Written evidence submitted by the Association of Independent Music ('AIM')

Evidence for the DCMS Select Committee Inquiry into The Economics of Streaming

CONTENTS:

Executive Summary

AIM is the trade body exclusively representing the UK's independent music sector, which accounts for 25% of the UK's recorded music market alone, though its members engage in activity across many music sector verticals. AIM is in it's 21st year and currently represents 1000+ record labels and associated businesses.

AIM welcomes this opportunity to examine and assess the music streaming market and how it impacts on the all of the participants in the market. There is much that is working well and many who are able to take advantage of the democratisation of opportunity that streaming has afforded. But as in any market, there are winners and losers and with low barriers to entry to a highly aspirational sector, attrition rates in music are high.

Whilst there is a concentration of wealth at the very top of the market and a vast long-tail of highly disaggregated participants who earn very little at the lower end, there is also a successful and well-functioning mid-market tier on which many independent music companies operate. This has been a huge enabler to UK creativity from the most diverse range of participants who have been able to bypass the traditional gatekeepers of the pre-streaming era.

Whilst the narrative around streaming is often of micro-payments and the inability to earn a living, it is also for us a narrative of opportunity, democratisation and the ability to build careers and businesses that would not have been possible in the pre-streaming era.

As the market has grown exponentially in terms of participants, revenues have become increasingly fragmented for many, and the expectations of the old world do not necessarily apply – it is questionable as to whether they should.

Some who did well in the pre-streaming era do not achieve their revenue aspirations in the contemporary market and some who would not have been able to forge a career in the pre-streaming era have built robust and successful businesses in it.

The challenge for the Inquiry is to parse the success or failure of an individual business or stakeholder group from any evidence as to whether there is a well-functioning commercial marketplace in which we all operate.

All of AIM's Members own, control or take part in the commercial release of 'Master Rights' or sound recordings. Additionally, according to our recent Member survey, 81% of Members report having music publishing interests, 46% are involved in artist management and 35% are themselves music artists and creators.

AIM's Members' views represent the UK creative entrepreneurs in music who tend to see the market across the horizontal, rather than taking a factional view based just on one specific sub-sectoral commercial interest.

AIM's Member businesses individually are small, but due to a culture of community behaviour, have created mutual support structures. The establishment of Merlin, the independent third party digital licensing agency, for example, has resulted in the ability to aggregate their voices and market power to ensure even the smallest businesses benefit from market rates that are in line with the biggest.

AIM Members tend to work in partnership with artists. Many of the most established AIM Member businesses were formed by and are still owned by musicians, like Ninja Tune (Cold Cut), Bella Union (Simon Raymonde), Mute (Daniel Miller). AIM Members often attract their artist partners through their reputations for fair-dealing, expertise and specificity, as they rarely have the funds to compete with the cash advances and scale of their biggest competitors.

AIM Members instigated and have unilaterally subscribed to a code of conduct called the Fair Digital Deals Declaration ('FD3') since 2014, which commits them to playing fair in the digital market and to sharing revenues properly and transparently with artists – see APPENDIX 1 below.

AIM Members lead the market both in terms of commercial and cultural pluralism, signing the most diverse artists, releasing the most cutting edge music and generally punching above their weight on streaming platforms. AIM Members also include the next generation of artist-entrepreneurs who are releasing music on their own labels, either themselves or in partnership with others. Deal structures therefore vary enormously and express the multiplicity of choice available to artists in the contemporary music market.

As a community of entrepreneurs, AIM's Members express strong reticence to unnecessary and costly regulation of the music market other than where there is clear evidence of competition issues or other market failure.

Policy that might intervene in the commercial negotiations risks destabilising a market which has become established after some decades of disruption and at a time when negotiating disparity between partners is decreasing and access to information for all participants is increasing – both of which are factors that contribute to an increasingly efficient market.

In reviewing the terms of reference for this inquiry, there are certainly areas in which the legitimate market in music streaming could be further reinforced and supported to the benefit of all stakeholders, including consumers, namely:

1. A world-leading contemporary UK copyright framework that includes platform liability, so that platforms whose profits derive from inclusion of music content are not able to hide behind 'safe harbour' provisions to avoid such liability.
2. Strengthened copyright protections in trade negotiations – especially with the USA
3. Further strengthening of anti-piracy initiatives – especially in the digital market
4. Reinforcement of access to investment capital via a creative industries tax break
5. To uphold the current, strong Competition and Markets Authoity ('CMA') framework to prevent anti-competetive practices

PART 1 - About AIM:

Founded in 1999, AIM is the not-for-profit trade body exclusively representing the UK's independent music sector, which accounts for 25% of the UK's recorded music market alone, though AIM's members engage in activity across many music sector verticals.

AIM's 1000+ member labels and associated businesses have broad commercial interests across the music sub-sectors including recorded music and music publishing rights, artist management, live music booking agency and live music event promotion as well as music distribution and other services.

In addition, many AIM Member businesses are creator-owned, either as self-releasing artists (sometimes referred to as 'single artist labels'), or artists who have been successful and gone on to expand their own businesses to invest in and support other artists, in other words, to become multiple artist independent labels in their own right.

Now in its 21st year, AIM's community represents a very broad spectrum from the largest, most respected independent record labels and associated music businesses in the world to self-releasing artists and the next generation of British entrepreneurs in music. We promote and support this exciting and diverse sector globally. We help them get heard by government and provide a range of services, education and training initiatives, commercial opportunities and practical help to our members, enabling them to innovate, grow and break into new markets.

