

## Written evidence submitted by Bucks Music Group Ltd

This submission is about PIRACY and the committee's input regarding how the government can help protect the industry from knock-on effects such as increased piracy of music.

Music piracy discussions are typically limited to piracy via illegal music sites and peer to peer networks; this submission focusses on the overlooked piracy WITHIN legal music services.

Our music company is one of the largest independent music publishing companies in the UK and was established in the mid 1950s. Our clients have spanned Dame Cleo Laine, Lonnie Donegan, the Rolling Stones, The Who, Bowie, Bolan, Black Sabbath, Joan Armatrading, Bronski Beat, Can, Public Enemy, Roni Size, Professor Green and Kylie Minogue. We also have an independent record label, Fly Records, which broke the band T. Rex.

This year we carried out a project to quantify piracy WITHIN legal digital music services.

Whilst antipiracy has been the key focus for unauthorised digital distribution of tracks, the level of piracy via authorised digital distribution platforms has not been investigated, partially due to the assumption that Digital Service Providers (DSPs) perform some form of standard vetting practice to prohibit 'legal piracy'. Bucks ran a test of just one-track

Baby D "Let Me Your Fantasy" (LMBYF)

a UK chart No.1 track, to illustrate the potential level of 'legal piracy' and loss of revenue on one of the most popular streaming services, Spotify, and shines a light on six further popular legitimate DSPs.

This takedown project was primarily undertaken in April/May 2020 monitoring seven (7) leading DSPs:

Amazon Music

Apple Music

Deezer

Google Play Music (GPM)\*

iTunes

Spotify

Tidal

This particular recording was selected for the project as it a popular track that over the years has been licensed to many compilation albums – the majority were physical licenses which did not include digital rights – and it has been 'remixed' numerous times, both officially and unofficially. Plus we had noticed our recording being distributed under both a 'fake' artist name and even \_\_\_\_\_ (i.e. no artist name). Our work would thus cover a myriad of routes involved in 'legal piracy'.

There were 50 Spotify links found for Let Me Be Your Fantasy.

12 of these links were for unauthorised products – i.e. infringements.

12 links were covers or karaoke versions of the song – no infringement.

26 links were authorised products, including Bucks Music Group's own products and authorised remixes.

**That means 30% of the links to our recordings on SPOTIFY were from unauthorised sources. That is the unacknowledged fact of legal piracy.**

Unauthorised products across the seven popular platforms listed above were identified as:

- Official authorised remixes licensed but out of term of use
- Unauthorised remixes
- LMBYF distributed under fake artist names & distributed illegally
- LMBYF distributed with no (i.e. a blank) artist name & distributed illegally

Digital Music Services have DMCA forms online for takedown requests but the time taken to effectively take down unauthorised 'pirate' products varied greatly. It should be noted that Google Play Music and Deezer had far more unauthorised products than the other DSPs. It seems as though it is easier for individuals to upload products to these sites without metadata restrictions hence 'no artist' distribution being allowed.

Digital music distributors/aggregators are completely 'neutral' in the process. They do not monitor that the products they distribute to Digital Music Services are actually actively available; they do not monitor Digital Music Services for products that infringe their clients products rights; they will distribute infringing products without vetting, repeatedly! Even when they have had a takedown for a particular track, they will still re-distribute the same infringing product supplied but another client.

*There are no vetting procedures to ascertain copyright ownership by DSPs or distributors.*

Digital distributor/aggregators: On uploading a release for digital distribution, a distributor/aggregator simply adds an indemnity clause to their distribution agreement with a client to enable the release, removing any potential liability they may face. This circumvents active vetting.

Since March 2020 when we began the takedown project internally our digital revenue, across all major Digital Music Services, in total, for Baby D's 'Let Me Be Your Fantasy' has maintained a **50% increase. A SIGNIFICANT result.**

## **RECOMMENDATIONS**

Bucks proposes recommendations for consideration which could improve the takedown process for rightsholders, reduce Digital Music Services infringement workload and improve the quality of their service. It is possible this issue affects independent labels more than majors who likely have better direct communications with named individuals at Digital Music Services.

