

Written evidence submitted by Robert Bourne

Government Select Committee Recommendations for the Economics of Music Streaming

What governments can do in preventing multinational corporations exploiting the creative arts community, resulting in the loss of many artistic professionals.

Two new legal requirements would solve the current problems: (1) Any song used for exploitation under licence or available for public listening must contain the meta data of the rights holders. (2) Set a new Fixed Rate per listen for the Publishing Royalty payment.

MMA law amendment proposal overview: 1) Ensure that the rightsholders of a song, piece of music or film has the correct rights meta-data included in all digital recordings released for exploitation. This legal condition would avoid the huge 'black box' of unallocated royalties collected with their blind redistribution to a few top artists.

All royalty statements produced by streaming companies and the like are to be technologically transferable proving audibility and transparency including a complete data submitted format. This data must contain the meta-data information of the rightsholders.

To provide transparency and audibility between different world rights collection agencies the sharing of complete digital data statements are to be, as received from their source, as original and not re-written as lumped sum unauditable summaries.

2) A new fair fixed rate royalty payment per stream is to be set to reflect the changes in the modern music business. The old fixed royalty rate of income, set in 2006 (*still the same today*), received from a song included on a CD/LP is 9.1 cents. Today the royalty income needs to be comparable for each stream of a song, taking into account the life of a song and overriding the outdated controlled composition clause and breakages imposed by Record Labels. Multiple plays are to be considered when the calculation is agreed upon. This value could easily be known due to the large amount of data available.

1. No song in digital format can be included in a streaming licence that does not include who, in the meta data, the rights of the song writers are/belong to.
2. The inclusion of meta data: (i) No reproduction recording of a song can be released in digital format that does not include in the meta data as to who the rights of the song writers are. (ii) thereby all Record Labels making a sound recording and converting it to a digital format are to include in the meta data the rights owners of that song or piece of music or film. This applies to their back catalogue of songs.
3. Streaming companies: (i) Streaming companies are to include in a digital formatted monthly royalty payment statements all the rights interests of each song streamed. (ii) Streaming companies are to make sure they have appropriate technology systems for this purpose.
4. World compatibility of data: (i) All rights collection agencies are to make sure they have the appropriate technological systems to be able extract the rights data provided by the streaming companies and pay the Royalties due directly to the rightsowners. (ii) All rights collection agencies are to have the appropriate technological system to be able to share the royalty statements information unaltered to other rights collection agencies throughout the world.
5. The current biased streaming companies business variable payment model of commission from profit be changed. A new fair rights rate payment per stream is set to a minimum income from the CD/LP rate of 9.1 cents per song and is subject to inflation annually.

Are Royalty Streaming Rates fair and are we exploiting Song Writers?

Streaming publishers/songwriters are paid 12-15% headline share of Spotify's revenues (divided up by their market share), while the major record labels are understood to be paid a 52% share (divided up by their market share). The money is in issuing licences and the collection of user subscriptions. The publishing and song writer royalties have been left out of the equation. Without them there is no song and no income for anyone!

Publishing Royalty Income Comparison LP/Downloads/Streaming

Type	Royalty Per Song	Royalty per Song	Single Sales + Plays required	Royalty Income	Type
Single from LP/CD	9.1 cents	0.091	250,000	US\$22,750	Fixed Rate
Downloads	Includes Recording	0.637	250,000	US\$159,250	variable rate
Streaming per play	0.00326 cents	0.00326	250,000	US\$815	variable rate
Song streamed 28 times	0.00326 cents	0.00326	7,000,000	US\$22,820	variable rate
Streaming per play	1 cent	0.01	250,000	US\$2,500	Proposed fixed rate
Song streamed 9 times = same	1 cent	0.01	2,250,000	US\$22,500	Proposed fixed rate
Note:	Today's variable Royalty rate would take the same person 28 plays of a song to equal the same royalty received from a song sold on a CD, the LP/CD rate.				
Example	Artist	Song	Streams	Per Stream	Income
Top song 2017	Ed Sheeran	Shape of You	2,713 Million	0.00326	US\$8,844,380
	Some of these streams could be unknown royalty black box adjustments allocated to top artists?			2,713,000,000	
Spotify income (without IPO)	Users	Subscription	Annual	Income	
	144,000,000	£9.99	£120	£17,280,000,000	

Personal Experience within the Music Industry

I am an author, song writer and musician with my own self-publishing company, recording studio and record label. To get my songs listed on streaming platforms I require a publishing administration contract in the US. I do receive the full rights information back from the streaming companies because all my songs have been uploaded containing the full meta-data. I own both the Recording and the Composition rights so my income from a song is probably better than most because I only pay a 15% collection fee. The information above is only for the Composition income and relates to the Publisher and song writer share. The PRS in the UK has not collected any Royalty from the recording performance earned for any of the streams?

