

'Economics of music streaming' Enquiry - DCMS Select Committee

#BrokenRecord Campaign submission

Written by Tom Gray, founder of the #BrokenRecord Campaign (supplementary to oral evidence).

Key recommendation

Whenever a song is played in public artists receive 'Equitable Remuneration', yet this does not presently exist in UK streaming.

It is time to meet the challenge of the streaming era and, at last, create an income stream for artists and performers that works separately and in parallel with existing contractual arrangements and copyright law.

We are world leaders in music, and the UK music industry is a major contributor to the UK economy through GVA, growth and exports.

But the UK could also lead the world in creating a better-balanced music market. We could move streaming-related income into our cities & regions and, in turn, reduce any burden of a low paid sector on the state's finances and cultural funds. Should such an income stream exist, it would be rational to anticipate benefits to 'UK plc', our talent pipeline, industry infrastructure and wider culture in general.

As a result, the #BrokenRecord Campaign has **one key recommendation**:

Amend UK legislation by extending the right to 'Equitable Remuneration' that already exists for 'Communication to the Public' (broadcasting) to cover the 'Making Available' right, so that artists can earn from On Demand streaming in the same way they have long earned from radio and TV transmissions.

This would guarantee an income stream for artists irrespective of contractual terms and guarantee all recording musicians (whose work is listened to) some income from streaming for the first time.

It would go some way toward rebalancing the licensing arena, where Major Labels' market dominance is the main factor in determining the slicing of the streaming pie.

We humbly request that the committee recommends to Government this amendment to existing legislation.

YouGov Polling on behalf of #BrokenRecord Campaign

Respondents were presented with descriptions of what the various parties do e.g. "Record companies invest in artists, often own their recordings and pay for the marketing of music". Next they were presented with the typical rates each party receives and then asked to state their opinion. These were the results:

- **77% say artists are not paid enough.**
- **76% believe songwriters are underpaid.**
- **81% would like session musicians to receive some share of streaming revenue.**
- **83% are of the opinion that most record labels are paid too much.**
- **68% say the streaming platforms are overpaid.**

All figures are from YouGov Plc. Total sample size was 2,069 adults, of which 1,099 use a paid for music streaming service. Fieldwork was undertaken between 24th - 25th August 2020. The survey was carried out online.

When there is so much that is inadequate about the streaming and copyright environment, why this recommendation in particular?

The vast majority of UK-based (many nationally and internationally known) creators are earning next to nothing while a few large corporations – which are not based in the UK - are experiencing their greatest period of profitability in over two decades.

“The good news is that our [profit] margins are way better when compared to the last great era of profit 20 years ago; our margins are amazing now. Revenue, profit margin, market share, all of those things are a [balancing] act. At Sony [Corp], margin is really important, and our margin is excellent. Are we perfect? Of course not, we have other areas to improve [in] — but the margin is not an issue. Obviously, I’d like revenue and profit to be perfect, but the margin will not go down, it will get better.”

Rob Stringer, CEO of Sony Music (Music Business Worldwide 2019)

Streaming now accounts for around 75% of recorded music revenue in the UK. Subscription streaming services (£1.003bn) now generate more than three times the amount of money spent on physical music (£318.1m) in the UK.¹ Spotify – the global leader in streaming with 286 million users, has market cap valued at around \$50billion. Universal Music Group is planning an IPO in 2022 and is estimated to be valued at around \$30 billion². Universal still owns around 3.7% of Spotify valued at \$1.6 billion³. What brings this huge value? Marketing? Servers? Curated playlists? A little perhaps, but, commonsensically, it is **music and the listeners it attracts**. However, the vast majority of individuals who make that music are not enjoying this boom time – very far from it.

The inflated profitability of the Major Labels comes as a result of better margins than in the physical era. They do very little manufacturing and physical distribution now. They do not have scouts in every city when the internet brings talent to their offices. They do not need sales personnel across the regions trying to move copies of a new single into your local record shop and yet, the terms of historic contracts (still based around these costs), are still being honoured. Indeed, when you stream some of your all-time-favourite music, labels will pay out the artist’s royalty based on 90% of returns because, in their contract, 10% of physical stock could be “damaged in transport”. Ridiculously, the labels often keep an extra 10% for physically breaking “records” even when they are in fact internet streams. Contemporary contracts are better, but the artists and their representatives still struggle to improve the historically very low royalty rates.

