



Please find below input from both the [Music Managers Forum](#) and the [Featured Artists Coalition](#) regarding the CMA's market study into music streaming services.

INTRODUCTION

There is now a significant and rapidly growing market of music-makers in the UK - including artists, musicians, songwriters and producers - who seek to distribute their music to a global audience, grow and engage a fanbase, and make a living from their music-making.

Each artist launches their own small business - an artist company - in order to pursue these objectives. As that artist company grows, many artists will engage the services of a manager or management company who will then run the artist company on their behalf.

Key to growing a successful artist company today is getting the artist's music streaming, and collecting the royalties that are due whenever their songs and recordings are streamed.

Digital platforms have opened up many opportunities for artists and their business partners, resulting in unprecedented amounts of new music being released, circa 70k tracks per day.

Subscription streaming services like Spotify, Apple Music, Amazon Music, YouTube Music and Deezer have also powered significant growth in the recorded music market since 2015, following fifteen years of decline.

However, to capitalise on these opportunities and share in this growth, artists need easy, fair and transparent access to the digital music market in a way that allows them to effectively and efficiently manage both their recording rights and their song rights.

Most streaming platforms want to keep the number of licensing deals they negotiate to the minimum, so they mainly negotiate deals with entities that own or have aggregated large catalogues of songs or recordings. Therefore artists need to hire the services of music industry business partners in order to access the digital music market.

These business partners include record labels, music distributors, music publishers and collecting societies. Because of the way the music industry is set up and music rights are licensed, many artists will be working directly or indirectly with labels, distributors, publishers and societies at the same time, with their recording rights and song rights licensed and managed separately, and possibly differently in different countries.

There is, in theory at least, a wide selection of business partners for artists to choose from, many of which also support and help grow artist companies in other ways, including by providing investment and marketing, and access to industry networks and knowledge.

ISSUES AND CHALLENGES

However, despite there being this wide selection of business partners for artists to choose from, there are nevertheless a number of issues with the market, including:

- A lack of transparency regarding how the deals negotiated between the streaming services and the labels, distributors, publishers and societies are structured and implemented. This means artists are unable to make informed decisions regarding which music industry business partners to work with, as they are unable to weigh up the pros and cons of each partner's streaming deals and approach to implementing those deals.
- Some music industry business partners will actually be relying on other business partners to deliver music and collect and distribute streaming royalties. There is a lack of transparency regarding what supply chain and royalty chains any one business partner employs. On the songs side, which royalty chains are employed impacts significantly on how many delays and deductions will occur as money flows through the system. This lack of transparency again makes it impossible for artists to make informed decisions regarding which music industry business partners to work with.
- When artists work with labels and publishers, it is common for those business partners to take ownership of any copyrights created and agree to share any income generated from those copyrights with the artist (once advances and other recoupable upfront costs are recouped). This means that while the artist will be actively working with the business partner on a set number of songs or recordings, the business relationship will continue beyond that time period as the partner continues to exploit the rights and pay through royalties.
- Traditionally it was common for the business partner to own the rights for life of copyright, meaning these deals would actually run for 100+ years. Artists locked into these old deals have no choice over who exploits their digital music and this prevents competition. In music publishing, where life of copyright deals have become less common in the last 20 years, there is now a competitive marketplace for songwriters when it comes to which business partners they work with on their catalogue. But any artists still locked into life of copyright deals on songs or recordings do not benefit from such competition.
- Pre-digital deals obviously have no provisions in them for how digital income should be shared between business partner and artist. On the recordings side, most labels have unilaterally decided how old contract terms should be interpreted for digital income without consulting artists - or even communicating what decisions they have made. In

many cases (albeit with some exceptions), labels have generally decided to interpret those old terms in whatever way allows them to keep the majority of the income.

- Issues around the lack of competition when it comes to the exploitation of an artist's catalogue are particularly problematic because in the streaming age catalogue is accounting for ever more consumption and therefore ever more revenue. For example, it [has been reported](#) that in 2021 catalogue accounted for 73% of consumption and therefore revenue in the US streaming market.

- On the songs side, at least some of a songwriter's digital income flows through the collective licensing system - this is because writers have to assign the performing rights in their work to PRS. [REDACTED]

- On the songs side, problems with missing rights ownership data means that a portion of digital income cannot be accurately paid through to the correct songwriters. It is not always apparent what happens to this 'black box' income, although it is often paid out to the industry based on market-share. [REDACTED]

SEEKING INDUSTRY SOLUTIONS

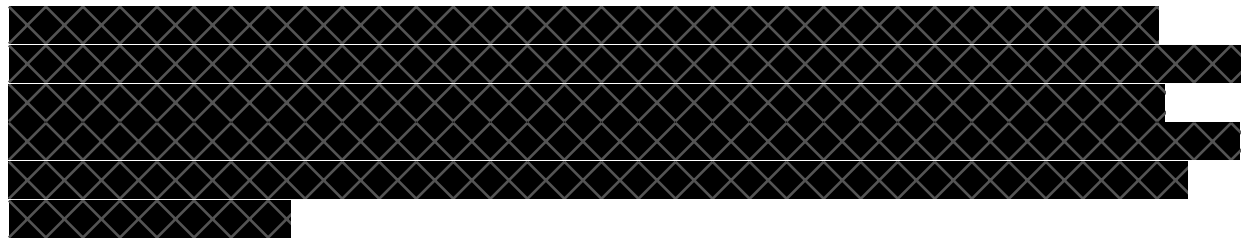
Organisations like MMF and FAC have been seeking to address these issues for many years, including through research and campaigns like the MMF's long-standing ['Dissecting The Digital Dollar' project](#).

