



Study on the place and role of authors and composers in the European music streaming market

Legrand Network

September 2022

ABOUT THE STUDY

This study is prepared by Emmanuel Legrand of Legrand Network and commissioned by GESAC – European Grouping of Societies of Authors and Composers.

The key question this report attempts to answer is: “How do authors and composers connect with the new music streaming economy, and what can be done to improve the relationship between the two parties?”

This study focuses on the impact on authors and composers of the streaming economy and the role of collective management organisations in this economy with the aim to identify the areas where streaming brings added value to authors and composers and the best practices that can contribute to a more “authors’ centric” streaming ecosystem. The study has looked at the existing reports published at national level too but goes beyond them to allow for the analysis of the current situation and its evolution, identifying market trends, from the perspective of authors and composers and their societies.

METHODOLOGY OF THE STUDY

This report is based on a series of interviews with various stakeholders – songwriters, collective management organisations, music publishers, data specialists, streaming services, among others – based on an in-depth questionnaire (see annex). The interviews were used to help inform the main points raised by this report and highlight the situation of songwriters and composers with regards to music streaming services. Some of the people interviewed have agreed to be quoted in this report, others have asked to be quoted without attribution, while some others only offered their feedback for background purposes, without quote or attribution.

The report has also tapped into a trove of existing reports such as Chris Cookes’ ‘Dissecting the Digital Dollar’, the report from the UK’s DCMS, Will Page’s book ‘Tarzanomics’, company’s annual reports, as well as data and analysis from MIDiA Research, and datasets from CMOs.

The report also benefited from informal discussions with a wide range of stakeholders, and from multiple articles from such platforms as Creative Industries News, Music Business Worldwide, Music & Copyright, Variety, Billboard, CMU, Music Week, Fortune, Forbes, JD Supra, to name but a few. The views expressed in this report are from its writer Emmanuel Legrand from Legrand Network.

ABOUT LEGRAND NETWORK

Legrand Network is a Paris-based media and consultancy company focusing on news, trends and intelligence for the creative sector. Legrand Network is the publisher of the Creative Industries News platform and its associated weekly newsletter, covering news related to the creative sector and the copyright-driven economies in the digital eco-system.

Emmanuel Legrand is the founder and President of Legrand Network. He is a journalist and media consultant, specialising in the entertainment business and cultural trends. He is the former US editor for British music industry trade publication *Music Week* and the former global editor of US trade publication *Billboard*.

Emmanuel Legrand is the author of the reports 'The Global Market for Neighbouring Rights' (commissioned by Adami, 2015) and 'Monitoring the cross-border circulation of European music repertoire within the European Union' (commissioned by EMO & Eurosonic Noordslag, 2012). He was the Data expert for the 2020 report 'Feasibility study for the establishment of a European Music Observatory' for the European Commission, led by Panteia and KEA.

ABOUT GESAC

GESAC (European Grouping of Societies of Authors and Composers) groups 32 authors' societies from across the European Union, Iceland, Norway, and Switzerland. As such, GESAC defends and promotes the rights of more than 1 million creators and rights holders in the areas of music, audiovisual works, visual arts, and literary and dramatic works.

For more information:

website: www.authorsocieties.eu

e-mail: secretariatgeneral@gesac.org

Twitter: @authorsocieties

Table of content

7

Introduction

- 7** Authors and composers in the music ecosystem
- 8** How do authors and composers earn their living with their songs?

10

The era of streaming

- 10** Streaming as a main way to enjoy music
- 11** The growing business of streaming
- 14** A favourable European legal framework for the streaming market
- 15** CMOs as facilitators for the development of the music streaming market

25

The question of the share of authors and composers from streaming revenues

- 25** The rise of #FixStreaming movement in the UK and its implications
- 26** Disorders in the streaming value chain

28

Towards a more author-centric streaming ecosystem

- 28** Recognition
- 31** Remuneration
- 34** Identification & Attribution

16

Pricing of streaming services and its impact on creators

- 17 Description of the current pricing plans
- 18 How the streaming services' pricing strategy limits authors and composers' revenues

22

Other features of music streaming services and their impact on authors and composers

- 22 How songs' success depends on playlists
- 23 How algorithms can affect discoverability
- 23 The unfair playing field created by streaming fraud
- 24 The use of royalty-free content in prominent playlists

38

Conclusion

39

Annex

- 39 Questionnaire
- 41 Glossary

Foreword

by Gernot Graninger

Today, music streaming is the predominant way for people to enjoy music, and it has largely replaced traditional ownership-based consumption via physical media such as CDs or through digital formats such as downloads. Subscription-based music services reached 524m users worldwide and 78% of people say that they use audio-streaming services, according to latest numbers. It is the music that keeps people engaged, passionate, and eventually connected on the various services and platforms they use online, offline or on the go. This is a great opportunity for the composers and songwriters we represent!

When it comes to actual revenue to the creators behind the now more than 70 million tracks on streaming platforms however, the situation is far from satisfactory. The debate over fairness in this constantly expanding music streaming market is gaining traction in a number of countries, from the US to the UK, and across the European continent. The discussions are mainly focussed on the share of the revenue pie between labels and performers, but this is only one part of the issue and they do not necessarily reflect the needs and expectations of authors, composers, music publishers, and their societies who are behind those songs that fuel the streaming economy. Having a better understanding of authors' and their collective management organisations' expectations from this growing market is therefore the main purpose, why GESAC asked for this study.

The study carefully analyses the bottlenecks that prevent a more sustainable and meaningful growth of music streaming market for authors and composers and identifies the ways forward to address the various sources of imbalance and unfairness through cooperation, more responsibility on the part of market players, and also through policy actions at EU level, where necessary.

We can no longer accept an economic model that, despite an exponential increase of users, is incapable of properly remunerating creators. We must address the asymmetry between the streaming platforms' market objectives and creators' expectation of appropriate remuneration from the primary usage of their works. We must tackle the systemic imbalances and dysfunctions in the operation of online platforms, and once those issues are addressed, we must make sure authors and composers will benefit more favourably from the resulting success of this growing market.

Authors' societies are committed to addressing the needs of today's changing business models and evolving ways of accessing cultural and creative works. They have constantly adapted and improved over their 200-year history to provide value for creators, facilitate rights clearance, and ensure availability of widest possible content for consumers. By entrusting their rights to their societies, authors are empowered and make the best decision for their professional career, knowing that the revenues that are collectively negotiated by societies are paid back to them in direct proportion to the use made of their work. Authors' societies have not only aided the starting and scaling up of numerous streaming services, but have also facilitated equal market access of all authors and composers to those platforms. Moreover, they promote cultural diversity and the development of new generations of creators through their dedicated actions.

I would like to commend Emmanuel Legrand for this insightful and comprehensive analysis of various aspects influencing today's music streaming market, based on his more than 30 years of experience in this field and world-renowned expertise. I hope that this study usefully contributes to the discussion by offering new perspectives on a more author-friendly and sustainable music streaming ecosystem.

Executive summary

The music economy is a song economy. Songs and compositions are at the origin of everything. Performers and musicians (who are often songwriters themselves) take the blank canvass of a composition and create a rendition of a song, and then recordings take the songs to the masses.

However, authors and composers' role is not sufficiently reflected in the streaming economy as they are neither recognised nor remunerated to the scale of their contributions. This has generated an imbalance over time that needs to be addressed, especially as, today, streaming is the dominant way in which people enjoy music in the world.¹ It allows access to over 70 million tracks everywhere, anytime, in all possible devices. Dominated by global players², the streaming market has developed in the past decade with the help of collective management organisations, which secure the largest repertoire in one go by offering the necessary licence agreements, including sometimes at their embryonic stage, that allows them to start scaling up their businesses.

This report highlights the concerns and expectations of authors and composers when dealing with the music streaming experience. Concerns because they long for more visibility, and also have higher expectations from the growth of streaming environment.



¹Global subscription-based music services reached 524m users worldwide according to Q2 2021 numbers published by MIDIA. According to IFPI 2021 Engaging With Music report, 78% of people say they use audio-streaming services, and subscription-based music services together with the UGC and social media platforms form together 68% of total music engagement of consumers.

²According to their own financial statements, in 2020, Spotify generated €7.85 billion revenue, a 16% increase year-on-year, Apple Music made approximately \$4.1 billion revenue, accounting for only 7.6 percent of Apple's total services revenue, and Deezer generated approximately €380 million revenue.

