readily prefer to stream the most popular releases each year over most other songs. Rather than solve this discrepancy, music streaming platforms like Spotify and Apple Music have only helped to fuel it."* [17]

By way of comparison, Daniel Sanchez in Music News in February 2018 reported that in complete contrast to this, revenue from 3,500 indie labels on Bandcamp increased 73% over 2016, and in 2017, payments to artists through the online music distribution platform reached $270 million.

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[15] Tiziano Bonini and Alessandro Gandini. *"First Week Is Editorial, Second Week Is Algorithmic": Platform Gatekeepers and the Platformization of Music Curation.* Sage Journals. Social Media and Society. 21st November 2019. Available at: https://journals.sagepub.com/doi/full/10.1177/2056305119880006. Accessed on 12th November 2020.

[16] Ben Williams. *The Business Model That Makes Streaming A Black Hole For Musicians.* Medium.com 5th January 2019. Available at: https://medium.com/@benwilliams_2592/the-business-model-that-makes-streaming-a-black-hole-for-musicians-ec315900f7b5 Accessed 14th November 2020.

[17] Daniel Sanchez, *99% of All Music Streaming Comes from Just 1% of Available Songs* (Digital Music News, 14th February 2018. Available at: https://www.digitalmusicnews.com/2018/02/14/spotify-apple-music-top-songs/ Accessed 14th November 2020.

Bandcamp noted the problems arising from streaming platforms exercising control over what music fans listen to:

> *"Allowing the distribution of an entire art form to be controlled by so few has troubling implications… The streaming giants exert tremendous influence over what music gets heard, and must primarily serve their most important supplier, the major labels. The result is that independent labels, and especially independent artists, are far less likely to be discovered on those platforms."* [18]

Maria Schneider, in a guest post for the US online blog, Trichordist, summed up the position from the perspective of a jazz musician, bandleader and composer:

> *"There's something else occurring as a result of streaming that's critical to understanding the niche musician's and songwriter's perspective. It's that many, if not the vast majority of record companies, are no longer advancing money for a lot of music on their labels.*
>
> *It's now the artists and creators, in countless numbers, who are each sinking tens of thousands of dollars into making their own records. Many still go with a label despite having to front the costs themselves just to be part of a distinguished label roster.*
>
> *There are many fine small labels doing everything they can to make that a worthwhile trade and some still struggle to front budgets. The point is, those niche labels and independent musicians face either a zero, or statistically insignificant chance of a return on their investment through streaming. Many report barely paying for a sandwich with their royalties."* [19]

3.4 What has been the economic impact and long-term implications of streaming on the music industry, including for artists, record labels, record shops, etc?

Dave Stapleton of Edition Records recognised the value of the Internet but pointed to the negative side in terms of free online music leading to declining CD sales and the closure of many record retailers:

> *"Over the last 10 years the record industry has gone through some dramatic changes. Many new technologies have emerged which have provided huge benefits in recording, manufacturing, selling and promoting music to a wider audience. However, to counteract this positivity, the digital age has brought around many problems that have greatly affected the industry in a negative way. Piracy is just one of the main problems that small independent labels face.*
>
> *With file sharing, illegal downloading and the emergence of streaming services such as YouTube and Spotify, there's a wealth of music readily available, for free, at the click of the button. Inevitably this has changed the ways people listen and buy music and in turn has caused a steady decline in specialist retailers, as well as the major retailers, stocking specialist music.*
>
> *"With the closure of many shops, the browsing and personal recommendation elements from your local indie shop have vanished and with them the decline of CD sales. Even with the emergence and growth of legal download sales, the revenue generated as yet, although it is growing, does not replace the loss generated from the declining sales of CDs."* [20]

It is self-evident that for people to purchase music they need to hear it. However, with streaming there is a real problem with the level of artists royalties that are paid. A physical product such as a CD will earn the performer around 12% of the published price to dealers.

