

Response by Dr Andrew White to the CMA's executive summary and update paper on the market study into music and streaming services. 18 August 2022.

Introduction

Andrew White¹ is currently a senior lecturer in the Department of Culture, Media & Creative Industries at King's College London. His current research focuses on the DCMS Committee's investigation of the UK music streaming industry, on which he has published the following papers with *The Conversation*:

- <https://theconversation.com/what-mps-plans-for-music-streaming-mean-for-artists-and-listeners-164532>
- <https://theconversation.com/the-music-industry-is-booming-and-can-afford-to-give-artists-a-fairer-deal-168587>

The executive summary and update

The market study identified some aspects of the music streaming market that are restricting or distorting competition. However, these were not deemed sufficient to warrant an MIR (Market Investigation Reference) at this time. Generally, the CMA's study found that consumers are getting a good deal in terms of the price that they are paying for music and the range that they can access. It does not rule out an MIR into the music streaming industry sometime in the future should that be the most appropriate means of tackling a significant worsening of these or other market imperfections.

This response will focus on three specific areas which the CMA study either did not cover or where more information might have encouraged it to take a different position.


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My response: excess profits, podcasting, and fake plays

1. The market study concludes that neither record companies nor streaming services are making substantial excess profits. This conclusion is at odds with a *Rolling Stone* article at the end of 2020 which pointed to Sony and Universal Music Group's profit margins exceeding 15%². As the article reports, this is partly as a result of the even more generous growth in revenue from music streaming, with a commensurate fall in 'product costs' associated with the physical production, distribution and marketing of vinyl albums. Universal Music Group's latest accounts indicate that this healthy growth in revenue and profit continues³.

Leaving aside the issue of possible cross-subsidisation, something to which the study speculates about, it is true that music streaming platforms are making at most very small amounts of profit; some are running at a loss. This is, though, a typical business model for online platforms in their early years of operation. Indeed, the CMA study itself acknowledges this:

This suggests that a temporary period of loss making by an integrated music streaming service is not necessarily unusual or a cause for concern. Indeed, a temporary period of loss making (that could be recovered over a longer period) may be necessary to support market entry and is consistent with growing markets where there are economies of scale ...⁴

In light of the above, it would be useful for the CMA to quantify "excess profits", and explain what the timescale for such "excess" is. To what extent can a year or two of a

² Ingham, T. (2020) Why the major music companies' profits are soaring in the year of chaos. *Rolling Stone*. 3 November. <https://www.rollingstone.com/pro/features/universal-sony-warner-music-profits-covid-1085112/>

³ <https://www.universalmusic.com/universal-music-group-n-v-reports-financial-results-for-the-second-quarter-and-half-year-ended-june-30-2022/>

⁴ CMA (2022) Music and streaming. Market study update, p. 66. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1093698/22_0726_Music_and_streaming_-_update_paper.pdf

certain level of profiteering not be considered indicative of a long-term issue? Can the existing modest profit-making of the music streaming platforms be completely dismissed as a problem if the long-term trend is towards ever greater profiteering? All the indications are that the profits of the major record labels and music streaming platforms will continue to grow, a trend that is surely worthy of investigation?

2. One significant omission from the CMA study was any serious discussion of the impact of lucrative podcasting deals on musicians' streaming income. The New York Times reported this year that Spotify paid at least \$200 million for the long-term licensing of the 'Joe Rogan Experience' podcast⁵. While Spotify has neither confirmed nor denied the veracity of this report, a close examination of its 2021 annual report reveals that over the past few years the company has made a number of acquisitions of platforms which host podcasts and other live audio feeds⁶. Although the CMA study cited this annual report, it did not mention the frequent championing of podcasting as a key area of growth for Spotify. This is an important omission, as it serves to downplay the extent to which the profits of music streaming platforms are lower than they might be as a result of huge investment in podcasting and other non-musical audio content. These deals eat into the streaming incomes of musicians as well. It is surprising that the CMA report barely mentions podcasting and does not discuss its impact on the music streaming market.
3. If podcasting and other audio deals reduce the overall streaming pot from which musicians can draw, any increase in the number of songs on platforms gives them a smaller proportion of revenue. The CMA reports that around 60,000 songs are being added to Spotify every day, with a similarly exponential growth in artists being streamed

⁵ See Gallagher, A. (2022) Spotify said to have paid \$200 million for Joe Rogan podcast deal, twice the figure previously reported. *NME*. 18 February. <https://www.nme.com/news/music/spotify-said-to-have-paid-200million-for-joe-rogan-podcast-deal-twice-the-figure-previously-reported-3164283>

⁶ US SEC (2021) Spotify annual report, p. 38. https://s29.g4cdn.com/175625835/files/doc_financials/2021/AR/2021-Spotify-AR.pdf

in the UK rising from around 200,000 in 2014 to around 400,000 in 2020⁷. These growing numbers could represent authentic songs and artists. There is, though, considerable scope for gaming the system with ‘fake plays’⁸. Whether or not the most lurid speculations about operations to game the system are true⁹, in a pro-rata system of revenue distribution the lack of quality control of content means that any increase in inauthentic songs will result in proper artists receiving a reduction in their share of overall revenue.

Final thought – the threat to the long-term interests of the consumer

All this suggests a long-term trend towards increasing profits for record labels and music streaming companies, a greater reliance on streaming for revenue and profits in the music industry as a whole, and the continued squeezing of musicians’ revenue through the exponential growth in content on these platforms and the latter’s devoting of ever greater sums of money to non-musical audio content. It might be argued that this will have a negative impact only on musicians. This would clearly be a problem for those interested in the overall health of the music industry, but perhaps not so much for those whose main purpose is to defend the consumer interest. However, I would argue that this trend will result ultimately in less choice for the consumer as sometime in the future it is likely that fewer people will consider a career in music. This is already happening, as the CMA report itself observes in its citing of the rise of ‘back catalogue’ streams as a proportion of the total number from 76% in 2017 to 86% in 2021¹⁰. This narrowing of choice for the consumer will only get worse. Let’s act before it becomes too late to intervene.

⁷ CMA (2022) Music and streaming. Market study update, pp. 32 & 16.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1093698/22_0726_Music_and_streaming_-_update_paper.pdf

⁸ Creators’ Rights Alliance (2020) *Written submission to the DCMS’ Committee’s inquiry into the economics of music streaming*. London: UK Parliament. <https://committees.parliament.uk/writtenevidence/15403/pdf/>

⁹ See Ingham, T. (2018) The great Spotify scam: did a Bulgarian playlister swindle their way to a fortune on streaming service? 20 February. <https://www.musicbusinessworldwide.com/great-big-spotify-scam-bulgarian-playlister-swindle-way-fortune-streaming-service/>

¹⁰ CMA (2022) Music and streaming. Market study update, p. 10.

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