

## Supplementary written evidence submitted by Universal Music UK & Ireland

### UNIVERSAL MUSIC UK – DCMS SELECT COMMITTEE – WRITTEN RESPONSES

#### 1. Please explain precisely why streaming should be classified as ‘making available’

On streaming services, a sound recording is made available to the consumer electronically in a way that they can choose which track to listen to, when to start listening to it, whether to listen to the whole song, skip it, pause it, rewind it, or save it and re-listen to it.

Even streaming services that restrict the functionality on certain devices for advertising funded users (e.g. a Spotify user on mobile), allow users to listen with unrestricted functionality on other devices (e.g. PC, TV etc).

International Agreements (notably the WIPO Performances and Phonograms Treaty, WPPT) to which the UK is party, and international copyright law, provide an express and clear legal obligation for countries to guarantee that rights holders and performers can authorise or prohibit this type of electronic transmission.

In fact the reason for introducing the exclusive making available right at the international level in the first place was to ensure that rights holders can authorise online uses that have the same commercial effect as the distribution of copies in the off-line world. The making available right as expressed in the treaties and implemented in national laws reflect that intention.

In the UK, the making available right is part of the Copyright, Designs and Patents Act 1988 (as subsequently amended). Specifically, it is a subset of the ‘communication to the public’ right that record companies and performers have, which enables them to authorise or prohibit sound recordings and performances embodied in those sound recordings.

For record company sound recording copyrights the relevant provisions are in section 20 of the 1988 Act, namely the right for “the making available to the public of the work by electronic transmission in such a way that members of the public may access it from a place and at a time individually chosen by them”.

For performers, it is set out in identical terms in section 182CA of the 1988 Act – expressly described as the “making available right” – namely the right of a performer to authorise or prohibit a recording of a performance which is made available to the public “by electronic transmission in such a way that members of the public may access the recording from a place and at a time individually chosen by them”.

**11. Evidence from PPL argued that the Momentum Fund “is actually funded by the performer side”. How much is contributed to the Momentum Fund by record labels from your side (i.e. not the performers’ side) of unallocated funds?**

The PPL Momentum Music Fund is run by the PRS Foundation (the music publishers’ organisation) in partnership with PPL, among others. Record labels do not contribute to the Momentum Fund, but contribute to the Brit Trust run by the BPI (the recorded music industry’s trade association) which in turn supports charities such as the BRIT School, Nordoff Robbins Music Therapy, Music Support, Key 4 Life and MIND. Label donations have also been gathered by the BPI for Help Musicians UK, which supports UK musicians of all genres, from starting out through to retirement.

Universal Music UK contributes significant sums to a number of other artist-related charities as well as other music-related charities. For example, we provide significant financial support to East London Arts and Music (a free game design, music and film and television college for 16-19 year olds situated in East London) and we fund all the running costs of the Universal Music UK Sound Foundation which works to improve access to music education in the UK & Ireland through financial contributions to schools and music teachers towards music education and the purchase of musical instruments and equipment.

**12. In evidence, alternate forms of DSP business model were alluded to but not mentioned explicitly. Can you clarify whether your companies support user centric payment systems, and if not, what alternative payment systems were being alluded to?**

The issue of fair compensation for all music creators is essential to our mutual success, so we take the discussion around streaming’s payment model very seriously. Music’s rapid change offers the opportunity to optimise models for

sustainable and mutually beneficial success, if approached properly. We are committed to getting it right.

We welcome any proposal that maximizes fairness and transparency and supports market growth.

As regards user-centric pricing, about one week after oral evidence, France's Centre National de la Musique issued what is the most detailed analysis of user-centric pricing to date. We are carefully reviewing it. Some of this report's findings raise important questions about whether the bulk of artists would benefit materially and whether some artists and musical genres would be harmed.

**13. If Deezer or Soundcloud introduced user-centric payments, would you withdraw your licences from the services?**

We would gladly review any proposal to license a service that reports and accounts for usage on the platform in a fair and transparent manner. In all likelihood, it would be difficult to change systems in the midst of an in-force contract but as we indicated at the hearing we are open to various reforms at the streaming services. We are reviewing the new report on user-centric pricing that has just been issued by the French government's Centre National de la Musique and note some of the important questions it raises, such as whether the bulk of artists would benefit materially and which artists and musical genres would be harmed.

**14. What would you say to those who are concerned that the various shareholding arrangements between Spotify, your companies and your parent companies might lead to anti-competitive influences, such as when it comes to licensing, playlisting, etc?**

Like other music companies, we do hold some financial equity in Spotify. Our shares are not voting shares. We do not play a role in the company's governance; we do not hold any board seats and our financial equity confers absolutely no influence over Spotify's licensing, playlisting or any other of Spotify's strategic and operational decisions. As we have said previously, and consistent with our approach to artists' compensation, if we should sell those

shares in the future, we have voluntarily committed to share those proceeds with artists.