

# March 2024 IPO Consultation - Extension of rights in sound recordings and performances to

**foreign nationals UK Music Response**

1. UK Music is the collective voice of the UK’s world-leading music industry. UK Music represents all sectors of the music industry – bringing them together to collaborate, campaign and champion music. A full list of UK Music members can be found in Annex A.
2. We value the opportunity to respond to this consultation on the extension of rights in sound recordings and performances to foreign nationals. We are concerned however that there is insufficient information available at this stage on the impact of any of the proposed options. The Government should not hasten to legislate without sufficient information, as acknowledged in the Impact Assessment.

# Following consultation with our members, UK Music can collectively express our strong opposition to Options 2 and 3. There are a range of views across our membership however in relation to Option 0 and 1 and for this reason we will focus our comments on Option 2 and 3 only. Options 2 and 3 would introduce confusion and complexity and would lead to market disruption to the detriment of all parties, including UK performers and sound recording rightsholders.

1. We agree with the aims expressed in the Consultation not to create significant costs to the UK creative industries or UK consumers. This needs to be the guiding principle for any changes to legislation, if found to be needed. However, we are concerned that it may only be “significant” costs that are taken into account in the consultation. This introduces subjectivity and uncertainty (in particular given the lack of information to assess the significance of costs).
2. We also would like to express concerns in the way in which these proposals interact with the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) Bill and that depending on the decision made as a result of this consultation, the Government may have to undo existing legislation which has been introduced without proper consultation. This is not an effective way to make policy and provides uncertainty for stakeholders in the industry.

# Option 2 - Provide PPR to producers and performers of sound recordings on material reciprocity terms

1. By tying eligibility for public performance rights (PPR) to receiving reciprocal treatment from the foreign national's home country, foreign as well as UK producers and performers' access to PPR will be restricted. This will impact their ability to receive compensation for their

contributions to sound recordings. This is specifically the case for UK performers recorded on US recordings.

1. In addition, UK broadcasters, and those that play music in public in the UK, such as shops, nightclubs, and gyms, would no longer need to pay PPR for the use of US music. This would result in a transfer of money from UK performers and producers to broadcasters and those who play music in public.
2. Option 2 may also lead to an incentive for broadcasters to play and use more US (and other ex-UK) recordings, which would create a cultural detriment to the UK. Should less UK music be broadcast or played in public, the negative impacts would reach beyond performers and sound recording rightsholders to composers and music publishers.
3. Given that users have been prepared to pay for the excluded repertoire, the change in the law is damaging to the perception of value of the rights of producers and performers, particularly as users may not fully understand - or even be aware of - any policy reasons behind the change.
4. While potentially reducing costs to UK broadcasters and others for use of foreign music, Option 2 would increase costs to the UK creative industries, which are likely to be significant as this option would lead to considerable administrative costs to the relevant collective management organisation representing performers and producers in managing PPR, PPL. The exact extent of such costs is uncertain, and we do not believe it has been correctly identified within the impact assessment that accompanied this consultation. Moreover, such uncertainty would reduce incentives for investment in new UK music.
5. This Option would create legal and economic uncertainty and market disruption to the detriment of the UK music industry. It would also create disruption for radio and TV broadcasters potentially having to renegotiate new tariffs with collective management organisations, in particular PPL, without clarity of the actual market situation.
6. The costs for PPL and licensees in the two paragraphs above could be considerable given the complex negotiations that might be required to take account of the effect of Option 2 and the likely need to repeat such negotiations as circumstances change over time. Where negotiations were inconclusive, the parties may need to incur the costs of copyright tribunal references.
7. There would also be additional costs for PPL and licensees in respect of the compliance with any revised licensing terms and the monitoring and enforcement of those terms, given the more complex licensing landscape.
8. Option 2 would require the UK to expand its existing reservations to international copyright treaties. At a time when the UK is engaging in trade discussions and seeking to promote the improvement of copyright standards around the world, it would be a negative step for the UK to take such a step.

# Option 3: Apply Option 1 to pre-existing sound recordings and performances, and apply Option 2 to new sound recordings and performances

1. Option 3 combines elements from both Options, resulting in the same problems highlighted in our comments on Option 2, along with added uncertainty without benefit to UK performers and sound recording rightsholders. In the same way as Option 2, Option 3 will undermine confidence in investing in new UK music.

**Annex A**

UK Music’s membership comprises:

* + **AIM - Association of Independent Music** – The trade body for the independent music sector and community which make up a third of the UK’s recorded music market alone. Representing 1000+ independent record labels and associated businesses, AIM’s members range from globally recognised brands to the next generation of British music entrepreneurs.
  + **BPI - The British Phonographic Industry** - The representative voice of the UK’s recorded music sector. Their membership consists of approximately 500 music companies, ranging from hundreds of SME independent labels to the major global record companies Universal, Sony and Warner. They also organise the BRIT Awards, the Mercury Prize and administer the Music Export Growth Scheme (MEGS).
  + **FAC – The Featured Artists Coalition** - UK trade body representing the specific rights and interests of music artists. A not-for-profit organisation, they represent a diverse, global membership of creators at all stages of their careers and provide a strong, collective voice for artists.
  + **The Ivors Academy** - An independent association representing professional songwriters and composers. As champions of music creators for over 70 years, the organisation works to support, protect and celebrate music creators including its internationally respected Ivors Awards.
  + **MMF – Music Managers Forum** - Representing over 1000 UK managers of artists, songwriters and producers across the music industry with global businesses.
  + **MPG - Music Producers Guild** - Representing and promoting the interests of all those involved in the production of recorded music – including music studios, producers, engineers, mixers, remixers, programmers and mastering engineers.
  + **MPA - Music Publishers Association** - The representative voice of the UK’s music publising sector. Membership includes over 95% of the country's major and independent music publishers and close to 4,000 catalogues across all genres of music.
  + **Musicians’ Union** - Representing over 32,000 musicians from all genres, both featured and non-featured.
  + **PPL** Licenses recorded music in the UK when it is played in public or broadcast and ensures that licensing revenue flows back to its members, including independent and major record companies, together with performers ranging from emerging musicians to globally renowned artists.
  + **PRS for Music** is a collective management organisation representing the rights of more than 165,000 songwriters, composers and music publishers in the UK and around the globe. It collects and distributes royalties to ensure its members are paid whenever their musical compositions and songs are steamed, downloaded, broadcast, performed and played in public. In 2022, PRS for Music collected £964m and paid out £836.2m in royalties.
  + UK Music also has an informal association with **LIVE (Live music Industry Venues & Entertainment)**, the voice of the UK’s live music and entertainment business. LIVE members are a federation of 13 live music industry associations representing 3,150 businesses, over 4,000 artists and 2,000 backstage workers.