My experience provides real income examples

The download income has almost stopped through the introduction of streaming. It was the second best source of income after physical sales of a CD album. For example having my own recording studio and record label, being the song writer and performer the total costs to produce a top professional CD for resale was under £2. When the requirement was 'download' in digital format the income reduced and piracy began.

From my recent royalty statement I earned \$9.08 for 6 downloads (*1 was for a full album*) plus \$3.25 for 1,152 streams, giving me a total income of \$12.33. If all the sales had all been downloads I would have earned \$733.82.

From my own Royalty statement containing 1,152 streams the average payment per stream was 0.00326 of a cent giving me a total income of \$3.25.

The lowest royalty for one stream played in Sweden was .00009646 of a cent
The highest royalty for one stream played in Japan was .01974609 of a cent

The interesting thing is that I receive a reasonable income from AdSense from my YouTube channel videos. My channel since 2009 has had 1,110,130 views and accounts for about 20% of my annual income. My point is that there is a lot more income generated from advertising on the back of free listen option and this is not getting through to the Publisher.

The figure that is being quoted for an average Royalty stream is .005 (half a cent per stream). This is not true, it is lower as you can see! This explains why song writers are saying their income is not worth having, plus the issue that many of their streams not being allocated to their royalty statements.

This low rate is calling for a new fixed Royalty rate per stream to be set not subject to the companies profit share. I would suggest the starting fixed royalty rate be set at least 1 cent (.01) I have shown in the table the difference to a songwriters income if this was the new minimum standard royalty payment.

This will cause the streaming companies to complain and maybe have to adjust their subscription rates but why should they be able to offer Free listening for over 70 million songs and then pay according to their profit? This certainly is exploitation. The issue is not just relating to the US as it is affecting song writers all over the world, although it is US law.

It certainly appears that the new US MMA laws relating to streaming have been passed in congress under the influence of pressure and influence from those who wish to control the market, which again makes sure the Artist and Song writer receives another bad deal.

With the introduction of streaming services sales from downloads have almost stopped. The consumer has got into the mindset that music is now for free, this is the result of mass piracy culture from the digital download. The streaming companies, Apple, Spotify, Amazon and Google have all built models to protect and prevent this from happening but they now treat the music as if they own it. They have become 'the most successful pirate in the world' they are excellent at it as they have taken the lot! I believe the Record Labels with their licence revenue in conjunction with the streaming companies are no longer bothered about new material being created, because of the wealth of songs available in their collections. It is more profitable not to invest in artists as income from CDs has gone

so streaming licence income is great, just stay still, don't invest and collect massive profits, even launch IPOs. The consumer certainly can get anything they want so it a fabulous time for them with over 70 million songs in their online jukebox for only £9.99 a month.

The result is that the performing Arts including song writing, authorship, dance etc are left with no way of making a career from their inner talent. It has to become just a hobby so we will see professional artists disappear as they will not have the time or money to be able to perfect their talent having to get a 'day job' to support their lives. In their place at your live venues you only see amateurs, a lesser quality of live artists. This actually happened to live entertainment venues across the country. The venues eventually closed because customers stop going to watch them as a result of there only being semi professional performances and not up the past standard they were use to.

UK politicians today are more ethically minded so I ask you to put pressure on those in the US to make changes to the new MMA law. The good news is that governments now know who the pirates are, those corporations who are avoiding paying their taxes and offering crumbs as royalties. It is up to you in this game of chess to change a few of the rules, otherwise we will all be living in an impoverished society and you know a successful economy relies upon the population having a good disposable income. Wealth creation is a wonderful element in any society provided that is not unbalanced whereby the few are amassing the bulk of the profits at the expense of the rest. It is common sense that if a person has a good disposable income then they will be able to spend a lot and we will then have a booming happy GB, economically and emotionally.