According to survey data over half of UK musicians earn less than £20k per annum⁴. Another suggests musicians earn a median income of £16,250 from their craft.⁵ One more states that 90% of artists earn less than £900 per annum from streaming⁶. Some estimates put the average share for artists from streaming revenues at around 4-6%⁷ of the total and, whilst a few fully independent artists are succeeding in the streaming environment, their stories are rare, and they tend to conform to one very-unusual type of artist: solo and highly-playlisted. We’d expect to see many would-be artists failing (because they do not pass muster), but tragically we see a huge number of complaints of low earnings from even the world’s most successful artists^{8&9}. Young artists struggle to find investment in their careers, and organisations such as the PRS Foundation and the Arts Council increasingly

¹ Goldman Sachs Global Investment Research

² <https://variety.com/2020/music/news/universal-music-group-ipo-confirmed-2022-1234810945/>

³ <https://www.musicbusinessworldwide.com/universals-stake-in-spotify-is-worth-over-1-6bn-but-its-got-no-plans-to-sell-up/>

⁴ <https://www.musiciansunion.org.uk/Files/Reports/Industry/The-Working-Musician-report>

⁵ <https://psrc.princeton.edu/file/516/download%3Ftoken%3DNcTZLek+&cd=1&hl=en&ct=clnk&gl=uk>

⁶ <https://www.payperformers.eu/performer-survey-results>

⁷ <https://www.payperformers.eu/facts-figures>

⁸ <https://theindustryobserver.thebrag.com/kanve-wests-record-deal/>

⁹ <https://www.theguardian.com/technology/2013/oct/07/spotify-thom-yorke-dying-corpse>

have to step in to provide funding for hundreds of UK acts despite flourishing commercial returns within the wider music business.

We should not change the music industry *because* of Covid19; however, it has clarified that the industry has long required an intervention and taught us a valuable economic lesson. Without touring income, and with diminished licensing income from closed business premises, UK creators have very little income. This despite Sony¹⁰ and Universal¹¹ reporting close to \$1billion revenues from streaming in Q1 2020 and considerable other evidence of a thriving and growing streaming business¹². Moreover, the artist community has increased considerably in number; indeed, nearly 40,000 tracks are being added to Spotify every single day¹³. The need to rebalance the system grows ever more pressing with the rocketing expansion of this creator constituency.

Market dominance in the music industry is indisputable. Around 70% of the world market is owned by three companies who all use suspiciously similar artist contract terms. In a typical week, 88% of Spotify's Global Top 50 most-streamed tracks are 'Major Label' releases¹⁴. It is clear that global success is closely-aligned with 'Major Label' participation and, irrespective of how this position of dominance is maintained, there can be no expectation of fair negotiation between performers and such behemoths. Whether it was The Drifters signing to Atlantic in the 1950s or a kid from South London signing to Universal in 2020, the house always wins – not because of bad gambling skills, but because the game is heavily rigged in the house's favour. Generationally, artists and musicians have been long been at a huge disadvantage. The royalty rates are fixed low, yet the terms of artists' contracts are often breached by the labels with little or no capacity for redress (historic auditing rights are notoriously difficult for artists to enforce).

Streaming, with its many positives for the music consumer, exacerbates the inherent problem of the existing royalty model for artists. Artists, with such low royalty rates, often wait years (or forever) to earn from streaming what they received from analogous physical sales. Cashflow is, of course, a serious problem for any business and, in this environment, the tens thousands of small businesses and sole traders working in the sector desperately need a cash injection to survive. Equitable Remuneration would help kick start a skilled sector which, largely due to the application of old terms onto the new streaming model, remains in the doldrums.

Equitable Remuneration is already a right granted to performers of music when their recordings are played on the radio or in public. It is possible extend this right for streaming to create an equitable and reliable stream of income (that cannot be affected by poor contractual terms). We see this right administered, as under the present system for radio, by the PPL. This would tip the scales (to some extent) back toward the entrepreneurial music-makers, providing much needed income and investment in the wider UK economy. The workforce of music makers (at least 52,000 musicians in the UK¹⁵) are based in every region, every city and region of the nation; they come from every ethnic and social background; they live in every kind of community. In the words of Queen Victoria, "Beware artists. They mix with all classes of society and are therefore most dangerous." To put money in their pockets is to put money in every corner of our nation.