AIM's team of 12 is led by the CEO who reports to our Board of 17 elected senior executives from our Member businesses. Our Board is 60% female with around 40% identifying as being from Black, Asian or other minority ethnicities and includes businesses of all sizes, locations, business models, ages and music genres from across the community.

1.1 AIM's Members:

54% of AIM's Members are based in London, with the remaining 46% spread between the regions and devolved nations of the UK. The biggest concentrations of AIM Members outside the South East include Glasgow and Manchester with AIM Members present in over 260 towns and cities in the UK.

The UK's independent music community is the engine of experimentation and innovation that drives each successive wave of music and cultural phenomena from Punk and New Wave to UK Garage and Grime.

Independent music businesses are expert boutiques that often specialise by genre and location but that challenge the market's biggest incumbents, especially in the digital age. Independent businesses over index in terms of ownership and by senior executives who are female and / or from minority ethnicities.

Artists represented within the AIM Community include the broadest spectrum of commercially successful and culturally significant across multiple generations and genres. They include Dave, Frank Hamilton, Jorja Smith, AJ Tracey, Radiohead, Arctic Monkeys, Adele, The National, Robbie Williams, Kylie Minogue, Little Simz, The Darkness, Nina Nesbitt, Nick Cave, Baby Metal, Sophie Ellis-Bextor, The Prodigy, The Proclaimers, Will Young, Bonobo, Lauv, The XX.

PART 2 - Introduction:

Very often, debates about the nature of the music industry, and particularly where it intersects with the digital market, swing between the extreme views of the global market in the macro and the individual experience in the micro. They look at the huge numbers generated by the biggest global music and technology companies in the space and then, by contrast, look at the experience of particular individual creators who may not be representative of the market as a whole.

Two competing narratives often emerge with immense and seemingly ever-increasing numbers cited in the music press, that have sent the valuations of large music and tech businesses skyrocketing and that reinforce an extremely positive macro story, whilst at the micro level, many creators who speak out continue to struggle and are aggrieved not to feel part of the successful streaming economy.

The disconnect in those narratives has driven an ongoing concern from some participants that the market is 'broken' and somehow needs 'fixing'. We very much welcome the opportunity of this Inquiry to review evidence from all sides of the various debates and to consider whether this may or may not be the case.

2.1 Background to the market:

The music industry remains one of great aspiration and the UK music industry remains a global centre of excellence as one of only a handful of national net-exporters of music. This is a market in which aspiring artists can launch a global career and as a result, a great many try.

Access to affordable and user-friendly recording and production technology means that more people than ever can produce high quality sound recordings at home or at inexpensive facilities in addition to the world-class professional studios that, in the past, would have been the only option.

This has seen access to an exponential rise in the both the number of people making recordings, and the number of recordings they are each able to make.

Alongside this incredible growth in recordings, tools have come to market that enable anyone to release music into the global market and have it on sale in hundreds of digital stores around the world, including the very biggest; Spotify, Apple Music, Amazon Music and more. These include the AIM Member Independent Distributors and Aggregators who provide these points of entry to all whilst enabling them to benefit from rates achieved through structures like Merlin. So we arrive at a world today in which almost limitless music is being released onto the infinite digital shelves of the streaming platforms, alongside User-Generated Content ('UGC') for instance on YouTube, and convergance with social media, which further accelerates that effect.

In terms of scale, we estimate that 100,000 individual new tracks are added every week to Spotify alone, to add to the tens of millions of tracks already in their database.

It has never been easier to make or release music, but it has never been harder to cut through the noise and to be heard.

2.2 Democratisation of Music:

From our perspective, the democratisation of access to the market has been a powerful driver for disruptive entrepreneurs and many have seen impressive growth and achievements. However, as more and more market entrants join at the base of the pyramid, the attrition rate rises and whilst that means more may succeed, it also means that an increasing number ultimately will not.

The very top of the pyramid remains narrow and few attain the very top tier of revenues from music. Here we must take care that it does not become a closed shop and that the biggest players cannot use their power in the market to distort it. The Competitions and Markets Authorty in the UK provides frameworks and recourse should this become problematic.

However, it is important also to point out that whilst those at the top of the market are making more and the base of the pyramid broadens ever further, the middle tiers of the pyramid have also expanded and continue to do so.

The fact that all streams are valued equally in the current 'market share' model, means that anyone releasing music that finds an audience gets paid the correct and proportionate amount.

The evidence from our AIM Member survey suggests that streaming has been a significant factor in enabling there to be more middle-income artists now than ever before in the music market and that it is more, rather than less, possible to build a sustained and sustainable career in a diverse array of vibrant global niches as well as in the mainstream.

In other words, artists have more choice than ever over how they structure their businesses, but also how they operate creatively.

This 'new age' for music has thrown up an energised idea that anyone can 'have a go', although that idea is very rarely tempered by realistic expectation management, concrete knowledge on how the market works, and what kinds of scale in a business are necessary to become reliant on it for income, whether you are a self-releasing creator or a commercial partner.

PART 3. The Structure of the Independent Market:

The independent community has a number of potential pathways to market and competition for their business is intense.

Larger businesses have the option of licensing digital services direct, or going through a distributor (acting as a wholesaler in the digital music market). Those distributors range from independent boutiques to bulge-bracket operators. Independents can also opt to route their distribution via the 'Majors' each of whom owns and operates distribution businesses for third party repertoire.

Independent rightsholders and distributors have the option to license through Merlin, a third party licensing hub set up by its Members over ten years ago. Merlin ensures that even the smaller independent businesses can benefit from rates achieved through the aggregated market share of the broader community.

