

Written evidence submitted by the British Copyright Council

BCC response to the DCMS Committee's call for evidence into the economics of music streaming

1. The British Copyright Council has members who represent individual right holders in the music industry, as well as those who manage their rights. Our members include the British Phonographic Industry (BPI), Incorporated Society of Musicians (ISM), Ivors Academy, Music Publishers Association, Musicians' Union, PPL and PRS for Music.
2. There are a mixture of streaming models with some licensing being undertaken directly by rightsholders and some being done collectively through Collective Management Organisations (CMOs). Streaming models must be fair, transparent and efficient. This means ensuring that information is made available so that right holders can understand what they're being paid and why. It also avoids conflicts of interest to ensure that competition in the music market is able to operate without systemic barriers.
3. We have limited our response to question 4 as our primary concerns are tackling online infringement or rights and how the UK will respond to the EU Copyright Directive.

Question 4: 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?

4. The Government's 2019/20 Intellectual Property (IP) Crime Report notes the issues facing the music industry with 'the music piracy landscape continuing to be flooded by infringing services such as cyberlocker link sites, pirate cyberlockers and BitTorrent sites. In addition, an increasing number of these sites are using content delivery networks which conceal their IP address. This stalls enforcement action.'¹
5. One of our members – PRS for Music – conducted a study on stream ripping which found that between 2016 and 2019 the popular video sharing platform YouTube was the service most likely to have content ripped from it, although it noted that similar practices were increasing on Spotify. Finding a long term and sustainable solution to this, and the other forms of infringement will require collaboration between the music sector and online platforms. The Government and music industry have an opportunity to lead the world in shaping regulation of the streaming economy. There are efforts across Government to achieve this, from the DCMS, BEIS, IPO and the CMA – the BCC believes that the UK's exit from the EU creates the need for urgency in progressing the over-arching aims and objectives of these efforts at pace.
6. In regard to the EU Copyright Directive specifically – the reality is that many music streaming services are accessible on a multi-territory basis across the EEA and beyond. There are different views on the relative merits of the EU's 2019 Copyright Directive; but the debating process which led to gradually pulling together the package of provisions involved some of the most detailed and analytical debate of any legislative measure on IP in recent years. With our members we have analysed the final text of the Directive and addressed how practical

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/913644/ip-crime-report-2019-20.pdf

application of its terms may operate where options exist linked to high level mandatory requirements. Article 17 of the Directive seeks to address the 'value gap' between streaming services and others in the music value chain, and is therefore most closely related to the terms of this inquiry. The Directive provides an opportunity for clarification and increased transparency over when intermediaries perform an act of communication to the public, or an act of making available to the public. The commercial gains made by intermediaries involved in the delivery of online services must be considered by the Committee.

7. We are also closely monitoring the implementation of the Copyright Directive within EU Member States as countries within the European Union form important export markets for UK right holders.² As the way in which EU Member States are implementing the provisions of the Directive should inform any consultation by the UK Government on how the UK can maintain protection for copyright owners in an increasingly cross-border digital marketplace. If the UK does not keep pace with IP developments for the digital marketplace then current reciprocity of rights applied between the UK and EU Member States could be reduced.
8. At the heart of this is the undisputable truth that it is the music that drives the streaming markets. Therefore, those who profit from the dissemination of music must respect the rights of all the owners involved in the creation, publication, performance, recording and creative presentation of music and recordings of music.