

## **Written evidence submitted by the International Federation of Musicians (FIM)**

### **DCMS Committee to examine impact of streaming on future of the music industry**

#### **Contribution of the International Federation of Musicians (FIM)**

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

1. Streaming platforms rely on the creative contribution of composers, songwriters and performers, whose works and performances are embodied in recordings. Through a “chain of rights”, the platforms offer these recordings to subscribers via different services: 1. On-demand access to specific albums or tracks. 2. Passive listening to curated playlists that are pushed to them by the platform. 3. Temporary storage of copies of recordings for offline listening.

2. While featured artists may receive royalties from labels, most non-featured musicians do not receive recurring payments for the streaming of their recordings (only a one-off session fee). When the same recordings are broadcast or otherwise communicated to the public, record companies and performers share these revenues on a 50/50 basis. This difference is due to the fact that each of the three services described in para. 1 is treated as “making available on-demand”, which falls under an exclusive right, while broadcasting and public performance are covered by a right to remuneration.

3. Streaming business models were designed in such a way that most performers do not receive any share of the revenue generated, even for curated playlists which are used as a modern substitute to thematic broadcasts. In our view, the choice to treat playlists like downloads relies more on profit considerations than an objective analysis of the nature of the service offered. Profitability of streaming services, therefore, relies to a large extent on musicians not being paid for the use of their recordings.

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

4. For consumers, curated playlists have gradually replaced thematic broadcasts. There is one playlist for each moment of the day: wake-up, breakfast, work-out, relaxation, meditation, running, partying etc. One single click of a button and music is on for the next 30 minutes or the entire evening or night. No further action is necessary: the tracks that fit your taste or mood are selected for you by a third party and pushed to your device – whether a phone, a smart speaker or a hi-fi gear.

5. Playlists are at the core of streaming services. Yet, as seen above, despite their extreme similarity with thematic broadcasts, the revenues they generate are shared in a totally different – and unfair – manner.

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

6. Since 2012, the music streaming market has been growing continuously. This growth is accelerating year after year, in a spectacular way. In the United States, streaming-generated revenues for 2019 exceeded the total recorded music market for 2017 (RIAA data). The trend is the same on the British market, where figures for 2019 set new records: for the first time, the annual number of streams exceeded 100 billion (BPI data). There is also evidence

that these platforms are leading people away from illegal sites and helping to reduce music piracy. This is all very good news for the music industry. But, until now, it is only benefiting a tiny proportion of musicians.

### **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?**

7. The Copyright Directive is a step in the right direction. Article 17 deals with what is usually referred to as the « value gap », while chapter III addresses the authors' and performers' remuneration and the transparency of statements. The reference of article 18 to an « appropriate and proportionate remuneration » clarifies the objective of the Directive, which is to make sure that the conditions for such remuneration are provided: if the objective was the status quo, there would be no need for a new directive. As the needs of performers and authors are the same about everywhere, it is necessary to consider an equivalent of the Copyright Directive in the UK, but with stronger provisions in favour of performers and authors. Such provisions may include a statutory right to equitable remuneration (see para. 9) or an obligation for social partners to reach an agreement through collective bargaining.

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

8. Streaming services are **hybrid**, as shown in para 1 of this document. There are at least three different services offered to subscribers. These services and the income they generate should be treated separately.

9. It is generally admitted that **on-demand access to specific albums or tracks** corresponds to the exclusive right of making available. In that case, we recommend that performers retain a right to remuneration after the transfer or assignment of this exclusive right to the label. This already exists in the EU for the rental right. Such right to remuneration should be administered by the performers' collective management organisation (e.g. PPL). That said, on-demand access to streaming being subject to the payment of a subscription fee, and such access being automatically terminated when the subscriber stops paying, the comparison with a rental service is entirely relevant and should be further explored.

10. **Passive listening to curated playlists** that are pushed to consumers by the platform should be treated as a broadcast and be subject to a 50/50 split between record labels and performers, including session musicians.

11. **The temporary storage of copies of recordings for offline listening** should be treated as private copying and generate a remuneration for the right holders concerned. There is an opportunity for the UK to compensate right holders for individual acts of private copy, like in the rest of Europe.

### **Conclusion**

Covid-19 has hit music performers hard. Gigs have been cancelled, festivals and performances postponed, and recording studios closed. This crisis has brought into sharp relief the fact that musicians are sustained almost exclusively by income generated by live performance. Current streaming business models make it impossible for the vast majority of musicians to earn a decent income – if any – from the online exploitation of their recordings. There has never been a more urgent time to fix this. Without changes to the rights management regime, most musicians will never earn more than a pittance from streaming.

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***The International Federation of Musicians (FIM), founded in 1948, is the only international organisation representing musicians' unions worldwide, with member unions in 65 countries.***

*As an NGO, FIM has a permanent relationship with inter-governmental organisations such as WIPO, UNESCO and the ILO. It is recognised and consulted by the European Commission, the European Parliament and the Council of Europe. It is a member of the International Music Council (IMC).*

*FIM collaborates with all national and international organisations representing workers in the media field. It is a member of the International Arts and Entertainment Alliance (IAEA), alongside the International Federation of Actors (FIA) and UNI-Media and Entertainment International (UNI-MEI). It works closely with collecting societies administering performers' rights.*

*FIM was one of the driving forces in the adoption in 1961 of the Rome Convention. It has been involved in the negotiation of several European Directives as well as in the negotiation of the WPPT and the Beijing treaty, adopted by the WIPO Member States in 1996 and 2012, respectively.*