There are three main concerns authors and composers have regarding the way streaming services operate and the impact thereof on their livelihoods.

1. Asymmetry between the goals of streaming services and the aspirations of authors and composers

The main streaming services' end-goal is to grow their user-base, and this is usually done through very extended ad-supported free tiers or through various pricing points and promotional plans to the detriment of other parameters such as ARPU (average money paid by each user). Despite the exponential growth of the offer of the music streaming services in terms of quality, number of songs and user-friendliness, their initial fee of 9.99 (in euro, US dollar or pound) set in 2006 has never increased. Moreover, the services (or the version of services) that provide very extended ad-supported free access are used more widely than paid services without a viable strategy to turn those users into premium subscribers. The end-result is an overall lowering of the value of music, despite the growing user-base, making it difficult to grow the revenue pie, which is one of the primary requests of authors and composers.

3. Systemic imbalance in revenue allocation

The development of music streaming services has boosted the music industry but has mostly benefited the recorded music side rather than the authors and composers of songs. According to recent studies the split of revenues from streaming is currently skewed towards the owners of sound recording rights.³ There are some structural and economic reasons to that situation. The report advocates for a better sharing of the value generated by the streaming economy between all stakeholders.

2. Structural issues about fairness in the streaming eco-system

The current hit-driven market of music streaming has resulted in a pyramid system, whereby a small number of songs capture a large portion of the listenership. For instance, 57 000 artists accounted 90% of monthly Spotify streams in March 2021. The use of algorithms, as well as bottleneck represented by the most popular playlists, exacerbates this. This report suggests solutions to bring greater transparency in the use of algorithms and invites stakeholders to undertake a review of the economic models of streaming services and evaluate how they currently affect cultural diversity which should be promoted in its various forms – music genres, languages, origin of performers and songwriters, in particular through policy actions.



³ According to the DCMS Committee in the British Parliament, approximately, 30 to 34% of the price paid by subscribers to streaming services are kept by the streaming service, and out of the remaining 70%, around 55% go to recording side and, 15% to the songwriters and music publishers.

In addition to these broad objectives and after carefully analysing the different bottlenecks in the market, the report focuses on three verticals that sum up the aspirations of authors and composers, each of which requires a specific set of policies or actions to create a more sustainable and better functioning music ecosystem:

Recognition:

“We want to be known for our songs”

If the streaming economy is a song economy, then it must ensure that the contributions of those who arze at its heart are given proper recognition.

It means more visibility of, and more information on, authors and composers in the offer of the music streaming services. This can take multiple shapes and forms, from specific playlists highlighting songwriters to activation of algorithms offering a wider choice to listeners based on their (probably unknown) favourite songwriters, or requirements for prominence and discoverability of works of European authors. The development of a toolbox for authors and composers is one of the natural consequences of the need for recognition. This pillar is also crucial for the development of cultural diversity.



The report also emphasises the strong link between authors and composers and the collective management organisations (CMOs) that represent them. CMOs are the natural partners of creators, but also the partners of DSPs, which need licensing deals with rights holders to start operating commercially and can more easily obtain them from CMOs. CMOs have a crucial role to play in the management of rights, accuracy of rights information, equal access to market and fair remuneration of creators.

Remuneration:

“We want to be paid fairly for our songs”

Appropriate and proportionate remuneration of authors is a key principle. Despite the significant growth of the music streaming market and consumers’ engagement with music, the value generated from music streaming services as payment to rightholders is still highly unsatisfactory. As is what actually trickles down to authors from that overall payment. The music streaming pie should grow in line with what it offers to consumers in the market.

Moreover, better recognition tools for authors and composers, and proper attribution can lead to better remuneration, and most likely to remuneration of a wider group of authors and composers than today where the wealth of streaming is shared among a few. The remuneration issue also needs to be tackled through inter-industry discussions, in order to address the need to better remunerate authors and composers, especially as services can implement schemes that force authors to accept lower or no revenues for their songs, or waive their economic and moral rights to appear in playlists.

Identification & Attribution:

“We want our songs to be found”

The foundation for changes in the relationship between authors and composers with the streaming eco-system starts with the identification of the works and their link with the authors and composers that are at the origin of the works. This process will lead to a better understanding of the song economy. This includes a better use of metadata to ensure proper identification and the ability for DSPs to display and work with not only data about the recording and the performer(s) of a song but also the authors and composers. This could be particularly important when it comes to user-generated content, where the identification of authors and composers is usually missing and as a result deprives authors from benefiting from a huge potential of revenues.

Introduction

Authors and composers in the music ecosystem

It all begins with a song. Authors and composers are key components in the economy of music. They are the initial creators of the works that will eventually be recorded and disseminated around the world.

French songwriter and performer Charles Dumont used to sing “Une chanson/C'est trois fois rien une chanson” (“A song/It's a mere nothing, a song”). Dumont's excess of modesty hides in fact the importance of songs.

More than anything, the music economy is a song economy. Compositions and lyrics are the foundations of the whole music ecosystem.

The greatest songwriters and composers of the past century have literally created the modern music business. It started with the sale of sheet music at the turn of the 20th Century and continued in the era of sound recordings. No song, no recordings.

The post-World War II era saw the rise of the songwriter, as the talent that allowed the great performers – from Louis Armstrong to Frank Sinatra, Billie Holiday to Ella Fitzgerald – to shine when performing the songs by the most gifted songwriters and composers – Cole Porter, Willie Dixon, Burt Bacharach & Hal David, Felice and Boudleaux Bryant, Doc Pomus and Mort Shuman, to name but a few.

The 1960s saw the advent of the singer-songwriters, from Bob Dylan to Lennon-McCartney, Joni Mitchell to Carole King, but also Jacques Brel, Charles Aznavour and Léo Ferré in the French-speaking world, Lucio Dalla and Adriano Celentano in Italy, Paco Ibanez in Spain, etc.

In the 21st Century and with the advent of music streaming, the art of song writing has evolved and is less and less about singer-songwriters and increasingly more about collaborative efforts between several songwriters and producers in order to obtain the most efficient result for the songs, with specialists of top-line melodies, choruses, beats, etc.

British trade magazine Music Week calculated that the top 100 hits of 2018 were on average written by 5.34 people against 4.53 in 2017. As a result, the number of creators and right holders in each song and their relevance for the distribution of royalties have considerably increased.

How do authors and composers earn their living with their songs?

There are different streams of revenues on which authors and composers can rely to live from their songs. These revenues are generated by agreements with users, in which collective management organisations (CMOs) are key.

The different streams of revenues for authors and composers

Authors and composers can rely on the following main sources of revenues:

Street music

This is the original source of revenue for authors and composers from the era pre-dating the advent of sound recordings. Music publishers were selling the music scores and lyrics directly to the public and were remunerating authors and composers from the sales of sheet music.

Performance rights

Performance rights first applied when music was performed live in venues or played through a medium: each time music compositions are used, a remuneration for public performance is due. These rights are recognised under international conventions which include in their definition the making available right, i.e. the right to access works from a place and at a time individually chosen by members of the public. With the advent of radio and then TV, performance rights extended to these new ways of broadcasting music. To this day, they still represent the main source of revenues for authors and composers for each form of communication to the public through new technologies.

Lyrics

Lyrics were until recently a rather limited stream of revenues for authors and composers but with the advent of search engines, lyrics have become one of the most sought-after content. However, for a long time, most of the sites offering access to lyrics were not licensed and the monetisation of lyrics did not match their usage. New platforms – such as Lyricfind, which services over 100 platforms, and Musixmatch – have started to remedy this problem, offering vast catalogues of cleared and licensed lyrics to DSPs. The new lyrics business generates millions of euros that were untapped in the past, according to LyricFind CEO Daryl Ballantine, during a virtual session on the business of lyrics organised by IMPF.

Mechanical rights

Historically, mechanical rights were introduced to take into account technological evolutions such as the music rolls and remunerate authors and composers each time a roll was manufactured (hence the mechanical reference). Mechanical rights survived the technology changes in sound recordings, with the 78rpm, the vinyl albums, cassettes, CDs, then downloads and now with music streaming services. Each time an original media is manufactured, it generates mechanical rights (and still does as it is digitally reproduced for online uses).