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[18] Ibid 15

[19] Maria Schneider, *An Open Letter to David Israelite of the NMPA, and Anyone Interested in the Music Modernization Act* (The Trichordist 2nd March 2018. Available at: https://thetrichordist.com/2018/03/02/guest-post-by-schneidermaria-an-open-letter-to-david-israelite-of-the-nmpa-and-anyone-interested-in-the-music-modernization-act/ Accessed 14th November 2020.

[20] Dave Stapleton, *Guide To The Music Industry For Musicians* (Jazz Services Ltd 2012. p4.

The complexities of streaming royalty calculations and the fact that streaming has resulted in the 'unbundling' of albums means that musicians receive a fraction of the revenue once received from physical album sales.

In the New York Times, Zoe Keating, a Californian musician, provided a detailed case study of her earnings which painted a bleak picture. Over a 6-month period in 2012, her songs were played1.5 million times on Pandora earning her $1,652.74 US dollars; on 131,000 plays earned her $547.71 US dollars or an average of 0.42 cents a play. Ms. Keating summed up the situation:

> *"In certain types of music like classical or jazz, we are condemning them to poverty if this is going to be the only way people consume music".*[21]

The underlying malaise is that digital distribution has allowed a scale of mass consumption of music hitherto unknown and in the process lowered people's expectations of the price they should pay.

In terms of selling CDs at gigs, in 2000, the cost of 1000 CDs for a quartet was £3,850/ £3.85 per CD. The sale price was £10 per CD giving a break-even point of 385 CDs if you sold all of them on gigs, producing a surplus of £6,150.[22] In today's terms, the cost per CD would be £6.35 with a sale price of £16.53.

In 2008, the sales price for a CD at gigs was £10 which in 2018, was worth £13.11.[23]

In 2000, the average retail price of a CD in specialist music shops was £11.46 and £10.38 online, and in 2005, it was £10.07 at retail, with an average online price of £9.21[24]. By 2017, prices had slipped further to £8.39 for a CD, and a download album was £7.14.[25]

Thus, it can be seen that whether selling CDs directly at gigs or online, the selling price of music has inexorably fallen.

In November 2014, Help Musicians hosted an interesting online discussion about streaming. Views varied, both positive and negative. The positive side is that as a marketing tool, musicians can get their music out there and reach new audiences. Phil Meadows, jazz musician and composer pointed to the benefits:

> *"Streaming in this way (often through SoundCloud) allows us as musicians to engage audiences in ways we have never been able to before. We can offer content samples with a longer-term vision to grow our fan base for future sales. We can access thousands of people through social networking and can* allow *venue promoters quick and inexpensive access to our music."*

The negative side was articulated by folk musician Maz O'Connor:

> *"What worries me looking forward is that there's a whole generation of young people who will never have paid for music."* [26]

John Harris in the Guardian wrote of his problem with Spotify even though he was a subscriber and expressed strong reservations:

> *"Put all this together and you have quite a charge sheet: exploitation, the turning of music into wallpaper, and the slicing and dicing of great art according to the crassest of considerations. One thing amazes me: notwithstanding the one or two acts who still refuse to have anything*

[21] Ben Sisario, *As Music Streaming Grows Royalties Slows To A Trickle* (New York Times. 28th January 2013. Available at: https://www.nytimes.com/2013/01/29/business/media/streaming-shakes-up-music-industrys-model-for-royalties.html Accessed 14th November 2020.

[22] Malcolm Crease, *Making CDs* (Jazz Services Ltd July 2000) p9

[23] Ibid 18 p12

[24] Ibid 20 p29

[25] Rob Cruchley and Chris Green, *2017 All About The Music – Recorded music in the UK: facts, figures and analysis* .BPI and Official Charts Company 2017. p 65

[26] Help Musicians, *What's the deal with streaming.* Help Musicians 17th November 2014 Available at: https://www.helpmusicians.org.uk/news/blog/whats-the-deal-with-streaming Accessed 14th November 2020

to do with Spotify, why do musicians still blithely put their art in such unreliable care? Would people in any other creative field do the same?" [27]

The nub of the problem with streaming is the low levels of income that are typically earned. A musician recently sent to this author a statement of their earnings from streaming for the three-month period ending 1st April 2018, commenting:

