Supplementary written evidence submitted by the BPI

Thank you for the opportunity to provide evidence to the Committee at the session held on 10 February. I hope you found our contribution to the Inquiry helpful.

I fully appreciate that it is not possible, given time constraints, to cover every important issue at every session, and so I would like to set out some brief observations on equitable remuneration and unlicensed platforms, two subjects that were not addressed in detail during the BPI's panel on 10th February. I also provide further information below in relation to BPI's engagement of consultancy support and one of our former employees, the two areas where I undertook to write to the Committee.

Equitable Remuneration

Artist representatives appearing before the Committee called for the introduction of a so-called Equitable Remuneration (ER) system on music streaming.

As I outlined during the oral evidence session on 10 February, we believe that the only truly effective means to significantly increase royalty payments to all artists would be to generate more value from the streaming economy – to proverbially 'grow the pie'. We are concerned that the proposals for ER would have the opposite effect, with serious adverse consequences for the whole UK recorded music sector. You will be aware that we have submitted a briefing paper setting out our concerns with ER, and I re-submit this as an annex below for ease of reference.

In summary, we do not believe ER would have the intended effect of raising artist incomes – particularly for those who are already earning less. In addition, ER runs the serious risk of harming future artists by suppressing investment into new talent. Where ER models have been adopted around the world, they deliver very low shares of revenue back to music stakeholders, since they remove the power of rightsholders to walk away in a negotiation. This is illustrated by the fact that TV and radio broadcasting, which is licensed under ER in the UK, generates only 1/7th of the royalties generated by streaming. That much smaller pot is then distributed according to usage, meaning that the large majority of the (lower) royalties go to the most successful artists; and the amounts paid out would be further reduced since they would also be shared with non-featured performers (who have already been paid through their session fees). Both successful and less successful artists would lose out; and the UK would become much less competitive globally as a result of reduced risk taking and investment. As our longer note sets out, ER would also represent a significant intervention into thousands of private contractual arrangements and be complex and costly to administer.

Unlicensed Platforms - Twitch

[Redacted].

Written follow-up on Questions from Committee Members

Engagement of Consultancy Support

I undertook to provide more information about the engagement of a communications consultancy. The BPI is a small member-based organization with a modest in-house communications and public affairs team - just three staff covering both areas. We take this inquiry seriously and want to engage in the most constructive way possible. It is therefore not unusual for us to retain external agency support (and this is commonplace for other organizations, as the exchange with the MU about their engagement of Lodestone made clear). We engaged Fleetwood Strategy in an advisory capacity – primarily focused on communications and media support, and preparation for our evidence session. To respond to a specific question raised in the session, they have not been engaged to, or undertaken, any communication with politicians, including any members of the Committee. Communication with MPs and ministers is undertaken by BPI staff, and largely by our in-house public affairs resource (Sophie Jones, our full time Director of Public Affairs and Hudson Roe, a part time member of staff working as Senior Adviser, Public Policy) or by me.

David Wood

[Redacted].

As you approach the completion of the oral evidence sessions, we would welcome the opportunity to have a follow up private meeting to reflect on some of the issues raised in the Inquiry.

If you have any further questions in the meantime please don't hesitate to get in touch.

Yours sincerely,

Geoff Taylor

Chief Executive, BPI, BRIT Awards & Mercury Prize

Annex 1: Previously submitted briefing on Equitable Remuneration

FOLLOW UP BRIEFING NOTE 5: ALTERNATIVE MODELS: EQUITABLE REMUNERATION

APPLYING EQUITABLE REMUNERATION ("ER") TO STREAMING WOULD SIGNIFICANTLY REDUCE THE VALUE OF THE UK MUSIC BUSINESS, UNDERMINE INVESTMENT, CREATE INEFFICIENCY AND REDUCE UK COMPETITIVENESS

- Moving to an ER model risks disadvantaging and undermining the commercial freedom and competiveness of the market – the UK music sector could stand to lose out. It does nothing to address overall growth in music; but runs a significant risk of reducing the ability of labels to invest in new talent and music. The current system is seeing creative investment and total royalty payments rise. 'Equitable remuneration' would see label investment fall.
    - BPI member companies confirm that less money from streaming would lead to: **lower investment into music production** and marketing and promotion; and **fewer artists** being signed; a shift towards **lower risk and less innovation** – through more mainstream artists being prioritized and licensing of overseas artists in preference to British acts