We have also explored voluntary industry initiatives and codes of conduct through which an artist's business partners could commit to certain transparency obligations, and agree to certain minimum standards and best practices when negotiating new deals with artists, and interpreting old deals in the context of new digital revenue streams.

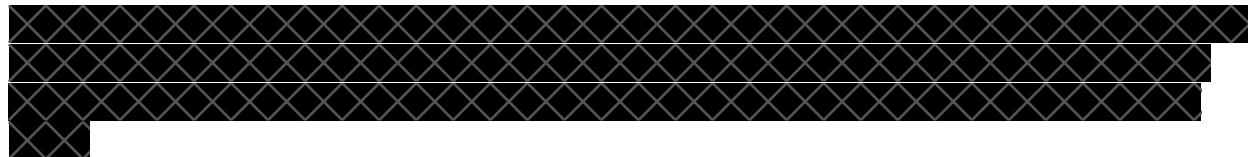
The independent labels in the UK and globally have already agreed some similar commitments through the [Fair Digital Deals](#) declaration in 2014.

A lot of this work is now focused on the IPO contact group and working groups that have been convened by the UK government, in which MMF and FAC are both actively participating.

However, some labels, publishers and societies have contended that some of these proposed solutions to address artists' concerns would breach competition law. They argue that practical solutions to increase transparency and set minimum standards in the digital music market are impossible on the basis they are prohibited under competition rules.



Nevertheless, negotiations in relation to that code ultimately failed, in part because the labels claimed that there were competition law concerns.



RECOMMENDATIONS

We would urge the CMA to ensure the following is considered in its study of the streaming music market:

Competition between music companies

- How the lack of transparency around streaming deals - and the supply chains and royalty chains employed by labels, distributors, publishers and societies - prevents artists from making informed decisions about which business partners to work with.
- How long-term and life-of-copyright assignments of rights mean that artists and songwriters locked into pre-digital deals are unable to select the best business partners to manage their digital rights, meaning those business partners have no reason to fairly

and transparently interpret pre-digital contract terms in the context of digital revenue, which in turn has a major impact on the artist's long-term future income.

- How the solutions already proposed to address the specific issues faced by artists and songwriters locked into pre-digital deals - including a reversion right, a contract adjustment right and a commitment to pay a minimum royalty rate across any one label's catalogue - would impact on the market.
- How songwriters are dependent on the collective licensing system to collect at least some of their digital royalties and, in most cases, can only realistically connect to this system through PRS [REDACTED]
- [REDACTED]
- How short-term changes to the current model of black box distributions could impact on the market - and especially on independent artists - and to what extent it would facilitate and encourage longer-term changes to end the digital black box entirely.
- We strongly believe that for these issues to be fully considered, it is vital that the CMA's study covers all aspects of the digital music supply chain, including the streaming services, the major and independent labels and publishers, the distributors and rights administrators they employ [REDACTED]
- Given, as described above, competition law has often been used as a reason why certain proposed solutions cannot be adopted by the music industry, we would urge the CMA to review all the proposals being made by organisations like MMF and FAC to address the issues outlined in this document - including within the contact group and working groups - and provide formal guidance on the competition law implications of each of those proposals. That includes in relation to transparency obligations and the proposal for a voluntary minimum digital royalty rate similar to [fair trade minimum pricing in other sectors](#).

Competition in music streaming services

- How the lack of transparency around streaming deals means that artists are unable to make informed decisions regarding which streaming services they should be most proactively supporting, endorsing and collaborating with.

- In addition to the lack of transparency around deals, there is also a lack of transparency regarding the playlisting operations and algorithms employed by the streaming services that recommend and select music. Although many of the streaming services do provide valuable tools to help artists with their marketing, the lack of transparency in this domain is a growing problem for artists and managers, and many other independent music companies.
- There are very few localised or specialist streaming services, ie the digital equivalent of the local independent record shop. This is detrimental to music fans - especially those particularly interested in certain niche genres and scenes - and also detrimental for the grassroots and alternative artists who independent retailers have traditionally championed, and who in the digital market are competing for the attention - against superstars and major labels - of the small playlist and artist relations teams at the global platforms. Arguably it is the costs and complexities of music licensing - and the aforementioned issues around rights data - that have prevented localised and specialist streaming services from getting to market. It would be valuable for the CMA to consider these specific issues, and the impact they have on both music fans and independent artists.

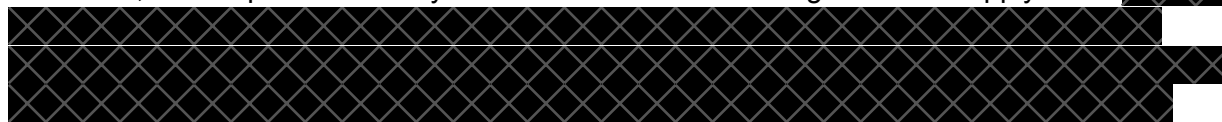
Agreements and inter-relationships between music companies and music-streaming services

- Artists and managers recognise that their business partners may want to include equity, lump sum payments and/or other benefits into their licensing deals to reduce risk and maximise value. However, again, this becomes a problem because of the lack of transparency around the deals. Everyone agrees that artists should also benefit from these other elements to the deal, however there is often a lack of transparency about how the benefits are being shared, or even what benefits there are to share.

CONCLUSION

We believe that the CMA is uniquely positioned to highlight and address many of the issues that music-makers face when attempting to build sustainable and viable businesses within the digital music market, and can assess, inform and facilitate the various proposed solutions.

To do this, the scope of this study needs to cover the entire digital music supply chain





It should also consider why the various proposed solutions have been blocked or rejected in the past, especially where competition law has been given as a key reason for doing so.

MMF and FAC have a lot of existing research, information and insight that we are more than happy to share with the CMA to help inform and enrich its market study.

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