> *"The total number of streams is 58,377 and earned $59. At current exchange rates, $59 would buy £42.03. Therefore, estimated earnings per annum are £169 from 235,508 streams. To earn the National Average Annual Wage of £27,600 in 2015 this particular musician would have to have his or her music streamed 38,461,659 times – yes that's right, 38 million times."* [28]

Comparisons are drawn with Ed Sheeran who earned $6.6 million from 'Shape of You' on Spotify. However, it took 1.318 billion streams to do it (note this figure does not include revenue from Apple Music, Amazon, Tidal, Deezer or any other streaming platforms).[29]

For musicians such as Adele and Ed Sheeran, over a billion streams is feasible and has been achieved, but for the majority of musicians and especially those working in jazz, in a world where people have got used to free music, paltry earnings from streaming poses a problem of endemic proportions.

Another major problem is the 'Value Gap' which is the disparity between the value upload services such as YouTube takes out of music and the revenue that is returned to the music community. The International Federation of the Phonographic Industry (IFPI)reported that:

> *"Artists and creators have spoken about the global 'value gap', whereby 'safe harbour' legislation dating from the Internet's early days is being abused by user upload services such as YouTube, who are not licensing music on a fair basis. Gradually, policymakers are beginning to listen, and legislation is being examined or proposed in some territories around the world, including in Europe where the European Commission has recognised the existence of a value gap and begun working towards legislation. However, this is a global problem that requires legislative solutions across the globe."* [30]

3.5 How can the Government protect the industry from knock-on effects, such as increased piracy of music? Does the UK need an equivalent of the Copyright Directive?

There have always been problems with piracy and other forms of copyright infringement such as unlicensed streaming services, and stream-ripping services that exploit the work of musicians. Some years ago, it was cassette tapes, currently as Howard Goodall writes in his blog:

> *"Anyone who's ever been on holiday in Asia will have seen that copyright piracy is more or less endemic in these would-be vast markets for music and other creative forms. You can buy a DVD or a CD of more or less anything off the street, not to mention software programs or video games, and no-one is paying the creators of this work a cent for doing so."* [31]

However theft of musicians work has reached the point where it appears that music has been devalued to such an extent in monetary terms it has ceased to be a crime but is a right. Indeed, stream ripping is by some margin the biggest and most problematic form of piracy affecting the recordings sector.

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[27] John Harris, *My problem with Spotify – even though I'm a subscriber.* The Guardian 29th January 2018
[28] Chris Hodgkins, *Observations on streaming* (www. Chris Hodgkins.co.uk, April 2018. Available at: https://www.chrishodgkins.co.uk/wp-content/uploads/2017/08/Observations-on-streaming.pdf Accessed 14th November 2020
[29] Ibid 26
[30] IFPI, *Global Music Report 2017 Annual State Of The Industry.* International Federation of the Phonographic Industry 2017. p7
[31] Howard Goodall, *Brexit and Music: Theme and Variations*. Howard Goodall Blog, 30th April 2017. Available at: http://www.howardgoodall.co.uk/articles-press-etc/brexit-and-music-theme-and-variations Accessed on 15th November 2020.

"Stream ripping is the fastest growing form of music copyright infringement globally. Sites operating ripping services threaten the music ecosystem by undermining legitimate music services that license rights and pay artists and rights holders. Stream-rippers profit by diverting fans away from legitimate services, while paying nothing to the creators or producers of that music." [32]

Fifty three percent of internet users aged 16-24 are ripping music which reinforces the notion that music is free – legally or illegally and the lines are becoming more and more blurred:

"35% of all Internet users are stream ripping - up from 30% in 2016, rising to 53% among 16 to 24-year-olds. Search engines play a key role in copyright infringement. 54% of those downloading unlicensed music also use Google to find unlicensed music." [33]

A Recent report commissioned by PRS For Music from INCOPRO showed that overall usage of music-only stream ripping services increased by 1390% in the three years between October 2016 and October 2019[34]

It is self evident that the "culture" needs to change so that consumes of music pay for it. This change can be achieved through education, the law or a combination of the two. However it requires a lot more than a "nudge".