Synchronisation

Synchronisation is a music industry term related to the use of music in films, TV shows, advertising, etc. It is recognized as a separate right in some countries where, in others, it has no separate existence from the right of mechanical reproduction and is treated as such. When it is recognised as a stand-alone right, it can be, and usually is, negotiated directly by music publishers or the composers themselves on a transactional basis. Music works placed in TV shows or films will in turn also generate performance rights when the latter are shown on movie theatres, broadcast on TV, or streamed on VOD. This segment has experienced a massive growth rate in the past 10 years, due to the development of online video platforms such as Netflix and the development of the volume of audiovisual programmes produced.

Furthermore, authors and composers rely on music publishers who are the custodians of the compositions, and of CMOs, that represent and protect them through licenses ensuring that revenues are collected when their works are used.

CMOs: the link between creators and music users

If songs are the currency, licensing is what brings fluidity into the eco-system. This transactional practice seals the relationship between the users of repertoire (Digital Service Providers or DSPs, broadcasters, businesses using music, etc) and the creators and custodian of the creative content, the CMOs and to some extent, the music publishers.

CMOs are the crucial link between authors, composers and publishers and the licensees of music rights and their benefits are multiple.

Their primary role is to license the rights with which they have been entrusted by their member authors, composers and publishers, and then to administer, collect and distribute royalties due for the use of the music in their repertoire. They operate with a view of maximising the streams of revenues for their members.

For users of music such as e.g. DSPs, they are enablers and facilitators, which can provide in one go access to a wide repertoire for digital usages. Without the licensing capabilities of CMOs, and the repertoire they represent, DSPs would not be able to operate in a legal and framed way. Music, in a way, is a service-driven economy, and the CMOs are at the heart of this process.

CMOs constantly seek to improve the model to adapt to the DSPs' needs.

They usually operate at a national level, relying on representation agreements with foreign societies around the world. Thus, local CMOs typically offer a one-stop-shop to offline users of music. They collect on behalf of these foreign societies for the use of their repertoire in these cases and redistribute to them the proceeds collected from the usage of music.

While this structure continues for certain usages, in the last 15 years, the European framework for collective management of online rights in musical works has evolved and societies now also provide their own repertoire on a multi-territorial basis and compete for the representation rights of other catalogues.

Such multi-territorial availability and licensing of repertoire was promoted, inter alia, by the European Directive on Collective Management of Rights⁴ which also created transparency requirements and governance obligations on CMOs.

By the nature of their statutes, CMOs are not-for-profit and non trading organisations. They are at the service of their members and are run by boards that consist mainly of authors, composers and music publishers according to the business model of a cooperative which puts authors, composers and publishers at the heart of the decision making of their CMO and their strategy.

CMOs are also active agents for cultural diversity by the importance and diversity of the catalogues they represent, with compositions in all music genres, from the most popular to the most experimental genre, written by authors and composers of all origins. CMOs usually represent millions of songs and compositions and are, as such, the largest repositories of repertoire in the world.

To answer DSPs' needs, they are increasingly regrouping to offer licensing solutions incorporating the repertoire of several societies in one-stop-shops for multi-territorial licensing and pooling resources to invest in technology and infrastructure to deal with the increasing volume of data generated by online usage, in particular streaming usages.

⁴Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market

1. The era of streaming

1.1. Streaming as a main way to enjoy music

From the late 19th Century's phonograph to vinyl and CDs, technology has provided artists with ways to record their music and consumers with devices to listen to music.

Streaming is the dominant way by which people enjoy music in the world in the 21st Century. It started as a soft revolution in 2006 with the launch of Spotify, out of Sweden. After a decade that decimated the music industry, due to the advent of peer-to-peer sharing of music, music streaming brought back growth in the music sector.

“Music streaming services are now the predominant means of music consumption, supplanting traditional physical media such as CDs and vinyl,” noted the UK's Competition & Markets authority in a recent report on the streaming economy⁵.

Services like Spotify, Apple Music, Deezer, Qobuz, YouTube Music, Amazon Music, etc provide an easy and affordable way to access the largest repertoire (over 60 to 70 million tracks), everywhere in the world, without the need to “own” the music.

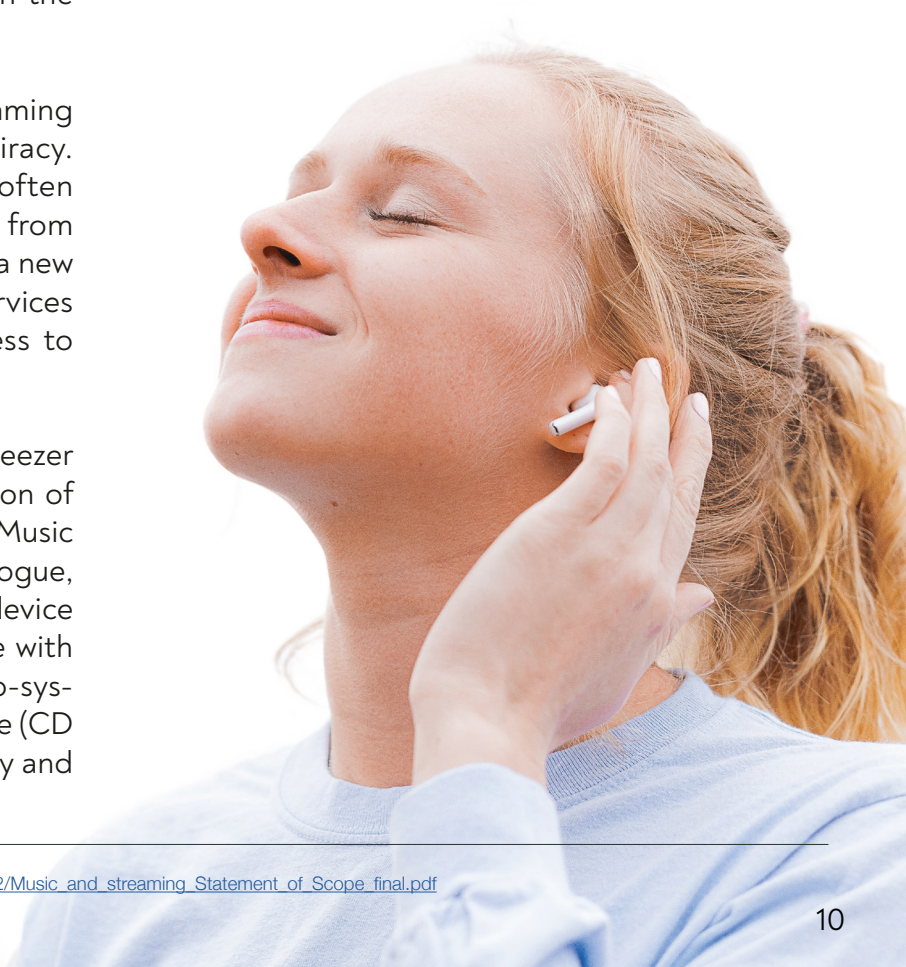
One of the key impacts of the advent of streaming was that it significantly reduced digital piracy. Spotify co-founder and CEO Daniel Ek often claims that streaming has shifted consumers from the massive consumption of illegal music to a new era where the convenience of streaming services beats the use of platforms providing access to illegal content.

In a response to a survey for this report, Deezer executives described as such the contribution of streaming services to the music eco-system: “Music streaming services provide a huge music catalogue, accessible anytime, from everywhere on any device in exchange of a subscription fee or for free with advertising. It is a revolution in the music eco-system which was based only on product purchase (CD or download). It has been an answer to piracy and saved the music ecosystem.”

For consumers, music streaming services have become like utilities (music on tap) with a nominal monthly cost, most generally 9.99 in currencies such as the US dollar, the euro or the British pound in developed countries (the pricing varies significantly in other parts of the world to adjust to the reality of local economies). This transaction provides access to over 70 million tracks, instead of having to either buy tracks by the unit, or by albums. The downside is that in the end, if the subscription to a service ends, consumers do not own anything and lose access to the service.

The benefits for the consumers are obvious with an affordable pricing point giving access to a wide catalogue and has most certainly been a key factor in the massive success of music streaming.

With music accessible anytime, anywhere, on any device possible, music streaming has become the leading way for consumers to enjoy a music experience.