1. a. Digital Music Services matching 'uploaded for release' tracks by title and artist fields with released products, globally, and supplying rightsholders holding tracks sharing the same title and/or artist fields a weekly report of products uploaded for release.
- b. Digital Music Services matching uploaded for release tracks by audio fingerprinting where possible.

Until this is addressed rightsholders, particularly in the independent sector where the cost of engaging a third part ‘web sheriff’ is not cost effective, manually monitoring for any repeat infringements remains the sole course of action which is incredibly time consuming but unavoidable as the Digital Music Services currently offer no assistance for this.

DSPs are constantly evolving. During the course of our work Google Play were by far the greatest enabler of infringements including products with no artist names entered. After much time spent gathering evidence Google Play announced it was closing, great news in this respect, but as mentioned above could mean re-monitoring YouTube Music to ensure GPM’s unauthorised products are not also distributed through YTM. This makes Digital Music Services involvement in the ‘legal piracy’ process imperative to avoid repeating investigative work.

2. Distributors having a fixed penalty for clients who have uploaded unauthorised tracks / products. The penalty would be payable to the rightsholder claimant of the infringing track/product. Simply indemnifying themselves is unsatisfactory. NB there is no guarantee distributors/aggregators will NOT reupload the same infringing track from another client.
3. DSPs giving rightsholders access to search their global platforms as some infringements are territorially limited and not in easy view from other countries. Currently we are having to guess what is available globally on platforms such as Tidal and YouTube Music which is making some claims difficult to verify and recover any revenue for. This is tied to the issue of unplayable tracks that are still searchable from search engines and visible for the user which can cause more uncertainty when making copyright infringement claims, particularly when rights vary by territory.
4. There also needs to be more guidance and responsibility from distributors / aggregators for recovering revenue earned by clients distributing infringing products. More information on the number of streams, playlist additions and shares of a track would help to calculate its potential earnings that can be recovered from the distributor and be additionally useful in compensating labels for infringement monitoring work.
5. Spotify’s latest scheme to promote tracks in exchange for a lower royalty rate also requires greater transparency of a track’s earnings in terms of streams, worldwide availability, earnings and distributors/sub-distributors. If the decision to promote certain products remains hidden it will be much harder for labels to determine how widely the track has been distributed and how much it has earned.

## **WHY DOES ‘LEGAL PIRACY’ ON DIGITAL MUSIC SERVICES NEED TO BE RESOLVED NOW!**

As the trend towards domestic use of smart speakers / voice activated music listening accelerates, and the ‘internet of everything’ becomes increasingly pervasive, the opaqueness of the digital online music world increases. As described above the ability to monitor our tracks online is difficult but IMPOSSIBLE to monitor on smart speaker systems. For example Amazon have confirmed that their music department and the ‘Alexa’ department are two separate entities and the music department cannot even access transparent data. How can a label / rightsholder know for 100% that their official track is the one linked to access Alexa commands from users to hear their track?



\*Google Play Music (GPM)

Users of the service are being moved to the YouTube Music (YTM) service. Are we to assume that content providers are having their GPM content delivered to YBM? If that is the case we have to repeat all the work done monitoring and taking down unauthorised content now re-distributed through YTM. One key difference in manual monitoring is GPM content could be searched for using a net browser. YTM content as far as we can make out is only easily searchable withing the app and not through quicker online searching.

It's also worth reminding ourselves about that the digital divide in this country, and increasingly so overseas, so often casually overlooked by policy makers and industries for whom their 24 hour life is immersed in worldwide access on multiple platforms. By default the global digital music industry excludes both less well-off households and those with the elderly for whom concepts such as 'internet' and 'Wi-Fi' are as bewildering and incomprehensible as most people feel about understanding dark matter or quantum physics. Whilst society accepts the difficulty to understand the latter, society treats those with little or no tech savviness with casual derision.

Streaming is not like radio, where a transistor / radio was all you needed to hear broadcast content. Listening to playlists and podcasts are no different in terms of fixed content but access to the internet involves costs for devices and ongoing connectivity charges.

Current National Statistics reveal 11% of households in the UK do not have internet access. That's a significant sector.

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