Supplementary written evidence submitted by Warner Music UK

Dr Conor Durham
Digital and Technology Specialist
Digital, Culture, Media and Sport Committee
2 March 2021

RE: INQUIRY ON THE ECONOMICS OF MUSIC STREAMING

Dear Dr Durham,

As the Digital, Culture, Media and Sport (DCMS) Committee continues its inquiry into the economics of streaming and further to my letter of 12 February, I would like to provide additional clarifications for the record following the oral evidence session of 23 February.

In a question directed to Mr Horacio Gutierrez of Spotify, the Rt Hon Kevin Brennan misquoted me as having '…described publishing as "secondary rights"'. Mr Brennan continued, '…when Warner Music negotiate their rights with [Spotify] they basically get the first slice of the pie and publishing takes whatever is left? Is that the process, so in effect if Warner knows you will pay out 70% of your revenue they take 55% and you can only give 15% to publishing?' (ref: Q671).

As the transcript confirms, at no point did I describe 'publishing as "secondary rights"'. In response to a question posed by Mr Clive Efford regarding collective licensing, I said, 'What we use in music is the direct licence; we use that for primary rights and we pay for the collective licence in secondary rights. That operates really well, and the two [collecting] societies you have been talking to this morning are principally in secondary or ancillary rights' (ref: Q238).

For clarity, in my answer to Mr Efford, I was distinguishing *direct licensing* (which we use for primary uses such as the sale of CDs and vinyl, downloads and other permanent copies of sound recordings, and digital streaming services where the consumer selects what they wish to hear and when) from *collective licensing* (which is common for secondary uses of sound recordings, such as broadcasting on radio and TV and for public performance, uses where the consumer has no way to determine what will be played or when).

More importantly, and contrary to Mr Brennan's suggestion that '…the power of the majors in all of this means that [digital services] have to operate a licensing model that suits them, which means that they really decide the broad value of all of these rights and how the streaming is divvied up' (ref: Q678), the commercial licensing terms negotiated between record labels and digital services are based on free market conditions and reflect the relative investment and risk undertaken by the parties. Music publishers similarly negotiate licences with digital services separately and independently from the record labels, striking their own commercial terms either directly or through collecting societies acting on their behalf. There is no hierarchy of rights implied by my use of the terms 'primary' and 'secondary' as Mr. Brennan seems to suggest, nor are record labels in a position to dictate the terms of a global licensing model.

I appeared before your Committee and continue to participate in this process in good faith. Any policy recommendations or conclusions reached by the Committee in this complex area must be based on fact and accurate understanding. Mischaracterising my testimony and disparaging the record labels risks undermining the integrity of the Committee's inquiry.

I am happy to provide additional clarifications or respond to further questions that the Committee might have. Please let me know if I can provide any additional information.

Best wishes,

Tony Harlow
CEO, Warner Music UK