Written evidence submitted by the BBC

DCMS Committee Inquiry on Economics of Music Streaming

1.**UK music plays a key role in showcasing the diversity of British culture to the world, and in securing the UK's global reputation as a creative nation, driving trade, exports and tourism across the UK.** Together with the wider creative industries, this role will be more important than ever in the UK's post-Covid recovery. The music industry is an ecosystem with a variety of players through which artists, performers and composers are connected with fans. Music streaming is a single element of that and should not be looked at in isolation. We encourage a holistic approach to the sector.

2. **The BBC is always looking at the best and most up to date way to serve our listeners**, including through BBC Sounds, YouTube and specialist podcasts. The BBC's role in audio is to showcase the best UK talent; to bring world-class news and storytelling to the UK and the world; to create opportunities for new British artists; and to help fans discover new music and build relationships with those artists.

3. **The BBC provides distinctive and unique audio content to listeners.** BBC radio networks play a far greater variety of music across the BBC than any other stations[1]. They are committed to developing and breaking new artists, helping audiences to discover different genres, and to bringing special live performances to them in a way only the BBC can. Across our stations, we feature a range of documentaries, specialist shows, news programming, religious/faith content and debates, all of which form a core part of our public service offer to our listeners. BBC Sounds curates this unique content to ensure it reaches our digital audiences.

4. The BBC provides unparalleled support to the UK music industry and plays a key role in the UK in discovering, developing and promoting new British talent. On Radio 1, for example, over 50% of the music played on the station is new music and over 50% of the music played comes from UK artists. Through initiatives such as BBC Introducing we showcase undiscovered artists and give them an audience through our radio networks. As of its 10th anniversary in 2017, artists supported by BBC Music Introducing have gone on, between them, to release:

- 14 UK No.1 singles
- 68 UK Top 10 singles
- 28 UK No.1 albums
- 54 UK Top 10 albums

As of March 2020 there were over 650,000 tracks – over 3 years-worth of music - uploaded to the BBC Music Introducing website and 250,000 artists are registered. This continues to grow. The BBC broadcasts around 30,000 unsigned tracks a year.

5. **Radio (whether BBC or commercial) remains a significant part of the UK music industry**. Increasingly, however, we know live listening is just one element of a suite of listening options

[1] Across 2019/20, the average monthly overlap between the top 100 most played songs on Radio 1 and top 100 most played songs on Capital London, Kiss and Radio X was 26 songs. Radio 1 added 380 tracks to its playlist during 2019, of which 154 were by new and emerging UK artists. 145 tracks were added to the Capital Network's playlists, of which 31
were by new and emerging UK artists. Radio 2 BBC Annual Report and Accounts 2019/2020
http://downloads.bbc.co.uk/aboutthebbc/reports/annualreport/2019-20.pdf

audiences expect to have available. The way audiences, especially young audiences, listen to music is changing.

6. **Streaming is increasingly popular among younger age groups, but take up is increasing across all age groups.** [2] The rise of music streaming, of podcasts, and the explosion of radio stations on DAB and online means there is more choice than ever before. Music streaming has mostly impacted listening via hard media (i.e. CDs, with the exception of Vinyl which is seeing a revival). Increasingly traditional radio is also feeling the pressure from streaming services.

7. **The BBC has evolved and developed its linear and on-demand offer in response to streaming's popularity and to continue to fulfil its Mission and Public Purposes. BBC Sounds, was developed as part of this response**. BBC Sounds is a unique mix of live and on-demand music and speech. It is curated by music lovers and focused on artists. As listeners tell us, this is an experience that is distinct from, and complements, the all-catalogue offers of music streaming services.

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

Consumer facing services

8. **The development of streaming services has been driven by improvements in mobile internet, broadband and the range of consumer devices across mobile, web, smart speakers and smart TV platforms.** Streaming platforms have both their consumer offer and the offer they make to artists.