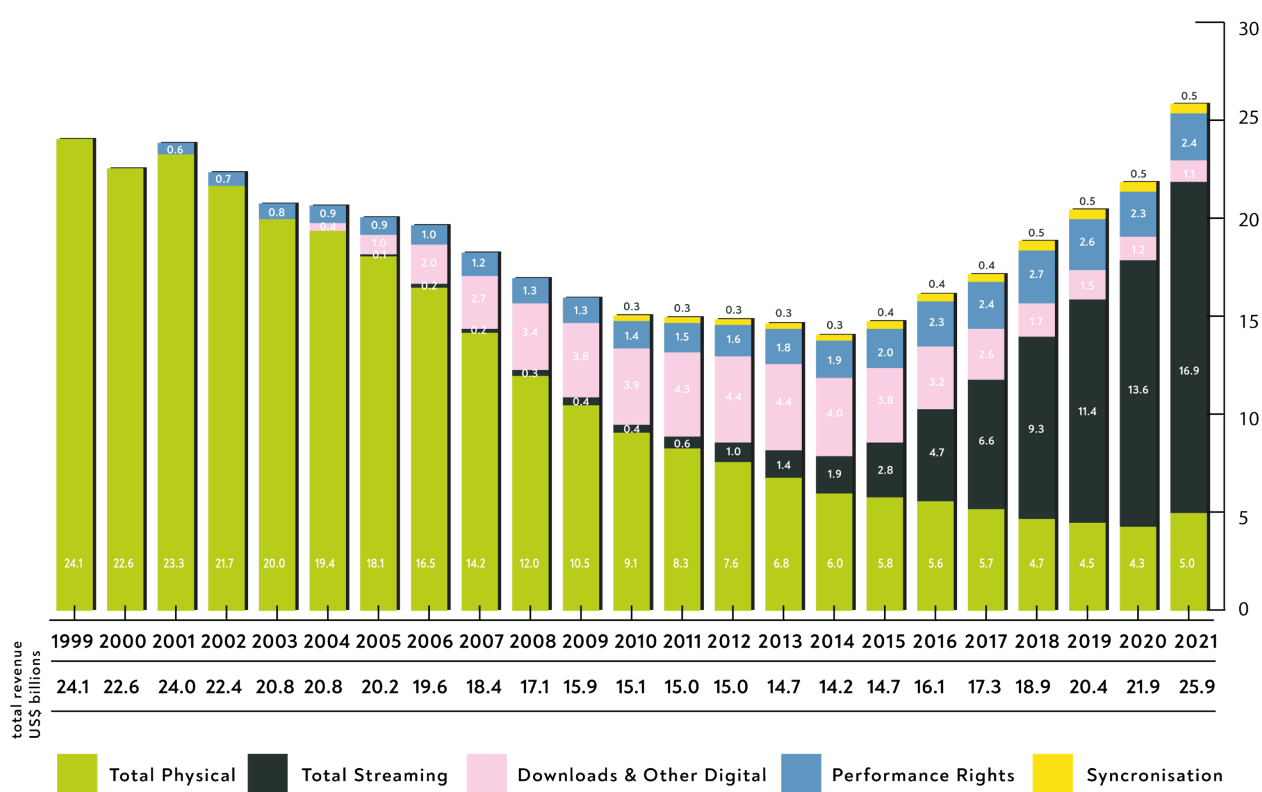
⁵https://assets.publishing.service.gov.uk/media/61f17285d3bf7f0546a99df2/Music_and_streaming_Statement_of_Scope_final.pdf

1.2 The growing business of streaming

“The music industry is a streaming business,” said Bill Wilson, head of operations at US company Entertainment One and the co-founder of the “Metadata Summit” at the MusicBiz conference. Since the turn of the century, the music industry pivoted from a CD-dominated industry to a streaming-driven business.

Recent statistics published by the International Federation of the Phonographic Industry (IFPI) back Wilson's assertion. The growing importance of music streaming for the music sector is reflected in the growing share of revenues from Digital. In 2021, total streaming revenues, including paid subscription and advertising-supported, grew 24.3% to \$16.4 billion and represented 65% of total global recorded music revenues, which totalled \$25.9 billion in 2021, up 7.2% compared to the previous year.

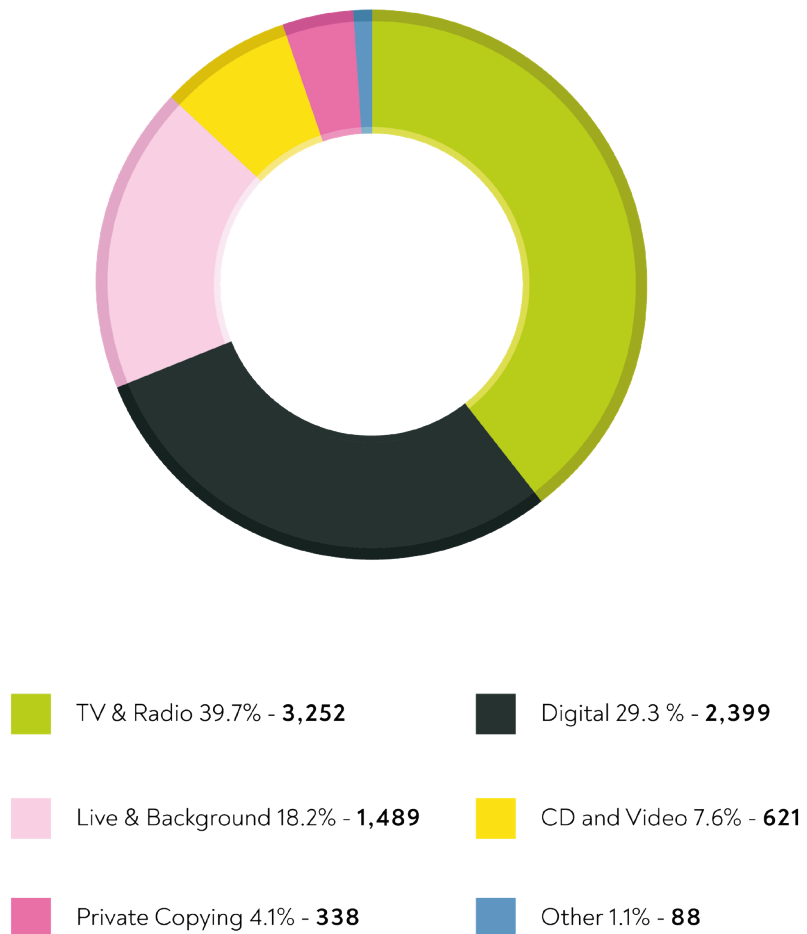
GLOBAL RECORDED MUSIC INDUSTRY REVENUES 1999 - 2021 (US\$ BILLIONS)



CISAC, the International Confederation of Societies of Authors and Composers, disclosed in its ‘Global Collections Report 2021’ that 29.3% of total music collections in 2020 by its members were from digital sources (€2.4 billion out of total collections of €8.19 billion). Digital has become the second largest source of revenues for CMOs, after TV and Radio, especially considering the impact of the pandemic on the live and public performance revenues.

“Digital revenue streams have proved important in helping compensate for the loss of physical and social creative activities,” noted the ‘2021 IMPF Independent Music Publishing Global Market View’. “Digital growth, and new sources of digital revenue, played a defining role during lockdown and made digital – for the first time – the second largest source of music creator revenue globally”.

Share of collections by type of use (EUR million)



This statement must be nuanced as digital did not compensate the loss equally for all creators. In its 2021 ‘Global Collection Report’, CISAC explained that a disproportionately large majority of creators rely on the local uses of their works, on stage and broadcast on air. These creators have felt little or no compensation from increased digital revenues. Also, digital distributions tend to decline per rightsholder as monies are distributed among an ever-growing base of rightsholders.