Many AIM Distributor Members are also Merlin Members, meaning that even the smallest, single artist label receives rates on their streams in line with the market's biggest players. This is an interesting facet of the structure of the independent music ecosystem and delivers on its principles of fairness.

Some independent distribution companies opt not to license via Merlin, prioritising other aspects of deals or structures and preferring to pursue their own path. The market allows for this plurality of options, and for even smaller distributors to choose to negotiate directly with digital streaming services.

This commercial, as well as cultural, plurality in the independent community increases choice for all participants and ensures a competitive market for all.

3.1 What Is Missing:

It is a matter of fact that any rightsholder, whether a large independent label or self-releasing artist launching their debut release can access the market on the same terms through the structures offered within the independent music ecosystem.

New entrants most often lack three key factors for success:

1. Scale
2. Expertise
3. Capital

Success in streaming comes from the aggregation of micro-payments over time. The problem is that each individual payment is tiny and that it can take time to achieve cash flows that would sustain a single artist and / or their team. The opportunity is that once those payments start to flow, they can build into a predictable and stable cashflow that starts to develop record labels that move towards a risk profile that is more like that of a music publishing company – in other words reduce the risk over time – particularly in the good management of successful catalogue.

Our organisation alongside our sister trade associations in music, have vital roles to play in education and training of new entrants, to ensure at least threshold knowledge of how the market works, publish best practice, and to set expectations around what success looks like.

The digital music market is a complex landscape and expert advice, services and capital can make the difference between growing a successful business or not. Many of the fiercest debates in our sector focus on these factors – the commercial relationships through which expertise and capital are delivered and how the revenue 'pie' is divided within the sector.

Record labels remain high-risk businesses that have struggled to access third party capital on reasonable terms. Whilst the streaming landscape over time enables de-risking through predictable cashflow and knowledge within the businesses enables them to expertly manage risk, the market perception of the risk of investing in music remains disproportionately high and restricts growth potential in the independent community.

Whilst independent businesses operate on restricted capital supplies, they have compensated for this impairment through the delivery of incisive expertise that has continued to enable them to out-perform their bigger rivals on a cost per point market share basis. In other words, every pound invested by a boutique independent can be worth much more to the artist than the equivalent spend of either their own money or investment by the much bigger, bulge-bracket operators.

In order to deliver on the true potential for growth in the UK music market both domestically and around the world, the UK Music sector needs a new Creative Industries Tax Incentive for new music investment that would enable the expert and creative entrepreneurs in our market to attract investment and capitlise fully on the opportunities ahead in the digital streaming economy.

PART 4. Commercial Deals within the sector:

4.1 Music Publishing

Songwriter / Composer / Author – Generally represented by Music Publishing companies. Music publishing tends to be a far lower risk model than Master Rights, or recording companies. Music copyrights on the written song have a far longer duration than the rights on individual recordings and can often benefit from the fact that the song can be recorded multiple times by multiple artists over time. The publishing company rarely invests in the promotion and marketing of individual artists or releases and its investment is in the development of its own business and signed writers. The deals and revenue flows reflect this lower risk profile with writers often receiving 80% of net revenues with the publisher retaining 20%.

Music publishing revenues have grown significantly in the streaming era. In the world of the CD, the publisher would receive 8.5% of the 'Dealer' or wholesale price. In streaming that share has risen to around 15% without any additional structural risk to the publisher.

In the CD world, the publisher's share would be split evenly between the songs on the CD and each writer would get their cut whether or not their particular track was popular. The disaggregation of the album in the digital market now means it is much more of a 'winner takes all' market for songwriters. There has also been a rise in the number of individual writers credited per track – in particular in pop music where it can often be the case that as many as 5 or 6 or more songwriters share the revenues from each song.

Expertise in publishing, as it is for record companies, is essential to the appropriate management of investment, risk and returns.

It is AIM's view that the share of revenue that goes to the publishing side of the sector is the result of commercial negotiations between expert participants, given the balance of investment by the parties, and that the market is functioning well.

4.2 Session Musicians

Session musicians are professional musicians who are hired to perform on recordings, or tours, and who are contracted on a 'work for hire' basis.

The Musicians Union regularly negotiates standard rates with the BPI, and AIM Members recognise and respect those rates as 'industry norms' whilst often paying more when engaging musicians.

Session musicians in contemporary music are most often paid on a 'per track' basis and rates are usually between £150 and £300. Larger ensembles and orchestras tend to stick more closely to the rates and terms in the deals agreed by the Musicians' Union.

Whilst session musicians are effectively 'bought out' of their rights to future revenues from streaming, they are paid up front and do not take any risk in the market and are not tied to working exclusively with any clients. It is estimated that a track would need 100,000 streams to cover the cost of a single musician on a single session so the risk to the investor can be considerable whilst successful session musicians can make good incomes from their work.

In the pre-streaming era, most session work was concentrated within a small community of musicians who had a high profile within the industry and who were trusted by artists and labels alike to deliver high quality output quickly and efficiently. This enabled that relatively small group of musicians just to earn a very good living from sessions alone.

Three main factors have opened up the 'session market' over the last 15 years and disrupted the old-world concept of the session musician:

First, it was seen as a way to make solid income as a musician as well as delivering credibility to musicians' CVs so more and more musicians wanted to break into the session world.

Second, digital tools and communication meant it was easier for clients to find and commission a wider range of musicians than just those in their immediate networks and so the market opened up to a broader landscape

Third, the proliferation of contemporary music colleges (in London in particular) has trained large numbers of highly competent musicians over the last 10+ years. This has led to a dilution of the market as more and more very high level musicians make themselves available for session work.