9**. BBC Sounds is unique, bringing together the best of speech and music in one place.[3]** Funded via the licence fee, it's fundamentally different from other streaming and music offers in the market, and is aimed at promoting and developing UK talent to UK audiences. The continued development of BBC Sounds means continually reviewing the audio market to ensure we deliver on our distinctive offer for both audiences and artists.

10. **We observe that the dominant business model of music streaming is a consumer facing 'freemium' model.** Providers offer a free, ad funded tier and then a premium, ad-free tier. The premium tiers are usually subscription based with a one month rolling contract. There are usually a range of packages which offer differing fidelity, range of devices on which the music is accessible and number of users on the account (i.e. family packages). This is the model employed by Spotify, the market leader in the UK. Other major operators such as Apple with Apple Music and Amazon Music offer only premium tiers.

11. **It is important to note that Spotify is a standalone platform not integrated with platforms through which it is distributed.** It is reported that two of the major music label's own a non-controlling share in Spotify.[4] Since its launch, Spotify has only seen limited profitability, making

---

[2] The winter 2019 results from the MIDAS survey show that a record 94% of 15-24 year olds now claim to have ever used on demand music services and continue to be more than twice as likely to listen to music services in an average week than all adults (65% vs 30%). Spotify continues to dominate music streaming hours, accounting for over three-quarters for all adults (76%), and rising to 86% for 15-24s.

[3] BBC Sounds is a unique product offer giving access to live BBC Radio, catch-up Radio, Podcasts (on-demand speech) and music mixes (curated blocks of music based on music heard live across the BBC Radio and TV in the past 30 days). BBC Sounds doesn't offer on-demand streaming as available on commercial platforms where tracks play end on end.

[4] Reported https://www.rollingstone.com/pro/news/who-really-owns-spotify-955388/

losses in most years. Spotify is continuing to diversify into other audio products such as podcasts, producing its own content, to reduce its cost base.[5]

12. **Other providers, such as Apple Music (although now available on Android devices) and Amazon Music, while recent entrants, offer their services as part of their eco-system. As eco-system providers they face different incentives to stand alone providers.** For example, Amazon's smart speaker products with the built-in Alexa voice assistant have supported the uptake of Amazon Music, which is bundled into their Prime subscription model. The economics of Amazon's decision making and their consumer offer are therefore quite distinct from standalone third party offers.

Payments to music rights holders

13. **The major costs of streaming services are the rights costs to artists, performers and composers (collectively rights holders) for use of their IP. Rights cost of music can vary depending on the use and format i.e. Radio or streaming. The dominant method of payment is that of a pay per stream.** This means that rights holders are paid in relation to the volume of tracks that are listened to on the streaming service. Usually rights holders are paid in relation to their total streams across all users on the platform.

14. **Pay per stream favours popular artists, who gain a lot of streams, and incentivises shorter songs, where more streams can be completed in any given time period.** Classical music which tends to be of a longer duration than pop is particularly disadvantaged in this system. As rights holders are paid based on aggregate streams there is less of a link between the individual listening and payment to the artist e.g. if 50% of listening on the platform goes to an artist that you don't listen to, 50% of your subscription fee is in effect paying that artist. This means that heavy users also have a greater impact on the revenues of rights holder than light users as they generate a greater number of streams.

15. **Alternative business models are possible and these have different winners and losers. Examples include pay per second and user centred payments.** In a pay per second model payments to rights holders are made on the basis of time streamed rather than individual tracks. Such an approach avoids skewed incentives on track length. In a user centred payments model payments are made in relation to usage by users. Under such a model payments to rights holders are more closely related to users listening, for example, your subscription fee would be split (on either seconds or plays) between the tracks actually listened to regardless of the overall volume of content you consumed.

16. **In considering business models, remembering the music industry is an ecosystem is critical**. Whilst it is important that rights holders are fairly remunerated, over inflated rights costs can potentially drive music services to be unprofitable or prevent new market entrants which may not be in consumers' interests.