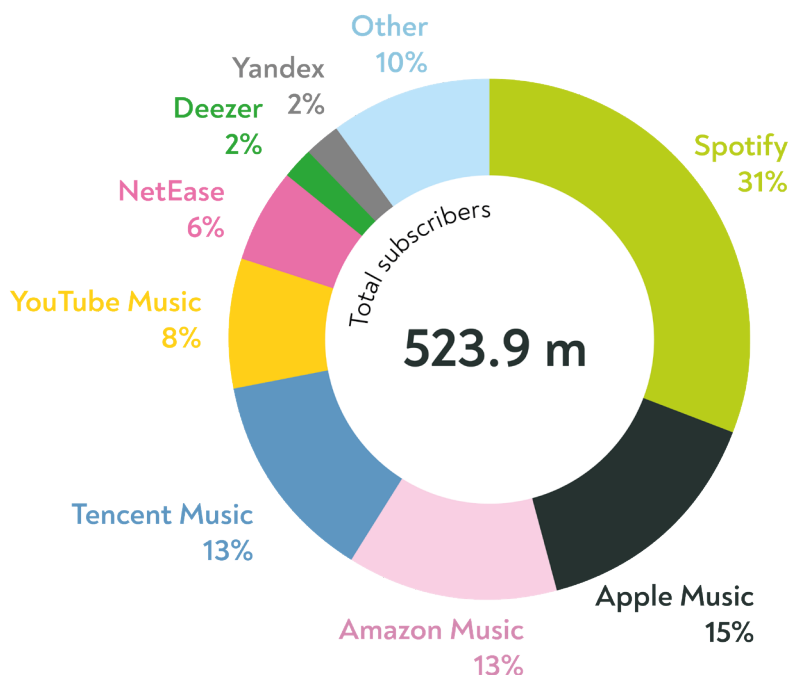
“ More generally, “digital revenues should become the leading source of revenues for authors, composers and publishers if they follow the consumers’ growing habits,” said Cécile Rap-Veber, CEO of France’s society SACEM. “But we are not yet there. That’s why it is important that we find solutions that extract as much revenue as possible from all kinds of digital sources.”

The business of streaming is dominated by global players: Spotify, Amazon Music, Apple Music, YouTube Music, Deezer, SoundCloud are the most ubiquitous. There are also local or regional services (Tidal in the US, Gaana and JioSaavn in India, Tencent and NetEase in China, Boomplay in Africa).

The most up-to-date report about the global streaming market's number of subscribers was published early 2022 by MIDiA Research⁶. At the end of June 2021, the global base of music subscribers reached 523.9 million music subscribers, which was up by 109.5 million (26.4%) from one year earlier, according to MIDiA.

GLOBAL STREAMING MUSIC SUBSCRIPTION MARKET, Q2 2021

Global streaming subscription market, Q2 2021, global



Source: MIDiA Research Music Subscriber Market Share Model 11/21

Spotify was the dominant player with a market share of 31%, down from 33% in Q2 2020 and 34% in Q2 2019. Apple Music was second with a 15% market share. Amazon Music came third with 13%, followed by Tencent Music (13%) and YouTube Music (8%).

It must be noted that five of the main streaming services – Spotify, Deezer, Qobuz, Tidal (through acquisition of Aspiro) and SoundCloud – have started operating in Europe, which reflects positively both on Europe's capacity to innovate and the legal framework which allows streaming services to operate.

It also signals that these services have found in Europe partners in CMOs that provided the licensing agreements that were necessary for these services to start operating.



“Streaming music is the 'canary in the mine' of streaming media, and for the time, it is keeping music relevant, fresh, and chock-full of recurring revenue from service subscriptions. Ultimately, music is in a competition for disposable income and attention – a battle that is fought with all the other ways fans can spend their money and their time. Clinging to the old vine is costly. Grabbing the next vine is the key, leading the way to new and innovative ways to license and use music.”

Jim Griffin, VP Digital Rights, Pex

⁶<https://www.midiaresearch.com/blog/music-subscriber-market-shares-q2-2021>

1.3 A favourable European legal framework for the streaming market

With the adoption of the Copyright Directive⁷, the European Union has created a unique environment for further and healthier development of streaming services. Before the adoption of the Directive, music streaming services that were fully licensed were at a competitive disadvantage compared to platforms such as YouTube that could, through user-generated-content, offer content that was not licensed, subject only to an obligation to take down unlicensed content at the request of rights holders - which in most cases has proven ineffective.

“The biggest challenge for music creators and their partners has been and still is that they are not in the position to negotiate on an equal footing with the big streaming operators. A particular problem exists with UGC platforms who have regularly invoked the fact that they themselves would not engage in any copyright-relevant act and therefore would be entitled to claim the safe harbour defence for hosting providers” explained an executive from a CMO.

This perceived “value gap” (or “transfer of value”) created an imbalance in the market, which was addressed by Article 17 of the Directive. Article 17, which creates a regime of liability for the so-called “online content sharing service providers (OCSSPs)” for unlicensed content, and an obligation to make “best efforts” to identify rights holders and license content,⁸ establishes in principle a fairer system. It is at this stage too early to evaluate the impact of Article 17, but rights holders believe that it will create the conditions for a fairer market where UGC platforms will have to negotiate licensing agreements with rights holders.

“

“Re-balancing the value gap in the streaming market remains one of the biggest challenges,” claimed Dr. Harald Heker, CEO of Germany's authors' society GEMA. “The adoption of Article 17 of the EU Copyright Directive was an important step in the right direction. However, the new liability rules provided by Article 17 must not be weakened or undermined by the implementation of the Digital Services Act which the EU institutions recently agreed on.”



⁷Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC

⁸The Guidance on Article 17 of Directive 2019/790 on Copyright in the Digital Single Market (COM/2021/288 final) notes that “In particular, proactively contacting collective management organisations (CMOs) acting in accordance with Directive 2014/26/EU to obtain an authorisation should be considered as a minimum requirement for all online content-sharing service providers” when assessing the “best effort” of OCSSPs to license protected works. The Guidance document also underlines that “Collective licensing can thereby facilitate obtaining authorisations from a wide range of rightholders.”

1.4 CMOs as facilitators for the development of the music streaming market

From a licensing perspective, CMOs have been progressive partners for the new digital platforms. Many DSPs' first licensing agreement was with their local CMO (see table).

If they were sometimes initially slow to jump on the digital bandwagon, European CMOs have been acting as dynamic partners in the past decade, allowing many services, sometimes at a very embryonic stage to benefit from licensing agreements that would allow them to start scaling up their businesses.

As one executive from a DSP put it: “CMOs contribute to the value of our platform by granting us the rights which are essential to operate our streaming services all over the world.”

Deezer's founders – who are no longer with the company – frequently explained that the initial agreement signed with SACEM in France gave them the recognition that they needed to then go negotiate licensing agreements with owners of sound recordings.

DSPs very often start their first round of negotiations with CMOs. There are multiple reasons for that: It is a way to secure the largest repertoire in one go; it helps establish a business relationship with a licensor; and it is a way to test their business model with organisations that have deals in place with all kinds of models and who can also act as advisors to start-ups.

DSP	Country of origin	First licensing deal
Spotify	Sweden	STIM
Deezer	France	SACEM
Qobuz	France	SACEM
Aspiro (now TIDAL)	Norway	TONO
SoundCloud	Germany	GEMA

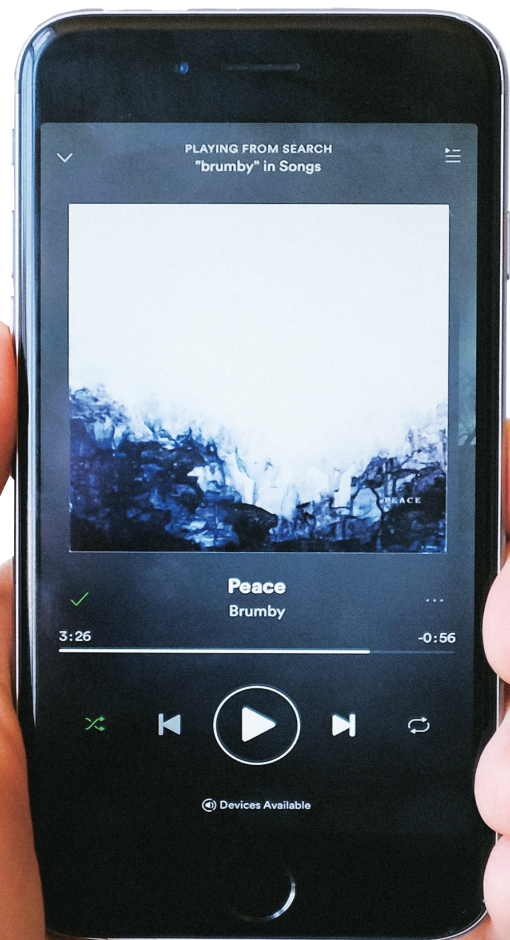
2. Pricing of streaming services and its impact on authors and composers

Authors and composers would like to benefit from this striving streaming market. While digital uses and revenues for streaming services are skyrocketing, creators are not getting their fair share of such revenues as the growth seems to be only to the benefit of such services.