Whilst minimum rates for sessions negotiated between the BPI and Musicians' Union have not increased dramatically, overall revenues for successful session musicians have increased due to the large increases in public performance licensing revenues achieved by PPL and other collecting societies around the world.

A final thought is the increase in remote session work. Whilst this has been a growth area over time, COVID-19 has rapidly accelerated the practice and it is expected that many more sessions will be recorded remotely – this is both a threat and an opportunity to session musicians as they will have access to, but be competing in an ever more global market.

Some musicians and creator organisations have made the argument in public that non-featured performers (session musicians) are missing out on the revenues from streaming.

It is certainly the case that session musicians do not derive direct revenue from streaming cash flows, however the increase in the size of the music market has grown massively with respect to the number of sessions being recorded and the number of session fees available in the market.

Session musicians benefit from this growth whilst not participating in the market risk associated with streaming.

To shift the model to one wherein session musicians' revenues are dependent on the success of tracks in streaming would certainly favour the few session musicians who play on the small percentage of very successful tracks. However, it would likely jeopardise rates for the majority of musicians in the middle and lower tiers of the market whose revenue from streaming would in reality be negligible, and whose upfront fees would likely decrease as artists and labels look to hedge this new dilution to their future cashflows.

It is AIM's view that overall the market for sessions has grown and that there is more opportunity than ever for more musicians to generate professional revenues via session services.

However, we recognise the arguments put forward that there has also been a large increase in the number of market participants and that therefore the market has become diluted with a broad range of individual outcomes. We see this market dilution as a mixed blessing. Whilst it is very positive that the session market is no longer a 'closed shop' to a small number of musicians, and that therefore opportunity is democratised and we see an increase in the diversity of musicians, it is potentially harder for each individual musician to establish and develop a consistent career based solely on the delivery of session work.

Some musicians suggest that on-demand streaming should be treated like radio and pay top-up revenues on tracks that are streamed through 'equitable remuneration' that would be administered by Collecting Societies, such as PPL for the UK.

Whilst many have sympathy with the argument that some tracks on streaming platforms generate huge revenues that are not shared with session musicians that perform on those tracks, AIM is not convinced that equitable remuneration as a blanket solution would be the right response.

First of all, radio pays far lower rates than streaming on a per listener basis. Also the imposition of a monopoly market participant such as PPL might bring music licensing under its regulatory framework, which could in turn place significant downward pressure on the industry's ability to negotiate commercial rates for streaming.

Commercially negotiated rates charged to on-demand streaming platforms are significantly higher than the regulated rates achieved under blanket licences. They operate in a meritocractic manner, rewarding success, and to undermine them would be to put at risk the potential for the commercial pricing of music in the market.

Finally, the number of tracks that would in reality pay out a meaningful amount would be minimal with the vast majority requiring administration of fractions of pennies at significant cost.

There are nevertheless voices in the industry arguing strongly in favour of this idea and there are two groups of stakeholders who would potentially benefit – first featured artists signed to old-world (mostly Major Label) deals who had received large advances and who are unlikely to recoup. Second, are session musicians, who historically have had their rights bought out with a fixed fee which insulates them from the risk of the market, and allows investors to fix their level of exposure in advance.

Whilst these two stakeholder groups would benefit in theory, this idea would need a detailed economic impact assessment before full consideration as we identify the following potential risks:

1. Session fees reduce to compensate for the margin reduction to investors
2. Artist royalty rates and advances reduce to compensate for margin reduction to investors
3. Streaming rates reduce due to the downward pressure on pricing for blanket licensing in place of commercial negotiation of exclusive rights
4. Self-releasing artists and artists on favourable deals earn less as payments go via collecting societies instead of direct
5. Fewer session musicians are used on tracks, reducing the size of the market
6. International collecting societies would impose non-negotiable fees on revenues collected overseas for UK performers
7. Potential for increase in 'black box' revenues via the collecting societies – especially overseas where they can be held back and not distributed at all

4.3 Music Managers

The traditional music management business model is under pressure and undergoing significant disruption.

The traditional relationship between artists and managers was a 20% commission model in which the manager would take risk in the early days of an artist's career with a view to a return on investment. The traditional tipping point would most often have been when the artist signed a recording agreement with a label and received a substantial advance along with the expected acceleration of their profile with release of recordings and the accompanying spend on marketing, promotion and tour support. The commission on the advance would go a long way to recouping the manager's investment and the commission from successful artists can be substantial.

The artists and managers also benefit from the other income streams available, including live music, which can be a significant part of the artist's revenue mix. It is worth noting that the label acts as principal investor in the artist's career and particularly in respect of marketing and promotion, which raises the artist's profile and in turn drives multiple other revenue streams for the artist from which the artist, their manager and others in the ecosystem (such as touring session musicians) benefit, but that do not automatically accrue back to the label.

It is important to note that at the moment, the impact of COVID-19 has been to halt almost all performance opportunities and that artist businesses and management commissions will in many cases be much reduced. The temporary reduction in revenues from live, however should not be seen as an indication of long term market failure.

Whilst the model is commission-based, managers have a fiduciary duty of care to the artists they work with and so conflicts of interest should be carefully managed. There is also no barrier to entry to becoming a music manager or relevant qualification / certification.

It is interesting to note that most artists who are in commercial deals they are unhappy with, would have signed those deals on the advice of their managers alongside specialist music lawyers.

In the streaming economy, artist careers can take much longer to build and most will release music themselves, or expect their managers to help and support in roles normally assumed by other expert market participants such as labels, publishers etc.

Managers are effectively having to assume the role of these other expert businesses and are therefore having to invest more and for longer when working with a developing artist. However unlike labels and publishers who secure deals over rights in order to balance risk and return, many managers still operate on a 20% commission model with little long term security that they will be able to recoup their investment.

