

Music Streaming: Is It a Level Playing Field

Music streaming has already become the most important route to market for recorded music, and this position is likely to strengthen over the near future.

This article focuses on the conduct of the streaming platforms, and the extent to which this supports – or distorts – fair competition between different types of recorded music and their creators. Put differently, we look at whether the streaming platforms provide a level playing field for artists and record labels.

A level playing field is important for artists but also, over the longer term, for consumers and for wider culture. If competition is distorted, it risks inhibiting innovation, variety and the prospects of upcoming and more niche artists. It threatens the vibrant creativity which has made the music industry such a source of economic and cultural worth.

Preliminary analysis of Spotify data suggests that independent label artists are getting less than their fair share of access to the most popular playlists.

Playlists on music streaming platforms play a central role in disseminating music to consumers. As such, fair access by recordings to playlists is important for ensuring fair competition. Any disproportionately lesser access for independent labels and their artists today, is likely to have a direct impact on their revenues, and an indirect impact on the sustainability of this important segment of the market in the future.

If the major labels do have enhanced playlist access, as it appears, this may well relate to their strong negotiating power and the minimum payment guarantees within their contracts. Equity stakes in streaming platforms (Spotify and Deezer) may also play a role.

Many playlists are created by, or with the assistance of, algorithms. These algorithms are confidential, so it is hard to assess what biases they may introduce, but they are likely to favour more mainstream, established and international recordings, and so discourage innovation and creativity. The major labels' have proprietary playlists (not labelled as such), which could exacerbate the situation.

The impact of playlists on royalty payments is likely to be accentuated under a *pro-rata* royalty allocation system.

Under a pro-rata royalty system, revenues are disproportionately allocated to the music played by heavy users of the platform. Such heavy users are more likely to rely on popular playlists. The link between playlist access and pro-rata remuneration may explain the evidence suggesting that a move to user-centric payment would benefit local/national tastes artists, and more niche tastes, over the more international and mainstream stars.

Possible solutions include greater transparency and auditability around how playlists are created and moving to a *user-centric* payment system. Greater transparency of contracts would help to ensure fair treatment; or alternatively competition authorities should allow industry-wide negotiation by labels, as is already carried out by collecting societies for performance and mechanical royalties.

Paper available at: <https://www.competitionpolicyinternational.com/music-streaming-is-it-a-level-playing-field/>