As Anna Lidell, songwriter and Vice-President of KODA (Denmark), notes “The accessibility of music worldwide is great, and from a consumer point of view there are many great streaming platforms, but in terms of paying those who write and create the music, the system isn’t contributing to the ecosystem.”

The entrance door to revenues is the pricing, a powerful marketing tool to reach out and retain music streaming services’ subscribers.

The rightholders’ revenues from today’s overall digital market have only recently reached and passed the amounts of the CD-based market of 20 years ago. The music streaming market, as the main form of exploitation, is now at a critical point to make the right choices for its future and the market failures of those past years should not be a justification not to bring a meaningful growth for authors and composers through structuring more realistic and sustainable pricing schemes.



2.1 Description of the current pricing plans

Services such as Spotify, YouTube, Deezer operate with a free, advertising supported tier and a premium, subscription-based tier. Others like Apple Music are subscription-only without a free tier. Amazon has a subscription model for Amazon Music, but also provides access to music catalogues through Amazon Prime, as part of the overall subscription to the service.

The Premium services come with a variety of subscription pricing plans. To take just one example, Spotify includes a Standard Plan, Family Plan, Duo Plan, and Student Plan, among others.

The Family Plan consists of one primary Premium Subscriber and up to five additional sub-accounts, allowing up to six Premium Subscribers per Family Plan subscription.

The Duo Plan consists of one primary subscriber and one additional sub-account, allowing up to two Premium Subscribers per Duo Plan subscription.

Spotify's Premium Service is also sold through partners, generally telecommunications companies, that bundle the subscription with their own services or collect payment for the stand-alone subscriptions from their end customers.

Spotify explained in its Securities & Exchange Commission (SEC) filing that these plans are designed “to appeal to users with different lifestyles and across various demographics and age groups.”

Service	Free tier	Subscription	Family	Student	Hi-fi Sound	Tracks
Amazon Prime Music	Free with Prime	\$139/year	N/A	N/A	No	2 million
Amazon Music Unlimited	No	\$8 for Prime members /\$10 for non members	Y	N/A	7 million tracks at 24-bit	75 million
Apple Music	No	\$9.99	\$14.99 for 6 members	\$4.99	20 million lossless tracks	90 million
Deezer	Yes	\$9.99	\$14.99 for 6 members	\$4.99	Hi-fi for \$14.99	90 million
Qobuz	No	\$10.83 for basic plan /\$14.99 for "Sublime" plan	Duo \$14.99 for 2 Subscriptions / Family for 6 at \$17.99	N/A	All tracks are minimum FLAC 24-bit	80 million
Spotify	Yes	\$9.99	\$14.99 for 6 members	\$4.99	To be available in 2022	82 million
YouTube Music	Yes	\$9.99	\$14.99 for 6 members	N/A	N/A	70 million

The various pricing plans help determine what is called the **ARPU or the Average Revenue Per User**⁹. ARPUs are important indicators for services that combine a free and a paid tier, and also multiple subscription programmes. Since Spotify is by far the largest streaming service in the world, a lot of attention from CMOs has focused on its ARPU, which in the end will determine how much remuneration will be paid to rights holders. “**Average Revenue Per User (ARPU) needs to increase across all platforms,**” said the CEO of a CMO.

⁹According to Investopedia (<https://www.investopedia.com/terms/a/arpu.asp>), ARPU is “an indicator of the profitability of a product based on the amount of money that is generated from each of its users or subscribers. It is a particularly useful measurement for companies in the telecommunications and media industries, which rely on subscribers or users. ARPU is usually calculated as total revenue divided by the number of units, users, or subscribers.”

2.2 How the streaming services' pricing strategy

limits authors and composers' revenues

As the royalty rates depend on the DSPs' revenues, their pricing strategy directly impacts the authors and composers' own revenues.

2.2.1 Pricing power

The marketing of music streaming services at a nominal monthly fee, most generally 9.99 in currencies such as the US dollar, the euro or the British pound in developed countries raises questions with many executives surveyed for this report as this subscription fee has not increased in over more than a decade and has not been following the inflation.

Also, many respondents are worried that this "one-size-fits-all" 9.99/month subscription service does not provide enough variety for consumers, once everyone has access to more or less the same amount of music.

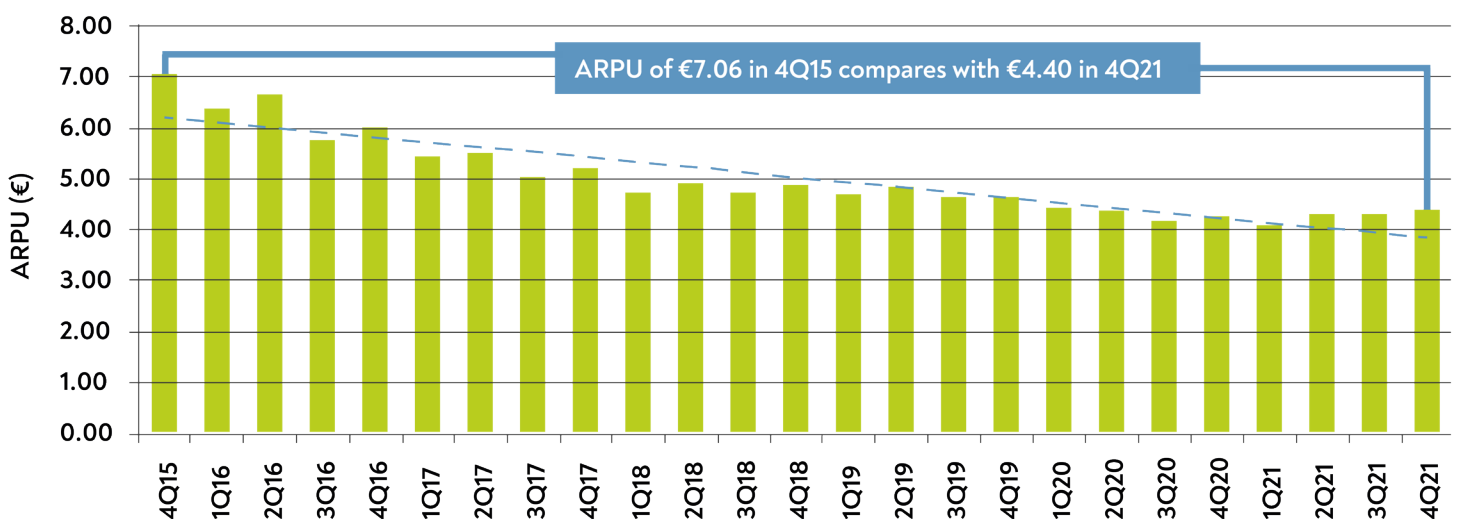
Several rights organisations surveyed for this report have also commented on the dichotomy between the need for rights holders to ensure that streaming services capture as much revenue as possible from their customers, when one of the strategies from publicly-quoted companies is to expand their pool of subscribers, which is a key factor in their valuation.

"Pricing models should however strike the right balance between customer acquisition and fair remuneration for music creators," warned an executive from a CMO.

2.2.2 ARPU

Respondents have observed a decrease in ARPU over the last years.

Thus, as an example, although Spotify's quarter-on-quarter ARPU has picked up some stream in three of the four quarters of 2021, the ARPU rate has trended downwards since 2015, noted Music & Copyright (see graph below).



Royalties are usually calculated monthly based on the combination of a number of different elements. In the case of Spotify (page 48 of the SEC filing), Premium Service royalties are based on the greater of a percentage of revenue and a per user amount.

Royalties for the Ad-Supported Service are calculated as a percentage of relevant revenue, although Spotify notes that “certain agreements are based on the greater of a percentage of relevant revenue and an amount for each time a sound recording and musical composition are streamed.”

Spotify states that it has negotiated “lower per user amounts” with record labels (but also with CMOs) for its lower-priced subscription plans such as Family Plan, Duo Plan, and Student Plan.

This decrease can be explained by the way in which new features are offered by the streaming services.