As a result, many management businesses are moving to a hybrid business model, forming joint ventures with artists and taking control of rights. Many contemporary music management businesses look more and more like independent labels and this has been a growth are within AIM's membership as those managers seek to grow their businesses in these areas.

In the independent community this convergence of business models between management companies, publishing companies and record labels is very much in evidence and the vast majority of AIM Member businesses report commercial interests across several of these historically separate sides of the market.

4.4 Record Labels

The record label remains the main source of commercial investment for most artists. The direct outlay is normally in the form of an advance. Advances differ from loans significantly in that they are recoupable but not repayable. In other words, if the project is ultimately unsuccessful, the artist can walk away and the label would have to write off its investment. It is not like a loan where if repayments aren't made, the lender can repossess your assets.

Advances are normally recouped against the artist's share of revenues from the deal. Once the label has recouped the advance, the artist would start to receive royalties or a profit share depending on their deal.

In addition to direct advances, record labels invest through project managing releases, paying promotion and marketing costs and often will pay 'tour support' – in other words to contribute to the artist's live touring costs in order to facilitate activity to raise the artist's profile and generate sales. The provision of tour support can be recoupable as part of an advance, but does not necessarily require the artist to share revenues from their live business with the record label.

The streaming economy has crystalised two distinct sides to the record company business with one part maximising ongoing revenues from its existing 'catalogue' of recordings and the other taking risk on new projects and artists.

Whilst three international companies dominate the recorded music landscape globally and share 75% of the UK market (the 'Majors'), there is an important and vibrant independent sector that in aggregate makes up the remaining 25% (the 'Indies', which includes independent labels and self-releasing artists). That 25%, or the independent sector, is responsible for 80% of all new releases (source: Impala) and drives both cultural and commercial pluralism.

There are very different practices and approaches between different independent labels, including self-releasing artists, and those practices can differ significantly from the norms expected in dealings with the Major Labels, as might be expected between dominant and niche players in any market.

Independent Labels are often less able to benefit from large parent company balance sheets or the robust streaming cashflows from large catalogues of recordings and so compete on reputation, expertise and specificity where they cannot write the same size cheques as the biggest players.

The independents benefit from structures that aggregate their interests so as to compete effectively in the market for rates, but also benefit from the fact that the diversity of their repertoire and its cultural currency is crucial for the platforms' relevance to a broad base of consumers.

Across the community of creative entrepreneurs in Britain who make up the Members of the AIM community, all are UK registered and pay into the tax system through corporation tax, VAT, National Insurance and personal income tax. They are also net exporters, driving revenues back to the UK from overseas markets.

The foundational principles for working well with artists were set out in the Worldwide Independent Network's 'Fair Digital Deals Declaration' ('FD3') in 2015. That document remains a crucial source of reference for our community and is included as Appendix 1 to this submission.

PART 5. AIM Member Survey Evidence:

AIM undertook a survey of its Members in order to assist our submission to this Inquiry. The survey was returned by a statistically significant number of AIM Members that represent the spectrum of Members from the biggest independent labels to startup self-releasing artists. The results are summarised here:

AIM is a community of diverse businesses that see the market across the horizontal, rather than through one factional lens:

89% reported having more interests than just in master rights

81% declared music publishing interests

46% are involved in music artist management

35% are music creators themselves – artist / performer, songwriter / composer, or producer

AIM is a community of businesses who play and pay fair:

95% state that they have delivered on the commitments enshrined within 'FD3'.

Interestingly AIM has been notified by WIN that since publishing this survey, several newer AIM Members have applied now to formally sign 'FD3'.

97% of respondents confirm that they tailor artist deals in each individual negotiation with the remaining 3% having only one deal structure which is a 50/50 profit share.

73% of Members report either having clear policy on updating pre-digital contracts, or did not exist in the pre-digital era.

Of the 27% that do not have a policy, 22% state that they are in the process of designing and implementing such a policy or negotiate with artists on an ad hoc basis.

19% of AIM Members have a policy on writing off unrecouped balances – of those that do, the average time before write-off is 10 years.

But that is not to suggest there is only one way of doing business.

AIM represents a plurality of deal structures:

84% of Members offer alternative deal structures such as profit sharing with the majority of respondents offering 50/50 profit share on some or all of their deals

62% of the deals done by AIM Members are time-limited licences as opposed to assignments for 'life of copyright'

76% of AIM Member revenues come from the digital market (on average)

AIM Businesses are growing:

2017 aggregate turnover from survey respondents was £198.6m

2018 saw nearly 17% growth to £231.9m

2019 the businesses grew nearly 14.5% to £265.5m in gross revenues

AIM Businesses are investing in new artist projects:

Investment in new artist projects has grown year on year reaching an aggregated £54.4m in 2019 across the respondent businesses, which represents just over 20% of gross revenues. Of that £54.4m, the majority was reported as being paid out in artist advances and recording costs.

Margins:

Of businesses that reported their margins:

Gross Margin on average was around 35%

Net Margin was around 12%

Has Streaming Been Beneficial to Artists?

AIM Members representing 97% of the respondents' artists reported that the commercial marketplace has improved for artists since the advent of the streaming economy.

97.1% of the artists covered by respondents are reportedly better off in the streaming era than in the pre-streaming era.

A number of smaller Members representing far fewer artists, and Members with a higher proportion of income from physical sales, disagreed.

This suggests that more structured businesses with more artists signed to them experience more positive outcomes for artists due to their ability to optimise the impact for artists of the streaming market.

