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Written evidence submitted by The Ivors Academy

BEIS Select Committee inquiry into post-pandemic economic growth

About The Ivors Academy

The Ivors Academy is the UK's independent professional association for music creators. We represent, support and celebrate music creators. Our members include thousands of songwriters and composers across all genres at every stage of their career. The Ivors Acadmy is a member of UK Music, the umbrella body representing the interests of the commercial music industry in the United Kingdom.

Recent findings have shown that, before the coronavirus outbreak, music creators alone contributed £2.5 billion in GVA to the UK economy – almost half of the industry's total £5.2 billion contribution.[1]

Structural reform for music streaming

Covid-19 has shone a light on the fact that composers, songwriters and most performers are unable to make a living from streaming royalties, while the major labels receive record revenues from streaming. Thousands of composers, songwriters and performers have taken to social media to call out the #BrokenRecord business.[2]

How music creators are being affected

- Songwriters and composers - members of The Ivors Academy - anticipated a loss of £25,000 per person over 6 months from the outbreak of Covid-19.
- It would take approximately 62 million Spotify streams to break even on a £25,000 loss, a figure that is wildly unattainable for most music creators.[3]
- 64% musicians are considering abandoning a career in music due to the crisis, according to a recent Encore Musicians survey.[4]

Now that other income streams have evaporated, the unreliability of streaming income for those who make music - the very product that streaming sells - has never been clearer.

[1] https://www.ukmusic.org/assets/general/Music_By_Numbers_2019_Report.pdf.
[2] https://threadreaderapp.com/thread/1249290407088881675.html
[3] https://ivorsacademy.com/coronavirus/survey-of-the-ivors-academy-members-shows-financial-losses-from-covid-19-for-each-music-creator-equivalent-to-62-million-spotify-streams/
[4] https://londonjazznews.com/2020/08/24/64-musicians-considering-leaving-the-music-profession-survey/?utm_source=dlvr.it&utm_medium=facebook

How major labels are thriving

- Just as the Chancellor announced the first support measures for Covid-19, the BPI, the British trade body for the major labels, announced that major label revenues have gone up 7.3% year on year.[5]
- This was followed by Universal Music Group announcing $1 billion in revenue from streaming, just for the first quarter of 2020, and the IFPI announcing that 56% of $20bn global revenues last year came from streaming.[6]
- At the end of Q1 2020, Sony Music's streaming revenues alone were up 27.4% year-over-year, reaching $641.7m – an annual increase of $138m.[7]

While the three major labels, Warner, Sony and Universal, play an important role, they are not representative of the whole industry, and their success should not come at the expense of the SMEs whose product they sell. To wit, there are three global corporations enjoying record margins, whilst the UK's creators are largely facing a battle to survive.

Given the amount of money generated by music streaming, music creators shouldn't have to rely on Government support and hardship funds to survive. If the situation at present is to be taken as an indicator of the future of music in the UK, it is clear that to ensure future industry growth some structural changes must be implemented.

The streaming model has been broken for years, but at this time it is posing an existential threat to the very profession of music creation. The coronavirus pandemic has exacerbated endemic issues within the music industry and has caused 64% of musicians to consider changing careers. If the talent pipeline dries up, it will not be long before the industry can no longer rely on acts that rose to fame in the previous century. It is vital that the UK and its legislators don't underestimate the role of music creators, without whom there would be no new music. To enable music creation to be a good career choice, the streaming market needs to adopt an innovative, sustainable and transparent model.

One of the reasons the music streaming market is showing signs of dysfunction is that although the market has evolved, royalty distribution mechanisms are lagging behind. The streaming payment model harks back to the days of CDs, when record labels used to carry all the costs of recording, manufacturing, shipping and distributing. But the investment/return balance has long since shifted and

[5] https://www.bpi.co.uk/news-analysis/uk-record-labels-trade-income-reaches-11-billion-in-2019/
[6] https://www.musicbusinessworldwide.com/universals-streaming-revenues-topped-1bn-in-q1-with-total-recorded-music-up/
[7] https://www.musicbusinessworldwide.com/another-billion-dollar-quarter-for-sony-music-as-streaming-revenues-jump-27-4/

the major labels' investment is hence greatly overstated. Now we see songwriters, performers, producers, managers and publishers investing heavily in developing music and acts. They do so in their own studios, at their own cost, in their own time and at their own risk. But the royalty model is still heavily weighted in favour of the major labels as physical distributors.

Labels still pay for the physical distribution that is left, but stats from around the world show how the market has unequivocally moved online. According to ERA, streaming accounted for just under 72% of the £1.41bn spent on recorded music overall last year in the UK.[8] In the US, total revenues from streaming music grew 19.9% to $8.8 billion in 2019, accounting for 79.5% of all recorded music revenues.[9]

Market failure in music streaming

As a way of enabling a functioning market for all rights holders in the context of pan-European multi-territory licensing, in 2005 the European Commission decided to adopt what is known as Option 3.[10] Option 3 aimed to ensure fairness through competition: each rights holder can choose which collecting society to appoint as administrator of their rights. This way - it was thought - competition would prompt collecting societies to adopt good practice, in an effort to be the preferred administrator, including endeavouring to negotiate a better per stream rate for their members. Option 3 was arguably the best solution to a difficult problem at the time. But notably, competition doesn't exist only between collecting societies. It ensues between all licensors engaging in negotiations with streaming platforms to agree on a per stream rate for different rights. These are inevitably connected: given a limited pool of revenue, the valuing of one set of rights will affect how the other rights which attract revenue from the same pool will be valued.