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

17. Streaming services are mostly delivered via mobile apps, however, they are increasingly available via other internet enabled devices including voice activated speakers and in-car audio. **While the**

---

[5] Reported: https://www.theverge.com/2019/10/28/20936612/spotify-q3-earnings-cheaper-plans-profitable-costs-cuts

music content on mainstream services is broadly homogenous (specialist services do exist that focus on specific genres such as Classical or Welsh music) the services compete on features such as the quality of their curation and playlisting.

18. We understand that most streaming services use automated algorithms to drive their curation and playlisting. **BBC Sounds provides a distinctive human curated music offer that we call music mixes, which provide blocks of listening in topics such as artist, event or mood. This curated approach to music streaming is different from algorithmically general playlists.**

19. **While we consider human curation to be important and one of our key differentiating features, we do not know whether automated curation is driving different listening habits within streaming services**.

20. Some streaming platforms, such as Spotify and Amazon Music, have diversified into areas such as podcasts and 'live-like' features such as Spotify's 'Your Daily Drive'. This takes them beyond music streaming into areas traditionally occupied by broadcasters and other content providers. **It's important to ensure that the powerful position of music streamers – especially those with an established platform advantage – is not used to reduce access to other forms of audio such as live radio, radio on-demand and podcasts, all of which audiences expect to be able to access easily and for free. In particular, we want to be sure that music streamers do not use their position to undermine the prominence of live radio, which remains the most popular form of audio consumption in the UK , accounting for 72% of all audio listening each week (MIDAS, Spring 2020) and a vital part of the PSB landscape, providing a range of diverse, distinctive content including music, speech and - critically – news.**

21. **With both the increased presence of eco-system providers in smart speakers and in-car we do have concerns that third party providers such as Spotify, the BBC and the Commercial radio groups will increasingly be intermediated in their relationship with the listener. The eco-system players are well placed to act as gatekeepers over the listening environment.** This vertical integration can tilt the market towards the eco-system's own services ahead of third parties whether they are alternative streaming services or other forms of audio such as Radio broadcasters. This could result in a reduction of competition to the detriment of both consumers and performing artists where this limits viable routes to market.[6]

22. **The narrow search returns offered by voice assistants – controlled by the same platforms that own some of the main music streaming services - could further reduce competition and choice in audio distribution**. We have noted that, in many cases, when users request genre-led listening through a voice assistant, they are served a playlist from a music streamer, rather than a radio station. For example, if you ask Google assistant to play a jazz radio station ('Okay Google, play a jazz radio station'), Google responds 'Okay, check out this Jazz music station on YouTube music' and plays a streamed-playlist. This seems at odds with what UK users would expect when requesting 'radio' given the prevalence of live -radio listening. In this case Google is interpreting a request for radio as a request for a streaming service and offering the listener no choice. This is possible due to Googles control of the multiple parts of the pipeline.

[6] This competitive harm has long been considered by competition authorities, such as European Commission's action against Microsoft in relation to Internet Explore and more recently in its cases against both Google (Shopping) and recently announced case against Amazon. It is also recognised in Competition and Market Authorities recent market study into Online Platforms and Digital advertising, and in the 2019 Furman Review 'Unlocking Digital Competition: Report of the Digital Competition Expert Panel'

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

23. **As we stated above, music streaming is part of an eco-system from artists, record labels, record shops and radio through to the consumer. It is important that there remains a range of viable routes to market for the artists. This ensures that artists can reach a wide listening base and ensures audiences have choice in accessing artists and exposure to up and coming talent.**

24. **Limited routes to market will make it harder for audiences to discover a wide range of content, encounter new talent, and broaden their listening horizons. This will in turn make it more difficult for new and less mainstream artists to break through and find the audiences they need to fund their creativity. If new artists are unable to make a living, acts will exit or be discouraged from entering the industry.**

25. **BBC music radio in particular is designed to showcase a wide range of genres and acts and champion new music.** This is part of our DNA written into our Mission and Public Purpose and part of our distinctive offer, that Ofcom holds us to account for publicly. While streaming services provide access to huge catalogues of music they cannot alone support the sustainability of the industry and a new talent pipeline.