- ER would risk making **the UK less competitive** unless the rest of the world adopted an ER model, overseas record companies would be able to take a greater risk on investment and advances, potentially attracting top UK talent to sign outside the UK. This could in turn lead to UK creative talent relocating.
- Introducing ER would intrude into existing, private and voluntary agreements; changing it would disrupt the balance in the ecosystem and would require renegotiation of existing contracts with artists and platforms.
- Administration of such a system would be highly inefficient – involving hundreds of billions of individual streams, and hundreds of thousands of artists in the form of micropayments which could be a little as fractions of pence. This would be highly resource and cost intensive (for example in systems development), with significant administrative burden for little relative gain; CMOs would need to pay administer the system which would (as with broadcast) come from the artists' share. We note that these risks were echoed by Tom Frederikse and Colin Young.
- Evidence from the UK and from other countries demonstrates clearly that the imposition of a collective licensing and regulatory model (through PPL, overseen by the Copyright Tribunal) would have a significant negative impact on the industry's ability to negotiate arms' length commercial-value rates for streaming.
- Radio, which is licensed collectively on the basis of 'ER', generates much lower payments than streaming. Total royalties to labels and performers from broadcasting in the UK are £85 million, compared to £628 million from streaming.
- In addition, for each listen to a track by one listener, a featured artist earns more than **20 times** as much from a track being streamed on Spotify as they do from someone listening to the same track on Radio 1.
- As a whole, artists would therefore be much worse off if ER were applied to streaming.
- Some established but unrecouped featured artists might believe they could benefit – though it is not clear that this would be the case under ER. However, even if it were to their benefit, it would amount to a transfer of value away from the new generation of talent. This would occur because by paying more to older artists (who are simply much less popular among streaming fans) it would reduce the available revenue to invest into new talent. This would also reduce the competitiveness of the UK market and undermine its future success.

DCMS SELECT COMMITTEE INQUIRY ON THE ECONOMICS OF MUSIC STREAMING - BPI FOLLOW UP BRIEFING NOTES

THE REALITY OF MUSIC STREAMING: ADDITIONAL CONTEXT AND DATA TO CLARIFY MISCONCEPTIONS AND INACCURACIES IN THE DEBATE SO FAR

The DCMS inquiry discussion so far has centred on the claims of specific individual artists and creators rather than considering the overall economics of music streaming and its impact on the whole sector. Accordingly, BPI is providing these supplemental briefing notes to build on and reinforce our original submission and to provide additional information on some of the key themes that have arisen so far. As such, these notes should be read in conjunction with the main submission).

In providing more data and challenging a number of assertions made, our intention is to aid the Inquiry's evidence-based and objective analysis of the music sector. Streaming continues to evolve, but overall, BPI and its members believe the evidence shows that it benefits artists, consumers and the UK economy. New analysis conducted by the BPI as the Inquiry has unfolded shows that more artists are active in the market, and more are achieving volumes of sales and generating earnings from streaming than in the CD era; that success is spread across more artists, with major artists less dominant than before; that artists are achieving very significant global success; moreover, record labels are sharing the growth that has returned to the sector with increased investment in A&R and marketing and in growing royalty payments. Additional data is provided below on these points, and in addition to those contained within the BPI''s primary Inquiry submission.

Policy intervention is unwarranted at this time and risks destabilising the music economy at a time at which it is innovating and growing; there is a significant risk of undermining future investment and reducing UK competitiveness, with a consequent negative impact for new talent and consumers.

As articulated in our original submission, there are, however, a number of specific opportunities for growth, which would benefit the whole of music in the UK, supported by positive policy intervention (see original response for more detail). These opportunities have yet to be addressed by the Committee and include:

- Supporting exports – through trade deals and boosting SME exports through MEGS
- Tackling piracy – still a £200m a-year, and constantly evolving problem; enforcing platform responsibility
- Supporting a music production tax relief to incentivise inward investment into the UK

The following briefing notes cover:

- **Artist Incomes in the Streaming Era**
- **Democratisation of Music in Streaming**
- **The Evolving Role of Record Labels**
- **How Streaming Works**
- **Alternative Models: Equitable Remuneration**

FOLLOW UP BRIEFING NOTE 1: ARTIST INCOMES IN THE STREAMING ERA

Data shows that overall more artists are achieving significant consumption milestones than before – with artists benefiting from a greater share of revenues as the market has started to return to growth.