The Directive on Copyright in the Digital Single Market came into force on 7 June 2019 and was intended to ensure "a well-functioning marketplace for copyright" [35]

The European Council (EC) describes their key goals with the Directive as protecting press publications; reducing the "value gap" between the profits made by Internet platforms and by content creators; encouraging collaboration between these two groups, and creating copyright exceptions for text- and data-mining.[36] There was controversy with the "protecting press publications". That to one side with the advent of BREXIT there is a crucial need for UK copyright protection with teeth.

With copyright protection there needs to be greater transparency amongst record labels, music publishers, streaming platforms and other licensing entities so that creators can effectively use their right to audit music companies they are signed to or who administer royalties for them. Furthermore assignment of rights to a music company should have a maximum term, after which the rights should automatically return to the creator, who could decide to extend or place their rights elsewhere.

Finally there needs to be a programme that educates all types of music creators regarding their rights and the operations of the music industry.

3.6 Do alternative business models exist? How can policy favour more equitable business models?

Currently revenues are paid out under the pro rata system. A change in the way revenues are distributed to a "user-centric payment system" – or UCPS would be far more equitable. Under this model, subscriber revenues are distributed according to what the individual user has spent their time listening to.

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[32] International Federation of the Phonographic Industry, *Global Music Report 2018 – Annual State Of The Industry.* IFPI 2018, p42

[33] International Federation of the Phonographic Industry, *Connecting With Music: Music Consumer Insight Report September 2017*. IFPI September 2017, p19

[34] INCOPRO. *Stream-ripping: Its role in the UK music piracy landscape three years on September 2020.* PRS For Music September 2020. P12

[35] European Commission. *Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market. Available at:* https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016PC0593 Accessed on 15th November 2020

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"Supporters of the model argue that this is a fairer way to remunerate artists, as well as having other expected benefits such as supporting niche and local music scenes, offsetting the impact of 'power users"[37]

Spain is the first country in the European Community to implement a remunerative right for streaming:

"The Spanish system for equitable remuneration has been operating successfully since 2006 when the Law, which implemented the European Union Information Society Directive 2001 came into force. The Spanish law introduced an exclusive right for performers to make their recorded performance available to the public which is then presumed to be transferred from the performer to the phonogram producer or to the film producer as part of their contractual relation, preserving an unwaivable right to equitable remuneration: the remuneration right allows performers to be paid for the music and audiovisual works played in radio and TV broadcasts as well as in online music and audiovisual services, including streaming services and at the same time the producer retains the exclusive right to manage it with the users.

Therefore, in addition to the exclusive right so transferred, the performer retains an unwaivable right to equitable remuneration"[38]

Deezer on their website have just launched a campaign to encourage Deezer users to help them raise awareness of this issue with their newly launched #MakeStreamingFair initiative, as well as a website dedicated to a User-Centric Payment System (UCPS). Deezer unequivocally state the benefits of the UCPS:

- *"A fairer system for a wide range of diverse local and international artists and genres*
- *Corrects distortions like age or listening habits (i.e. young users also tend to skip more, resulting in further distortion)*
- *Helps tackle streaming fraud and bot activities"*[39]

Finally three crucial items for action promulgated by the Musicians' Union :[40]

"1. More transparency and opportunities for scrutiny, so that current market distortions can be exposed and reformed.

2. Ensuring a level playing field through regulation will enable ethical business models to become the norm. Not all platforms are the same and not all music companies are the same; some are demonstrating that more equitable business models can be adopted.

3. The reclassification for performers of streaming as a 'communication to the public' rather than 'making available' (for songwriters, streaming already has this classification). This would generate royalties to be paid through a collection society such as PPL (like radio does), help unrecouped artists *as it would generate new royalties for them that they wouldn't get direct from a label, and generate an income stream for session musicians who currently receive no streaming royalties."*

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[37] Will Pritchard. *Lockdown was a boon for Spotify. Now musicians are fighting back.* Wired. 19th July 2020. Available at: https://www.wired.co.uk/article/music-streaming-ucps-spotify Accessed on 15th November2020.