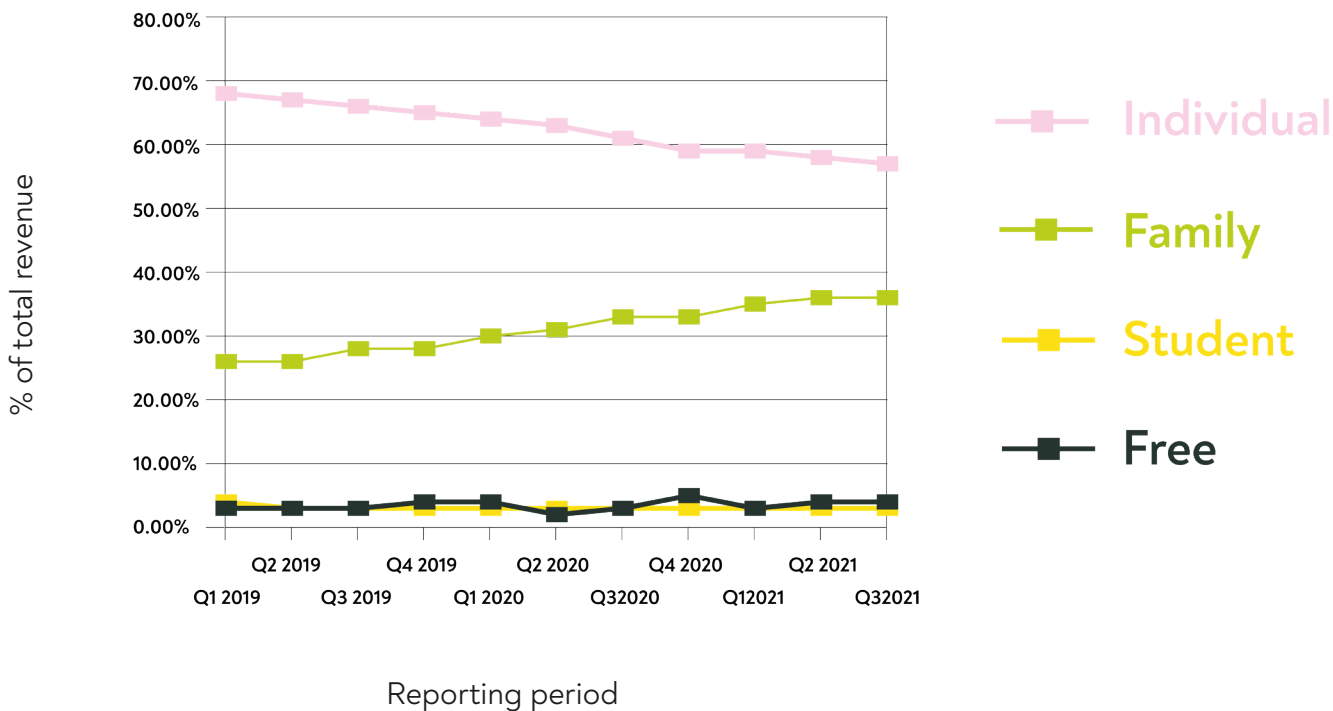
For example, most streaming services (Apple Music, Spotify and Amazon, mainly) have started in 2021 to provide high-resolution sound to their users/subscribers, without an increase in pricing.

This is seen as a missed opportunity by rights holders who believe that hires sound would have been a way to bring ARPU to a higher level by providing an additional service at a premium pricing. “Services do not create offers with value added services that consumers would pay additional rates to access,” said an executive from a European rights society.

Also, it appears that streaming services have promoted pricing plans more appealing to the subscribers in order to increase their base without valuing these new features and thus seeking to increase their ARPU.

French rights society SACEM has provided data for this report showing that the share of the two main pricing plans (Individual and Family) has been following asymmetric trends in the past three years, with the percentage of total revenues from Individual subscriptions falling by 11 percentage points between the first quarter of 2019 and the third quarter of 2021, respectively of 68% and 57%. Meanwhile, the percentage of revenue from Family Plans rose by 10 percentage points during the same period, from 28% to 38%. Student and Free tier plans remained stable, accounting on average for 3-4% each quarter.

Share of subscriptions plans in % of total revenue (source: SACEM)



The above revenues are the declared revenues (averaged and anonymised) which can be expressed in million streams as follows.

Stream value (in declared income)

Analysed DSPs: Multi-territory DSP

Period: 2019.Q1 au 2021.Q3

Territories: TIER 1 (Europe including UK and Switzerland + Gulf territories) and other territories

Value: Average reported revenue per million cross DSP streams by offer type

Evolution by year :

Years	Tier 1	Other TIERS
2019	7 780 €	2 960 €
2020	7 510 €	2 370 €
2021	7 830 €	2 000 €

Detail by offer :

Type of offer (incl. Trial)	2019	2020	2021 (3 trim)
Individual	12 167 €	12 114 €	12 739 €
Family	6 649 €	6 529 €	6 937 €
Student	5 049 €	5 121 €	5 375 €
Free	1 259 €	1 121 €	1 337 €

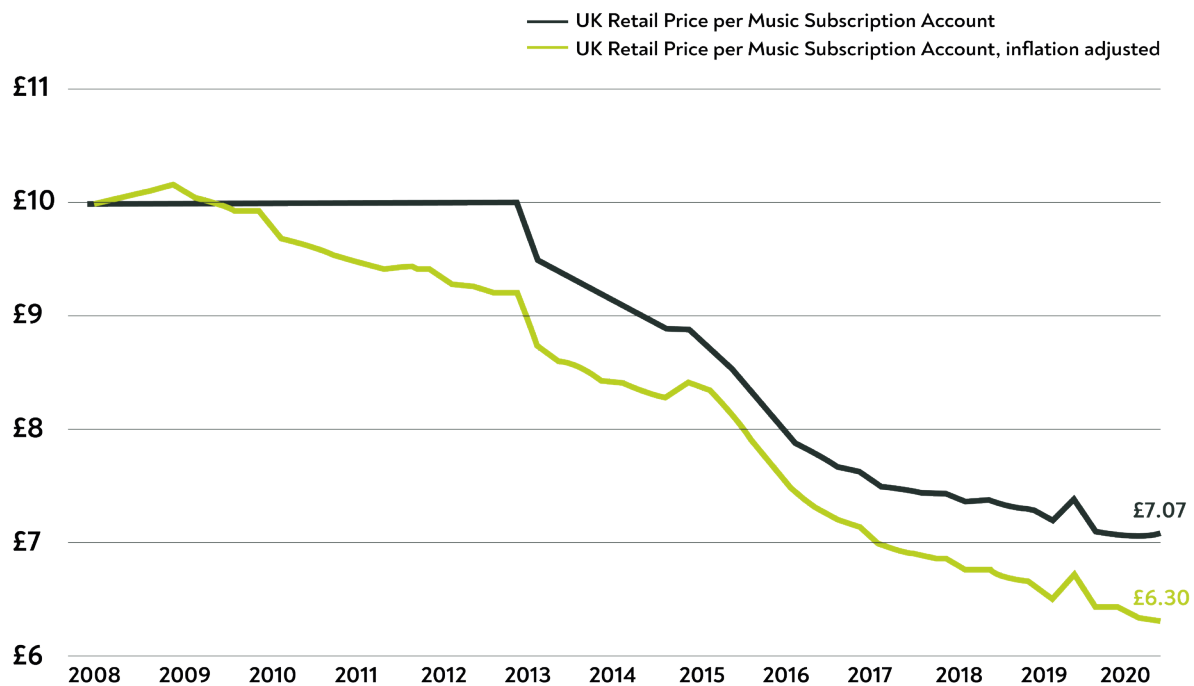
Comments :

- Decrease of the per stream on the OTHER TIERS following the opening of TRIALS offers on new territories
- Increase of the per stream on the TIER1 following the tariff increase of one of the DSPs on some territories and for some paying offers, mainly the multi-account offers in S1-2021 (+10% on average on the public subscription price)

Looking at both above graph and chart, broadly speaking, between Q1 2019, Q1 and Q3 2021, ad-funded offers remained stable in terms of number of users, but the revenues generated by these offers did not take off and remained 10 times lower than the value of one million streams generated by an Individual offer.

SACEM noted that there was a slight growth in the value of paid plans in 2021, linked to a small price increase in certain Tier 1 countries (Europe, UK, Switzerland and Gulf countries), mainly applied to multi-account offers. Outside such Tier 1 countries, the values are three times lower.