MORE ARTISTS ARE NOW ACHIEVING MILESTONE STREAMING VOLUMES THAN BEFORE

- 70% more artists achieve UK (only) streams of over 10 million in a year than the equivalent album sales in the CD era in 2007: 1800 artists in the UK achieved 10 million streams (compared to 1048 in the CD era (2007)[1].
- 8000 artists are receiving 1 million streams or more in the UK each year
- A new wave of UK artists is enjoying success

STREAMING IS A GLOBAL BUSINESS – WITH REACH TO FANS ALL OVER THE WORLD

- Of the top 1500 artists, streaming volumes globally are nine times those achieved in the UK
- Over 300 UK artists are achieving over 100m annual streams globally.
- 1 in 10 streams in the world today is by a British artist: there is huge potential to build on this by supporting British music exports.

ARTISTS' GENERATE INCOME FROM MORE THAN STREAMING ALONE

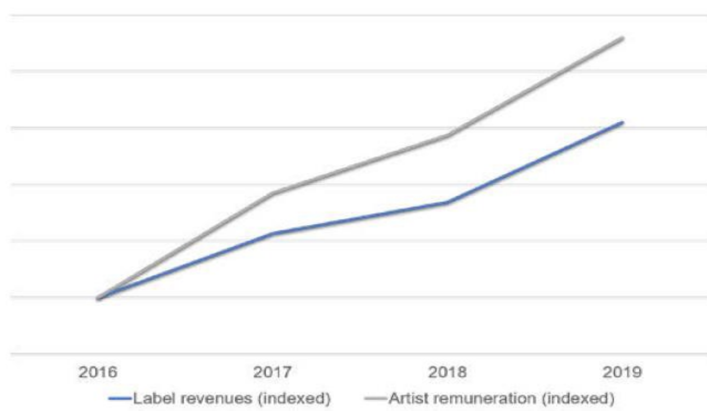
- In addition to UK and global streaming income, artists earn from physical music sales (CD and vinyl) downloads, performing live music, royalties from broadcast and public performance, sale of merchandise, synchronization of music into films, TV and adverts, and often royalties from songwriting (for themselves or other artists). This was the case in the CD era too.

ROYALITIES HAVE BEEN RISING: ARTISTS AND SONGWRITERS NOW COMMAND A HIGHER SHARE OF REVENUES

- Royalty rates of 20% -30% for streaming are common for a full-service record deal (with more types of record deal available) - much higher than in CD era (more typically 15% - 20% of net PPD, subject to deductions)
- Total royalties paid by the major labels to artists have **been increasing faster than the growth in their revenues** – the share that artists receive of label revenues is higher now than in the past:

[1] 12 million streams equates to £15k earnings (based on 20% royalty rate)

MAJOR LABEL REVENUES AND ARTIST REMUNERATION (2016-19)



- Note that the combined publisher and songwriters' share is now around 15% of DSP gross revenues after VAT, with the majority flowing to the songwriter (publisher retains around 3%)[2].

STREAMING EARNINGS ACCRUE OVER A MUCH LONGER PERIOD OF TIME

- For both artists and songwriters (including some of the cases raised at the Committee) – and indeed labels – income accrues over a longer period of time than in the CD era.
- One royalty payment in isolation will not represent the over-time earnings and the full context – for example how long the song had been available, whether released as a single of album track, co-credits.

[2] The 15% is nearly double the share in the CD era, at 8% of PPD

FOLLOW UP BRIEFING NOTE 2: DEMOCRATISATION OF MUSIC IN STREAMING

Streaming has 'democratised' music – for artists and fans for like; providing unprecedented choice and value for money.

MORE ARTISTS ARE ABLE TO RELEASE MUSIC IN THE STREAMING ERA – AND SUCCESS IS SPREAD MORE BROADLY:

- The top 10 acts have a smaller market share of streaming (6%) than for CD sales (12.7%).
- The barriers to entry are significantly lower – meaning many more artists are available at any time; and the number of artists continues to grow - the available royalty pool is spread more thinly at the bottom end. [3]
- More than six times as many artists made the equivalent of 100 CD sales (100k streams) in 2020 compared to 2007.
- Further, popular tastes change over time and some genres are more successful in streaming than others. For example, streams of rap and hip hop have been growing twice as fast as rock.