A decentralised, well-funded music sector makes for a thriving UK plc.

¹⁰ <https://www.musicbusinessworldwide.com/another-billion-dollar-quarter-for-sony-music-as-streaming-revenues-jump-27-4/>

¹¹ <https://www.musicbusinessworldwide.com/universals-streaming-revenues-topped-1bn-in-q1-with-total-recorded-music-up/>

¹² <https://www.musicbusinessworldwide.com/universal-getting-close-to-generating-10m-per-day-from-streaming-services/>

¹³ <https://www.musicbusinessworldwide.com/nearly-40000-tracks-are-now-being-added-to-spotify-every-single-day/>

¹⁴ Spotify Global Top 50 market share June 29th, 2020 - Goldman Sachs Global Investment Research

¹⁵ <https://www.statista.com/statistics/319278/number-of-musicians-in-the-uk/#:~:text=Data%20on%20the%20total%20number,number%20of%20musicians%20in%20the>

However, there is jeopardy for our world-leading music industry. There is ample evidence of the contribution of music to the UK economy¹⁶, but there is mounting evidence of a problem developing in our talent pipeline¹⁷. If music creators can't earn fair rewards, then fewer people from non-privileged and diverse backgrounds will be able to afford to enter and stay in the industry. This endangers Britain's global lead: we will, in effect, be drawing water from an ever shrinking well.

The foreign-based Major Labels are, of course, a form of investor in the UK music industry, but it is important to realise that some practices such as artist advances and rights buy-outs do not necessarily fund the wider music infrastructure or grow the UK economy. As a matter of discovery, it would be good to learn how much of their streaming income is spent solely on the activity of recording and producing music in the UK as opposed to buying it out without development investment at reduced risk (their 'Artist Repertoire' statistics quoted as 'investment' never separate out these different behaviours). After all, the Major Labels now rarely invest in artist development as they did in the 20th Century¹⁸.

Please consider the graph below:

These are figures obtained from Warner Music's recent *Initial Public Offering* papers. In just 3 years, as a proportion of recorded income, 'Artist Repertoire' (what the Major Labels would describe as 'investment') has dropped by 4% while their profitability has skyrocketed.

Revenue by Type	For the Fiscal Year Ended Sept-30			For the Fiscal Year Ended 30.09.2020		
	2017	2018	2019	Q1 - 31.12.19	Q2 - 31.03.20	Total 6 months to 31.03.20
	\$	\$	\$	\$	\$	\$
Digital	1,692	2,019	2,343	633	626	1,259
Physical	667	630	559	184	94	278
Total Physical and Digital	2359	2649	2902	817	720	1537
Artist services and expanded-rights (tour, merchandise)	385	389	629	188	115	303
Licensing (adverts, films)	276	322	309	79	72	151
Total Recorded Music	3,020	3,360	3,840	1,084	907	1,991

	2017	2018	2019	Q1	Q2	YTD 2020
Artist and repertoire costs	964	1,054	1,178	294	264	558
Product costs	628	700	827	254	175	429
Total cost of revenues	1,931	2,171	2,401	548	439	987

	2017	2018	2019	Q1	Q2	YTD 2020
Artist Repertoire costs As a proportion of recorded income	31.92%	31.37%	30.68%	27.12%	29.11%	28.03%

Conclusion

While Major Label executives are incentivised by 'market share', music copyrights simply cannot realise their true market value. The creator industry is facing an economic crisis while the Major aggregators of rights are in super-normal-profitability/rent-seeking mode. The future, with linear broadcasting in sincere retreat, is bleak.

We have an opportunity, in strengthening the rights of our creators, to rebalance the industry, invest in our talent and keep income inside the UK.

Put simply, what's good for creators is good for the country.

On behalf of the many creators who have participated in the #BrokenRecord campaign, thank you for reading.

¹⁶ <https://www.ukmusic.org/research/music-by-numbers/>

¹⁷ <https://www.ukmusic.org/research/talent-p/>

¹⁸ <https://www.youtube.com/watch?v=Z5CUHfGwjPo>