In general respondents who thought the market had improved tended to be more structured businesses that have specialist digital teams.

Respondents who reported that more artists signed to them were better off in the streaming ecosystem tended to be businesses with a higher number of individual artists signed to them, larger teams and more specialist employees.

5.1 Survey Conclusions

The data above indicates that the commercial market in independent music is functioning reasonably well and that artists within strong structures are generally better off, although it is stark to see the disparity of views by number of businesses as opposed to pro-rated by number of artists represented.

There are inevitably winners and losers in terms of streaming revenues, and by business, this appears split almost down the middle by the number of companies. The complexity of operating in the streaming market and the need for scale appears to hinder smaller, less experienced businesses with smaller teams and favour bigger businesses with the scale to employ digital specialists across multiple artist deals.

The market is open to all, but it is a dynamic and complex environment in which skills and expertise matter.

The survey results show that artists have enormous choice between partners, deal types and structures including self-release. The deal types and splits reported in the survey, including the propensity of 50/50 deals suggests that artists do not appear to suffer from an undue power imbalance when negotiating with independent labels and that the majority of independent labels act unilaterally to update long term deals to reflect contemporary expectations.

Issues around legacy contracts appear largely to have been dealt with and non-attributable or ‘black box’ revenues are most often shared with artists on a transparent and pro-rata basis. Bad practices reported anecdotally such as the charging for ‘packaging deductions’ on digital downloads and streams do not tend to occur in the independent sector.

The ethos of businesses in the AIM Community tends to be of transparent partnership with artists to build long term careers and to grow together.

Part 6. Streaming Companies

Streaming has continued to grow rapidly and deliver significant revenues back to the UK music industry.

As with any format or model change, it has resulted in significant changes both in consumer and industry behaviour.

The dominant model for streaming remains free at the point of access which is generally an advertising-funded model with a mix of paid subscriptions.

User-generated content ('UGC') led platforms continue to dominate the space in terms of volumes of users and streams, but continue to lag market norms in terms of pricing (the music industry often refers to this as the 'Value Gap').

Licensed streaming platforms grew up in the wake of the recorded music industry's existential crisis in the early 2000s when unbridled digital music piracy erupted and decimated the sector.

Music piracy remains a primary concern for the industry, with all legitimate models effectively still being forced to compete with free, illegitimate services.

Many subscriptions remain at the price they were to consumers 10-years ago and have not kept pace with inflation.

Whilst the number of subscribers has grown rapidly, so has the level of usage on the platforms. The fixed income from subscribers is divided by the total listening activity in any accounting period. The increase in activity combined with the impact of real-world price deflation has resulted in a decrease in 'Average Revenue Per User' or 'ARPU' as well as lower average effective rates per individual stream.

Rates derived from advertising and how that revenue is shared remains opaque to many market participants and is a source of concern to many rightsholders.

Because the deals tend to be struck on the basis of a revenue share, rightsholders are less able to protect their margins and set the wholesale price for music, so as platforms offer discounts to consumers like family plans, bundles with 'telco's or student discounts, those narrower margins flow directly back to rightsholders and put further downward pressure on ARPU.

There is a careful commercial balance to be struck between lower consumer prices that drive growth and higher prices that increase margin. It is our view that the negotiations between market participants result in the careful scrutiny of this balance.

These factors contribute to a sense amongst artists and rightsholders that streaming platforms undervalue music. In our survey for this submission, on a scale of 1-5 with 5 being 'feel strongly', respondents reported a sense that streaming platforms do undervalue music with an average score returned of 3.82 out of 5.

From an AIM point of view, additional government support in the fight against piracy might encourage streaming platforms to price music more commercially, which would in turn better fund the industry as a whole. We believe this is they key to increasing successful outcomes from streaming.

In fact, 89% of AIM Members think that government should do more to fight digital music piracy that persists as a significant issue in spite of the very positive growth in licensed streaming platforms.

Furthermore, 92% of respondents to our survey believe the UK should use trade deal negotiations to push for stronger copyright protections for UK music businesses. This is of particular focus in the trade deal with the USA and in particular in two areas – first, to have clarity in platform liability in line with, or better than, Article 17 of the new European Copyright Directive, but also in the implementation of the Rome Convention in the US that would bring about public performance rights for performers who are currently missing out on substantial revenues possible from US commercial radio play.

Whilst AIM does not see the streaming deals themselves, our understanding is that rightsholders generally participate in a revenue share model with the platforms keeping around 35% of consumer payments after the deduction of VAT.

Of the remaining 65%, 15% generally goes to the publishing companies (direct and via PRS) and is shared with songwriters, composers and authors. The remaining 50% goes to the recording rightsholder, who in the independent community would be the self-releasing artist or independent label via their distributor, or direct from the platform.

Bearing in mind the role of label as principal source of capital at risk, the idea of reducing their level of overall revenue could seriously destabilise the market and reduce opportunities, particularly for new artists on whom labels are required to take the highest level of risk. For self-releasing artists investing their own money into projects, the same logic applies – they must have a reasonable opportunity to recoup their investment.

In terms of the margin taken by the platforms as they scale, the argument should be there for them to reduce their margin and allow more revenues to flow to the industry, its investors and creators. However as they scale, their power in negotiations increases and there is concern that they will apply ever-increasing pressure to increase their margins to the detriment of the sector and its future sustainability. This might be an area in the future in which competition concerns could emerge and we recognise the strong existing framework in which the CMA operates.

Beyond the share of revenue in the ecosystem, it is essential that both consumers and creators retain confidence that streaming is a level playing field and a meritocratic market.