ARTISTS HAVE MORE CHOICE…

- Artists are free to choose the type of deal they want and frequently labels compete for talent, which gives the artist more choice in which label to sign with. Of course, artists can always self-release without a label.
- However the vast majority of artists, given the choice, choose to sign with a label – major or independent – because of the additional support this provides

…AND EVERY ARTIST DEAL IS INDIVIDUALLY NEGOTIATED WITH FULL LEGAL REPRESENTATION

- Artists have greater choice than ever between types of deal. Every deal is negotiated individually between the artist(s)/their manager and the record label. For decades, every artist signed by the major labels in the UK has been represented by independent legal counsel (and usually a manager). Labels are artist-focused, and to do otherwise would be inconsistent with their core principles as well as with standard legal practice.

COMMERCIAL SUCCESS IS DRIVEN BY THE MOST DEMOCRATIC OF ALL MEASURES – POPULARITY

- Crucially, it is fans' choices which determines success. Popular tastes change over time, consumers vote with their ears
- One difference that streaming has brought is that all tracks are valued the same, whether from a superstar frontline artist or an artist from deep catalogue. In the days of CD, some artists' recordings would be heavily discounted compared to others. In streaming, all tracks are valued equally, it is popularity which determines how much they earn.
- Some genres are more successful today on streaming than others used to be – for example, streams of rap and hip hop have been growing twice as fast as rock; a new wave of talent is benefitting from today's popular choices.

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[3] The no. of artists with 1m streams in 2020 is more than twice the number that achieved the equivalent level of CD sales in 2007 (1000 units): 7800 vs 3533. And the number of artists with 100,000 streams is more than six times greater than the number of artists that sold 100 units in 2007 (over 300,000 versus 47,166).

FOLLOW UP BRIEFING NOTE 3: THE EVOLVING ROLE OF RECORD LABELS

LABELS ARE INVESTING MORE IN THEIR CORE ACTIVITIES OF A&R AND MARKETING AND PROMOTION IN THE STREAMING ERA

- A&R investment has risen 50% since 2014 – rising at a faster rate than label revenue growth[4].
- Around 40% of label revenue is reinvested back into A&R and Marketing and Promotion combined

LABELS HAVE ADAPTED TO STREAMING: REINVENTING THE BUSINESS MODEL TO BE DIGITAL-FIRST AND SUPPORTING ARTISTS TO SUCCEED IN THE COMPETITIVE, GLOBAL STREAMING MODEL

- As with many industries that have adapted to digital, some costs savings have been made and new costs have arisen – leading to significant investment into tech, distribution, expanded licensing, the marketing required to break an artist globally and against intense competition (see main submission for more detail)
- Where savings have been made from the physical manufacture and distribution of music, these have been shared with artists (including a mix of increased investment, improved royalty rates and increased royalty payments (see Artist Income briefing).
- After 15 years of decline the return of record labels to profit is also seeing music making a bigger contribution to the UK economy through greater investment, employment and tax contributions.

TRADITIONAL "FULL SERVICE" RECORD DEALS REMAIN POPULAR WITH ARTISTS - BUT ARTISTS ARE FREE TO CHOOSE OTHER DEAL TYPES OR TO WORK WITHOUT A LABEL.

- The majority of artists opt for the support of a label, because the services they provide are so important to achieving commercial success.
- The label funds the up-front recording costs (which are usually recoupable) and provides a wide range of services without a fee to the artist, including investing heavily into marketing, plugging, PR, data analytics, global sales and distribution. The advance is non-returnable and 'interest free', regardless of the commercial success the artist achieves.
- Some artists may not yet be "recouped" on their royalty account and therefore will not receive additional income from streaming while that is the case. However, this means that they will have already received those royalties up-front in the form of an advance payment (regardless of success), or that other contractually agreed costs have not yet been recouped.
- Beyond the traditional, "full service" deal, most majors also offer the option of bespoke deals that allow the artist to choose the services they want (and payments are adjusted accordingly to reflect the allocation of risk).
- And artists are always free to choose the deal they want – or go it alone.
- Generally, the way in which royalty payments to the artists accrue reflects the level of upfront investment and risk by the label: in a full service deal the label is putting more in to fund the artist so

[4] The Committee heard specific reference to Warner Music Group's investment: as itemized in public documents, investment has remained broadly constant between 2017-2019.

recoupment can take longer; through to the other end of the spectrum where the artist might carry more risk of losses, receive no payment up-front in the form of an advance, but generate royalty payments more quickly.

- The independent sector is diverse and thriving. The BPI's hundreds of indie members are competitive and achieving strong success and offering choice to artists.

AFTER 15 YEARS OF DECLINE, LABELS ARE ONCE AGAIN MAKING PROFITS, WHICH PERMITS GREATER INVESTMENT, EMPLOYMENT AND TAX CONTRIBUTIONS TO THE ECONOMY.