PRS licences are not matching royalties to the appropriate song writers

In 2012 I created and recorded a New Age Sacred Mantra CD containing 10 tracks for a Bhakti Yoga Practice that were popular covers from other artists. I contacted all the artists song writers concerned requesting their permission to use their arrangement on my recording. Permission was granted. I went ahead and bought a copyright licence to reproduce 100 copies from PRS in London. I reproduced the CD and also created a digital MP3 format to be promoted on a New Age music site which sold as a download.

The owner of site informed me that he only made a royalty payment monthly in a lump sum and was not required to list the details of what tracks were downloaded and who the song writers were. This meant through incomplete records being submitted the song writers did not receive their due royalty payment. The duplication licence I bough also did not require me to inform them what the song was and who the song righter was. This raises a big question about song writers royalties and licenses issued. It is obvious if the PRS organisation is not requesting the song writers information it is impossible for them to allocate the royalty income to who it belongs to. Where is all this money going?

Scenario - A role reversal

Just image Apple and Spotify's credit card company saying we can only pay 70% of your receipts this month because we are not certain who the rest belongs to, and by the way we will kept it for a while and if there are no claims on this money then we will pay it out, less our commission, to other favoured top customers. Also we're not sure how much your credit card charges are going to be this month as it will depend on our market model at the time of the transaction. The good news is that we will let you know on your monthly statement. How many corporate lawyers would now be jumping up and down?

This is what is happening under the new MMA law for streaming royalties, in fact this unjust situation has brought to light what the record labels have been doing since their birth. Today instead of paying the unpaid royalties to others through the black box situation they had been keeping it for themselves! Only when or if they are audited will this come to light and most artists can't afford to do this or know it is happening.

Why has the new US MMA (Music Modernisation Act) been passed?

The basic idea of the MMA is to pay higher royalties to songwriters and music publishers, while easing the licensing burdens and legal liabilities of the music streaming companies.

This biased law allows the seller to set the price for its suppliers product, in this case the Publishing Royalty? It also removes their legal liabilities preventing expensive court awards for copyright infringement. To deal with unallocated Royalties they are to be placed in a new collection organisation and it is then the song writers responsibility to go and see if they can find their unpaid royalty! This is a way of appearing to care but in reality a very bad deal has been made and the song writer problem swept to the side.

G. Hatch-Bob Goodlatte's (MMA) Music Modernisation Act Oct 2018

1 - Rate courts will consider sound recording royalty rates paid to record labels and artists as a factor when rates are set for songwriters and publishers.

Plumb's take: Good news for songwriters and publishers. Recent news of the Copyright Royalty Board increasing on demand streaming mechanical royalties is a good example of this already being implemented.

2 - ASCAP and BMI would have their rate-setting disputes heard by any federal judge, instead of a single federal judge assigned for each PRO.

Plumb's take: This will improve efficiency of common rate-setting proceedings, allow for quicker hearings and resolutions, and should help mitigate stalemates while waiting for hearings.

3 - The Copyright Royalty Board would start considering a willing-buyer, willing-seller standard during rate-setting proceedings. (*The streaming company sets the rate and continue to give the songs away to gain sales from their products i.e. iPhone etc*)

Plumb's take: This concept helps attain a fair value for a song, with fees negotiated in the free market.

4 - Create a new mechanical digital rights organisation, run by music publishers but funded by streaming companies, to identify the copyright owners of songs that digital services want to license. Streaming companies would attain a blanket digital mechanical license and avoid future lawsuits. The new agency would be governed by a 10-member board consisting of ten music publishers and four songwriters.

Plumb's take: This provision has many concerned. First adding another collection society within the U.S. licensing system could add confusion to an already confusing system. But the primary complaint is that the bill gives another "safe harbour" to digital streaming companies through immunity from copyright infringement lawsuits under the blanket license.

The UK government can make a difference

The UK is setting a new standard for modern trade in the 21st century working through the G7 to call out those who give trade a bad name by bending the rules, whether it is by undermining human rights by forced labour or degrading environmental standards.

UK politicians I believe are more ethical so if you can't change this new MMA law I ask you to put pressure on those in the US who can.

If you got this far thank you for reading this in your overburdened schedule. I hope it has been helpful in bringing clearer understanding to this complex business.

Kindest Regards

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