Concern exists to be sure of transparent editorial practices and the use of algorithms to recommend music on the basis of consumer preferences and habits, rather than paid-for or otherwise contractual promotion that would serve to reinforce the biggest players in the market against the market's long term interests for the consumer and for cultural diversity.

6.1 USER CENTRIC PAYMENT SYSTEMS ('UCPS')

Much has been made by some recently on whether a user-centric approach to streaming payouts would be 'fairer' than the current system which is based on 'market share' – in other words, the total value of payments is divided by the number of streams by the individual consumer in a given period and distributed on a pro-rata basis.

In our analysis, we are concerned that UCPS prejudices new artists and independent artists and would create a market in which discovery is devalued with a knock-on negative impact on the democratisation of the market.

New artists and independent artists tend to be discovered by streaming platform users that listen to the highest number of tracks in any month. They are keen listeners and actively seek out the next great artist. Therefore each of their individual streams under UCPS would be worth much less than say an un-engaged music listener who listens to one album or a handful of tracks per month. Trials run by platforms illustrate these outcomes.

Trials run in France suggest local repertoire is favoured by UCPS and this presents an attractive case, however these figures are apparently distorted by the listening preferences of middle-aged French streamers who enjoy French 'Chanson'. This specialist genre that attracts an older demographic of listeners who tend to listen to less music overall, and therefore deliver much more valuable streams to artists in this specialist genre. In turn, the value of local repertoire appears to increase whereas it does not favour younger French artists in other genres who are trying to establish their careers. There is no indication that UCPS in the UK would favour traditional UK repertoire over new or international repertoire.

In the trials run so far, there does not seem to be a consistent understanding of who would 'win' or 'lose' from such a change. We do know that the costs for implementation would be high and would ultimately be borne by the artists. We also have not seen evidence that this shift would add significant additional revenues to the streaming economy, so it is more a question of redistributing wealth within the economy and to the detriment of the next generation, rather than building future value in the economy.

The final argument often presented in favour of UCPS is around fraudulent streams. Whilst some types of fraud might be mitigated using this approach, by no means all are and as with any system, new loopholes will be found in due course. The platforms must be incentivised to invest further in anti-manipulation systems and to ensure the streaming economy is protected from abuse but there is as yet no compelling evidence that UCPS would eliminate fraud or manipulation in the streaming market.

PART 7. Summary Answers

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

Ad-funded and subscription but both competing with digital piracy on which increased government support is needed to ensure the continued promotion of a viable commercial market.

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

Consumption on streaming platforms is by track, rather than by album, and so there is a propensity for a hits-driven, 'winner takes all' market. That said, artists with committed fans can generate sizeable revenues from streaming even in specialist niches.

Streaming seems to favour some genres more than others and different platforms appear to appeal to different sorts of consumers with different tastes and behaviours. Artists benefit more than ever before from how they build their businesses and manage their revenue mix across formats, platforms and engagement. This choice is key to enabling each individual artist to shape a career that most effectively connects them with their fans.

We need to ensure a plurality of platforms to maintain consumer choice and competition in the market for the future.

Algorithmic curation is an opportunity for diverse repertoire to be discovered as, if the playing field is level, it means music will be recommended to the consumer on merit, rather than market share or spend. Efforts should be made to sustain confidence in the impartiality of the algorithms and of platform editorial.

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

Streaming has been the platform on which the music industry has returned to growth after many years of pain caused by digital piracy. The downward trend in ARPU and the lack of growth in consumer pricing make some analysts cautious, however strong support on anti-piracy and further global mass-market adoption would serve to counteract those concerns.

Streaming has already democratised access to the market and efforts must be taken to maintain a level playing field for all participants and to resist any anti-competitive practices, either by platforms or by dominant rightsholders.

The growth of streaming platforms and the tools (such as digital distribution) that have developed to give access to them have democratised the market for artists – enabling a proliferation of choice in terms of deal types and structures, including self-release.

Record labels have faced downward pressure on their margins as they have offered increasingly generous deals to artists in an increasingly competitive market.

The physical market continues to soften but remains resilient. Particularly for vinyl and high-end packaging and box sets. Independent specialist retail has seen remarkable performance during the COVID-19 lockdown with strong support and reinforcement, both from the music sector, but also consumers who so far continue to place a premium on the relationships and specialist advice those retailers deliver.

- **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?**

The UK should take the opportunity of Brexit to implement a world-leading contemporary copyright regime that would make the UK the leading global centre of excellence for the investment in and making of music content.

AIM would like to see government support in the following areas:

1. A world-leading contemporary UK copyright framework that includes platform liability, so that platforms whose profits derive from inclusion of music content are not able to hide behind 'safe harbour' provisions to avoid such liability.
2. Strengthened copyright protections in trade negotiations – especially with the USA
3. Ensuring compliance with international copyright treaties including enforcement measures – especially with the EU, post-transition
4. Further strengthening of anti-piracy initiatives – especially in the digital market
5. Reinforcement of access to investment capital via a creative industries tax break
6. To uphold the current, strong CMA framework to prevent anti-competitive practices

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

From the perspective of the independent sector, much work has already been done to address the concerns of the creator community in terms of the deals made between participants within the music industry. Focus should be on growing revenues that we can share fairly, rather than government intervention in a functioning commercial market.

Strong copyright and strong support on combatting piracy are the two most effective ways for government to ensure a vibrant and healthy music industry for the UK.

Other payment models for streaming are being proposed, however we do not see data that suggests they would deliver any significant or consistent benefit to market participants, and, in fact, the data we have seen suggests a reduction of value to new or independent artists.