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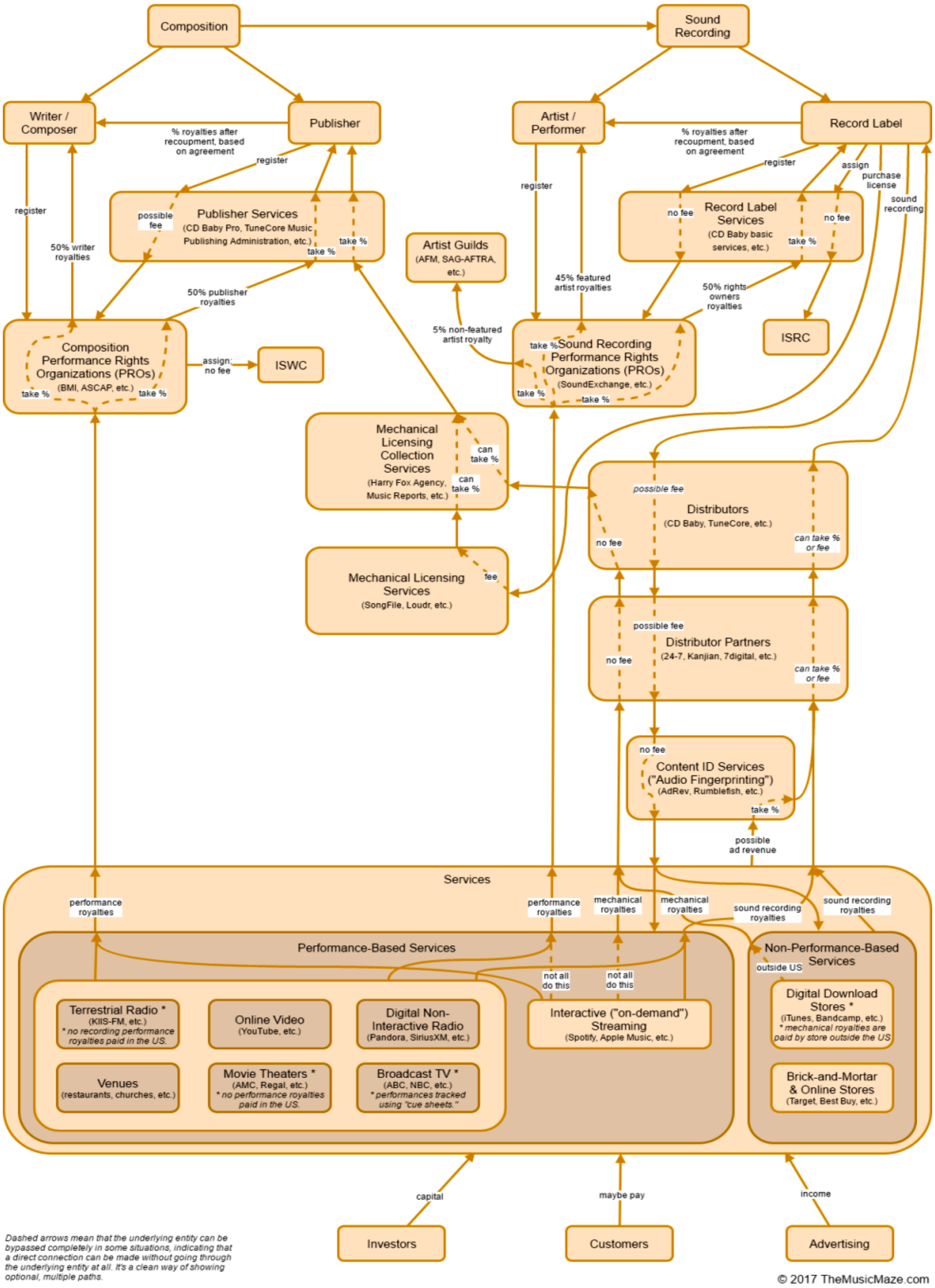
Appendix 1

The Music Business: Life of a Sound Recording

by TheMusicMaze.com



2nd February 2022