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?

26. **The consultation is right to ask about the significance of copyright infringement and effective enforcement.** In referring to the Copyright Directive, it also raises the question of the value flowing to right holders from online content-sharing service providers.

27. **When considering the future role of copyright in the UK, it is worth first noting that - overall - the current regime serves the enduring purpose of copyright to incentivise and reward the creation and distribution of original works.** As the BBC, we are both a major rights holder and rights user. As a PSB, copyright enables us and our partners to deliver our mission to inform, educate and entertain the nation, with huge cultural, social and economic benefits. Copyright also underpins the global strength of the UK music sector. The UK carried out an extensive review of its copyright regime for the digital age fairly recently and it now provides a solid basis for the future. The UK is also an international leader in copyright enforcement. We welcome the authorities' commitment to invest in PIPCU (which is recognised as a global leader in criminal enforcement of IP crime), the UK's regime for injunctions (including site blocking injunctions, one of the main weapons in the battle against copyright piracy), actions on illegal streaming, and international engagement and cooperation with trading partners and law enforcement around the world. That includes seeking strengthened IP protection and enforcement regimes in trade agreements.

28. **No major review or reforms are needed in this area – businesses and creators need stability. But there are areas of potential targeted change.** In particular, as the question implies, the UK will not implement the EU Copyright Directive 2019. We would encourage policy makers to examine how the measures work in practice and what would make sense for the UK market. Given the global nature of the internet, UK platforms and rights owners will have to engage with/conform to this Directive, whether or not it is implemented in the UK. On the other hand, provisions on the 'value

gap' in Article 17 seek to ensure a fair exchange of value between online platforms and right holders. This is a fundamental principle for the sustainability of the UK's music sector and other creative industries. Art 17 also aims to improve the functioning of 'notice and take down' for infringing content. In particular, take down needs to mean 'stay down', with clear and consistent processes.

29. **It is also worth considering what other targeted points would strengthen the UK regime. For example, the illegal streaming of content and channels, previously distributed via websites and devices, is now moving to app stores – it would be desirable for online platforms and app stores to cooperate in the way we have seen from UK ISPs. In the absence of cooperation, policy proposals may be required.**

30. **We would also flag the UK's position as an international hub for music rights clearance across the UK and other territories – which we consider to be a very positive development.** However, it is important that the monopoly aspects of the music licensing market are properly managed to ensure a fair and reasonable approach to music licensing for all parties. The effect of the recent High Court Decision[7], is that the Copyright Tribunal did not have jurisdiction over foreign copyrights. The Tribunal is now only able to review licences which are comprised of substantially UK copyrights. If there is a dispute about existing or proposed licensing conditions where the licence or licensing scheme is multi-territorial or it is an ex-UK licence involving non-UK copyrights, the user does not have the ability to refer the issue to the Copyright Tribunal. In a world where streaming and other services incorporating music operate on a pan territory basis the rules around the jurisdiction of the Copyright Tribunal are no longer fit for purpose. The Judge, Mr Justice Arnold, himself indicated that a review of the Tribunal's jurisdiction was required. At para 116 of his judgment, Arnold J said "I cannot forbear from commenting that, in my opinion, this appeal demonstrates the need for the statutory provisions governing the jurisdiction of the Copyright Tribunal to be reviewed and overhauled".

31. **As a final remark it is important to note that the best way to combat illegal streaming is to offer an affordable legitimate service**. Legal remedies help to disrupt pirates and drive users to legitimate services but it is impossible to kill piracy off via this means. The law needs to be balanced and avoid unintended consequences that increase piracy, for example by legitimate services becoming too expensive driving consumers back to piracy because of inflated music rights costs.

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

32. **Government should ensure that a diversity of business models can flourish in the market.** While we have set out the alternative business models we observe in the market, the BBC is not best place to weigh up whether one model is more equitable than others.

[7] Case No: CH-2018-000129, BBC and BBC Worldwide Limited v MCPS and PRS 2018