Additional support could come from incentivising investment in music content in the UK such as a creative industries tax credit for new music investment to sit alongside those that already exist for film, animation, television and computer games – this would enable much more dynamic growth, particularly from UK music entrepreneurs whilst also encouraging inward investment from overseas markets such as the USA.

Part 8 - About the author, Paul Pacifico:

Paul Pacifico is CEO of AIM, the Association of Independent Music which represents the UK's community of music entrepreneurs including independent labels, service companies and self-releasing artists amongst its 1000+ members.

For two years prior, Paul was CEO of the UK's Featured Artists Coalition ('FAC'), and founding President of the International Artist Organisation ('IAO'), which unites artist organisations in music from different countries to speak with one voice.

In his early career, Paul spent almost 10 years in the City in banking and strategy consultancy where he became a Certified Fraud Examiner, before leaving in 2005 to focus on Specific Music which he had founded in 2003. Specific Music is an independent label and creative music consultancy which designs and delivers bespoke music for industry clients as well as brands and charities.

Paul also set up The AllStars Collective, which is made up of 40 of the world's top session musicians and was signed as an artist to UK independent label, Right Recordings.

Paul teaches at Berklee College of Music's campus in Valencia, Spain, where he delivers the 'Artist as a Startup' course on their international Masters of Music programme in Contemporary Performance.

Paul is a Trustee of English National Ballet, sits on the Boards of UK Music, Impala, the Music Advisory Board for London's Roundhouse and a member of the Strategic Advisory Board for the Creative Industries Federation.

Paul continues to perform and record as a harmonica player and work as an independent Creative Director on projects.

He has worked with artists across genres and generations including Quincy Jones, Dionne Warwick, Nile Rodgers, Stevie Wonder, the Royal Philharmonic Orchestra, Ronnie Wood, Maceo Parker, John Newman, Beverley Knight, Lemar, Earth Wind & Fire, Tito Jackson, Sophie Ellis-Bextor, Sister Sledge, Heatwave, Jimmy Somerville, Mary Wilson, Melanie C, Baluji Shrivastav, Joss Stone, Bonnie Tyler, High Contrast, Nik Kershaw, The Pointer Sisters, KT Tunstall, Jocelyn Brown, Tom Middleton, Karen Harding, Duane Eddie, Imelda May, Jimmy Cliff, Sly & Robbie, Maxie Priest, Ernest Ranglin, James Cotton, Nacha Pop and Dr John.

APPENDIX 1 – THE WIN FAIR DIGITAL DEALS DECLARATION ('FD3')

"The big print giveth and the small print taketh away."

- Tom Waits

FAIR DIGITAL DEALS DECLARATION

We make the following declaration in connection with the distribution of recordings in digital services.

We will:

1. Ensure that artists' share of download and streaming revenues is clearly explained in recording agreements and royalty statements in reasonable summary form.
2. Account to artists a good-faith pro-rata share of any revenues and other compensation from digital services that stem from the monetization of recordings but are not attributed to specific recordings or performances.
3. Encourage better standards of information from digital services on the usage and monetisation of music.
4. Support artists who choose to oppose, including publicly, unauthorized uses of their music.
5. Support the collective position of the global independent recordcompany sector as outlined in the Global Independent Standard.

We wholly disapprove of certain practices, which leave artists under-recompensed and under-informed in the digital marketplace and will work together with the artist community to counter these practices.

Signed on behalf of [Label]

[Print name] [Date]

GLOBAL INDEPENDENT STANDARD

The points below represent the collective position of the global independent record company sector, put forward by WIN.

All points are equal in stature, and are not numbered according to any form of ranking or significance.

1. We, the independents, will work to grow the value of music and the music business. We deserve equal market access and parity of terms with Universal, Sony and Warner, and an independent copyright should be valued and remunerated at the same level as a major company copyright. We will work with the majors in areas

where we have a common goal. We will work to ensure that all companies in our sector are best equipped to maximize the value of their rights.

2. We support creators' freedom to decide how their music may be used commercially, and we will encourage individual artists and labels to speak out directly against unauthorized uses of music as well as commercial uses of music that stifle that freedom. We support creators' right to earn a living from their work, which should be respected as a basic human right. We expect any use of music by commercial third party operators to be subject to fairly negotiated licensing terms, in a market where any use of music is an end in itself, not so-called promotion driving a subsequent sale.
3. We support independent music labels that treat their artists as partners and who work with them on reasonable commercial terms, noting that labels are investors who deserve a fair return alongside their artists.
4. We promote transparency in the digital music market; artists and companies are entitled to clarity on commercial terms.
5. We oppose further consolidation in the recorded music, publishing and radio sectors since this is bad for independent music companies, their artists and fans, as it reduces market access and consumer choice.
6. We support initiatives which confront market abuse, and which aim to adapt competition laws to promote independent market access and foster collective responses by independents to potentially anti-competitive conduct by large operators.
7. We recognize that all independent music businesses contribute to local culture, diversity, jobs and export opportunities, and multiply the economic success of related industries. We will ask governments to promote and support the independent music sector in securing access to finance and tax credits, and to local and international markets.
8. We hold that collecting society revenues must be allocated and distributed accurately and transparently. This includes distribution of unclaimed money that logically belongs to the independents. We will push for the independent sector to be formally represented in the governance of collecting societies, with trade associations being eligible for board seats.
9. We support the creation of a worldwide track-level sound recording rights database, subject to neutral governance and ownership, to ensure accurate distribution of rights revenues to their rightful owners.
10. The independents will, as always, actively encourage and support new commercial opportunities for music, and will continue to support and develop new, legitimate business structures and partnerships.