In a properly functioning market, the rights would naturally find their correct value through competition. Instead, it appears the market is failing to properly capture the value of rights. The value of the performing right and mechanical right combined has in time come to be approximately 15% of the overall value created. This is too low, firstly in comparative terms (see table below); secondly because songwriters, who share that 15% with their publishers, are for the most part struggling to survive off this valuation. Because it is a result of a combination of separate negotiations between licensors and streaming platforms, all covered by non-disclosure agreements, it remains difficult to ascertain what the origin of the problem is, but it seems certainly possible that the market failure we are witnessing is the result of the existence of dominant players that have the ability to suppress the value of others' rights.

[8] https://musically.com/2020/01/03/uk-music-streaming-spending-2019/
[9] https://www.riaa.com/wp-content/uploads/2020/02/RIAA-2019-Year-End-Music-Industry-Revenue-Report.pdf
[10] https://www.prsformusic.com/royalties/online-royalties/multi-territory-licensing

Lack of evidence and public data is one of the main problems in the music industry, and one which inhibits us from identifying with certainty the source of the market failure. For this reason, we call on the Committee to investigate the issue, prompting greater transparency in future, so the appropriate measures can be taken to create a functioning digital marketplace.

A revision of how the contribution of music creators, whether songwriters, performers or artists is valued is needed. As the streaming market continues to grow, a new progressive licensing model would deliver a music market that encourages diversity of music for the consumer, recognises the contribution of streaming platforms, labels and publishers, while providing vital income to the music makers.

Estimated Current Split of £9.99 Subscription	
Streaming platform	£3.00
Writer + Publisher	£1.50
Label + Artist	£5.50
Non-Featured Performers	£0.00

→

Progressive Licensing Model	
Streaming platform	£2.50
Writer + Publisher	£2.50
Label	£2.50
Artist + Non-Featured Performers*	£2.50

* The 65%/35% allocation of royalties by PPL for featured and non-featured performers could be used as the basis of a progressive model.[11]

Value suppression through price of subscriptions

Another likely reason why the value of music has gone down is the lack of movement on price to the consumer. The average price of a subscription to a music streaming platform is £9.99 a month, but this price has stayed the same since 2008, meaning that it has gone down in real terms considering inflation. This is in addition to the fact that most platforms offer family plans, which are significantly cheaper, and that YouTube is entirely free to the consumer. The erosion over time that a fixed price and free options have caused to the underlying value of rights has been detrimental to the ability of songwriters to see a viable return on their creation.

Missing data for royalty distribution

An example of how the major music groups have an interest in data not improving is how unattributable royalties are distributed. When collecting societies have insufficient information on who the rights holder on a track are, the money those tracks generate is pooled together and, after a window in which the rights holders can claim the royalties they're due, it is commonly distributed according to market share – once again rewarding a handful of dominant music groups.

[11] https://www.ppluk.com/.

Levelling up

An immediate consequence of this market failure is that a career in music making has become increasingly inaccessible to many. Music, generally known for its universality and for being a catalyst for social mobility, has become a striking example of inequality of access. If the Government is truly committed to the levelling up agenda, it must not exclude music from its efforts to enable meaningful social mobility through thriving industries across the country. In particular, music streaming can be seen as a blueprint for how digital marketplaces can be brought back to functionality if they fail to self-regulate.

Transparency and right of revocation

The lack of auditability of major music companies also means that music makers are often unable to trace and claim the remuneration they are due. Music companies have a *de jure* duty to exploit a music creator's work, but lack of accountability makes this duty unenforceable. Once a creator has assigned their rights to a music company, tasked with exploiting them, the assignment is in most cases exclusive in perpetuity, meaning that if the work isn't exploited, there is no way for the creator to do anything about it. Government must legislate to address this failure, by ensuring a right of revocation or of contract readjustment for the creator. Creators must be given the tools by law to hold those who administer their rights to account, and to seek other means of exploitation if these should not fulfil the duties they agreed to by contract. Importantly, the EU updated its copyright legislation in 2019, and now requires Member States to implement provisions which ensure transparency and contract readjustment.[12] These changes in the international marketplace add an element of urgency to the need for the UK to create a functioning marketplace nationally. If the UK does not become at least as good a market for creators' rights as other European countries, many creators will take their business elsewhere. This poses a real threat to the music industry's future post-pandemic. An already debilitated industry must imminently be given the ability to compete internationally.

Together with the Musicians' Union, The Ivors Academy launched a campaign to #FixStreaming and Keep Music Alive. We set up a petition, which has over 15,000 signatures, calling on Government to urgently undertake a review of streaming to expose its faults and ensure that the streaming market is transparent and fair.[13]

We call on Government to:

[12] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L0790
[13] http://chng.it/Q7YyvzR6MW

- **Conduct a review of the music streaming market, to reliably expose its flaws in order to create a functioning digital marketplace.**
- **Enshrine in law transparency obligations for music companies, and the right of revocation or contract readjustment for creators.**

We welcome the opportunity to discuss the above with the Business, Energy and Industrial Strategy House of Commons Select Committee at your earliest convenience, and look forward to working with you to find solutions to protect, invest in and promote the creative cycle at this crucial time, in order to ensure post-pandemic growth in the music industry compatibly with the levelling up agenda.