- Commercial success is a positive for the industry, enabling reinvestment into new music creation. But it is important to distinguish between gross revenues and profit. The £1.14bn cited at the Committee related to global turnover of one record company without taking into account business costs, including payments to artists.
- Profitability underpins shareholder investment in music, in turn underpinning the virtuous cycle of investment into artists and new music.
- The UK major companies together provide thousands of UK jobs and make returns to the Exchequer through corporation tax; further, their global success adds to the UK's global competitiveness.

RECORD COMPANIES AND PUBLISHERS ARE RUN AS INDEPENDENT PROFIT-MAXIMISING BUSINESSES, EVEN WHERE THEY ARE PART OF THE SAME CORPORATE GROUP – KEEP/ROLE OF RECORD LABEL

- Major companies and many independents have recorded music and music publishing divisions that operate as separate operational entities with their own management and staff.
- It is common for artist/songwriters to be signed to one company for their recording and another company for their publishing rights. There is no evidence of any conflict of interest. Contrary to the allegation made that cross-ownership could result in the value of the song being diminished, publishers and songwriters now take a larger share of industry income than they did 15 years ago.

LABEL DEALS WITH DSPS ARE COMPETITIVELY SENSITIVE, PRIVATE CONTRACTUAL TERMS THAT RIGHTLY CONTAIN CONFIDENTIALITY PROVISIONS. HOWEVER, ARTISTs HAVE ACCESS TO NECESSARY INFORMATION TO ENSURE ROYALTIES ARE FAIRLY CALCULATED

- Like artist deals with the labels, licensing deals with platforms are individually negotiated are highly confidential, as are all private commercial deals.
- However, labels provide artists and their managers/auditors with necessary information to verify that royalties are correctly calculated.
- Today, artists have more information about revenues and how royalty payments are calculated than ever before through royalty portals that show real-time earnings and streaming data. Artists have the right to audit their earnings.

FOLLOW UP BRIEFING NOTE 4: HOW STREAMING WORKS

COMMERCIAL SUCCESS IN STREAMING REQUIRES AT LEAST TENS OF MILLIONS OF UK STREAMS PER YEAR – HOW STREAMING WORKS

- One million streams does not make an artist commercially successful:
  - Streams are counted in the billions (globally even trillions) – with 140 billion UK streams annually, and there are some 3 million artists available on major streaming platforms for fans to choose between.
  - Nearly **8,000 artists achieve more than 1 million streams** in the UK annually; 1800 achieve over 10 million a year
  - In 2015, 1.5m streams *in a week* would secure a place in the Top 10; today it would barely scrape the Top 40. Further, income from streaming accrues over a much longer period of time than in the era of physical goods
  - 300 UK artists are achieving 100m streams annually;

THE FOCUS ON A 'PER STREAM' RATE IS MISLEADING AND OVER-SIMPLISTIC: THERE IS NO SINGLE 'PER STREAM' RATE BECAUSE IT IS VARIABLE.

- The average value of a stream is well understood in the industry and there is transparency in royalty accounting – with artists able to see what they are paid, by stream and platform on real time online portals.
- The precise value of an individual stream varies over time, by type and by service.
- 'Per stream' is not how payments by DSPs are calculated, and there is variability between the value of streams from different service tiers and different services.
- The biggest influences on payments to artists are the size of the platform, the popularity of individual acts and the intensity of listener engagement, and the number of paid subscribers and users of lower-valued "ad supported" platforms. YouTube is the biggest platform for music consumption but generated only 5.5% of label revenues - around half what UK labels earned in total in 2019 from vinyl LP sales.

STREAMING GIVES THE CONSUMER CONTROL OVER WHAT TO LISTEN TO

- Streaming is on-demand by nature, giving the consumer control over what to listen to. The consumer experience – whether through self-selection (which makes up the majority of listening choices) or playlists and recommendations – maintains this level of consumer control. Even where listening to a playlist stream, a listener can at any point skip forward, back, pause, or chose a different track from the playlist or any other track on the service.
- Algorithmic and playlist streams earn identical rates from streaming services and labels do not distinguish between such streams when paying to artists.[5]
- Most people choose their music and create their own playlists - a minority of listening comes from algorithmic or human curation – around 14% according to a French study (see main submission).

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[5] As explained in BPI's first submission, premium streams and ad-supported streams (whether user-selected or algorithmic) do however pay out at different rates.