This picture based on the direct numbers from CMOs is also in line with the findings of the economist Will Page, who argues in his article called Malbeconomics that “Accounting for these varying price points across the three major services of Apple Music, Amazon Music Unlimited and Spotify, with a blended and weighted calculation, deflates the 9.99 shibboleth to just £6.30 after adjusting for inflation¹⁰.”



W. Page also explains that “on the twentieth anniversary of the 9.99 price point, streaming’s service-improvements have skyrocketed, despite its price remaining unchanged. Song volumes have climbed from just 15,000 tracks on Rhapsody’s 2001 offering to over 75m today (growing at a rate of 75,000 a day). Smartphone streaming apps make these massive libraries imminently accessible, and are constantly being improved. Single accounts have given way to flexible plans with collaborative listening options. And, since the 2015 breakthrough of algorithmic playlists like Discover Weekly, services can even choose the music for you. Yet, the price for music remains not just the same, but cheaper when adjusted for all the participants in the family plan, student pricing and inflation.”

These figures suggest that the dilution of full-subscription revenues into various bundles and promotional plans lowers DSPs’ ARPU and eventually significantly impacts the overall pot of revenues.

Cécile Rap-Veber, CEO of France’s CMO SACEM, said licensing agreement could take into account models with variable pricing points and would benefit authors, composers and publishers. Rap-Veber also recommends that DSPs that have an advertising-supported tier set up mechanisms to make these tiers a less-than-enjoyable experience for consumers (such as the multiplication of advertising breaks, low-quality sound, etc), to push them to switch to the subscription tier.

“

“Despite the steady income for the music industry, there are several issues in the streaming model, causing uneven income for authors. The main issues are: 1) Distribution of revenue between sound recording and songwriting copyrights; 2) The pro-rata royalty model, which doesn’t take into account the length of the song; 3) Ad-based services aren’t monetized well and are often providing a very similar user experience to premium services; and 4) Strong competition between audio services, causing services to dump subscription prices. In addition, certain services are using music as a way to attract customers into their ecosystem, thus not needing to make a profitable business from music, which leads to commoditisation of music.”

Antti Härmänmaa, Chief International and Legal Officer, TEOSTO (Finland)

¹⁰<https://tarzaneconomics.com/undercurrents/malbeconomics>

3. Other features of music streaming services and their impact on authors and composers

If the pricing of the services has a direct impact on authors and composers' revenues, the role of other features of the services shouldn't be underestimated.

3.1 How songs' success depends on playlists

Playlists are the key music discoverability component. Each streaming service has its own set of playlists, generated in-house through curators and/or via algorithms. The most popular playlists are major trendsetters and can determine the fate of a song.

In addition, "influencers" as well as any users of the services can create their own playlists, which can have from just one follower to several million. New music recommendations account for some 16 billion tracks listened to each month.

In a June 2018 paper¹¹, economists Luis Aguiar and Joel Waldfogel calculated that being added on Spotify's Today's Top Hits, which then had 18.5 million followers (the list has now over 28.6 million followers, and is the streaming services' biggest playlist by the number of followers), could raise streams by almost 20 million and was worth between \$116,000 and \$163,000.

"Inclusion on New Music Friday lists substantially raises the probability of song success, including for new artists," wrote Aguiar and Joel Waldfogel, who added: "The major platform-operated playlists have large and significant causal impacts on streaming, so the platform has power to influence consumption decisions, even among songs and artists that are already widely known."

These playlists, in particular those generated in house through algorithms, have been identified by many respondents to our survey as a source of discoverability as well as a bottleneck that dictates what becomes popular. The main concern is that in order to please the maximum number of people, services tend to feature songs that appeal to a lower common denominator.

The significance of the functioning of playlists and algorithms of music streaming platforms can also be understood when considering streaming fraud, playing of royalty-free music and the phenomenon of "ghost artist", which are dealt with in more detail in below sections.

Playlists are not constrained by quotas or specific requirements, and some respondents have flagged them as a potential issue for the development of local artists and cultural diversity.

"In the EU, audio streaming services are currently in a regulatory gap," noted a representative from a CMO. "They are not covered by the Audiovisual Media Services Directive (AVMSD) and will not be covered by the Digital Services Act either."

“Music streaming services should be encouraged to promote cultural diversity and to ensure prominence and discoverability of European works and repertoires.”
András Szinger, CEO of Artisjus (Hungary).

“Gaining access to playlists, which drives enhanced growth, is still very difficult for most artists and smaller labels/publishers. This can also lead to homogenised content across platforms and territories. Older artists who would have traditionally generated a significant percentage of their income from physical sales have witnessed this revenue stream virtually disappear and, in most situations, online income streams have not replaced this revenue loss.”
Victor Finn, CEO of IMRO (Ireland)

¹¹<https://www.nber.org/papers/w24713>

3.2 How algorithms can affect discoverability

Music streaming services use algorithms to power music discovery, recommendations and inform customer profiles. These algorithms are part of the internal recipe that each service puts together. However, these algorithms are not open and the way they are parametrized can skew the way people listen to music in many different directions.

This lack of transparency in the process has been described by many of the people or organisations surveyed as a real issue with regards to discoverability (is the algorithm recommending what is trending or what the consumer is expected to like?) and cultural diversity (is the algorithm pushing for the 1% that everyone listens to or selects a wider range of music for consumers to discover?).

“Circulation of works is based essentially on algorithms and on a seemingly arbitrary process of music selection operated by platforms, while revenue analytics and remuneration mechanisms are often opaque,” stated the executive from a European CMO.

In the EU, music streaming services operate within a very open regulatory framework that does not include –as opposed to the audiovisual field – any obligations to support local content, at a national and pan-European level.

In fact, music streaming services operate in Europe, unlike other media, without content moderation rules at national or EU level. Streaming services argue that they are not defining what is popular because that's what consumers do and that they try to act as locally as possible and support local repertoire.

3.3 The unfair playing field created by streaming fraud

Streaming fraud is listed as a concern by several respondents. The key issue is that it creates an unfair playing field if some content receives undue push through dubious “marketing” methods (most likely so-called “click farms”). Some companies offer buying Spotify streams, Instagram followers or YouTube views, as documented in the article ‘Arnaques, chiffres et playlists: enquête sur le marché noir du streaming’ (‘Scams, figures and playlists: an investigation into the streaming black market’), by French news platform Konbini¹².

For the surveyed songwriters and executives, this system impacts legitimate streaming results, influences algorithms, and in the end, creates a stream of revenues that is not backed by real listenership.

It is detrimental to the exposure and revenues of all the other stakeholders who play by the book. Streaming services have protocols and teams in place, using AI and other tools to monitor unusual bumps in streaming figures, and usually identify such frauds but the system is not full proof, since the fraud technologies are getting increasingly sophisticated.

Record company executives and music streaming services usually collaborate on these issues to identify possible threats. “As streaming services continue to grow in terms of content volume and subscription values, the propensity for user fraud will rise,” said an executive from a CMO, who advocates for “robust measures to combat fraud at the point of creator/distributor upload right through to royalty distributions.”

3.4 The use of royalty-free content in prominent playlists

One streaming service, Spotify, introduced in November 2020 a promotional scheme through which content owners (labels, performers, self-produced artists) could get a boost and be featured on playlists and get more visibility against lower royalties.

“We won’t guarantee placement to labels or artists, and we only ever recommend music we think listeners will want to hear,” said Spotify in a press release at the time of the launch of the “Discovery Mode” scheme, described by Spotify as “a marketing tool designed to help you find new listeners when it matters to you most” working “with no upfront cost”.¹³

¹²<https://www.konbini.com/fr/musique/arnaques-chiffres-et-playlists-enquete-sur-le-marche-noir-du-streaming-1-2/>

¹³<https://artists.spotify.com/discovery-mode>

A disclaimer on the streaming service explains the workings of the scheme: “Spotify charges a commission on streams when Discovery Mode is turned on. Discovery Mode can only be activated in limited areas of Spotify, where listeners are most open to discovery. All other streams are commission-free. The commission is a percentage of revenue generated on those select streams. This marketing cost is deducted from future Spotify statements, so no upfront cash budgets are required.”

At the time, Spotify’s product marketing lead Charleton Lamb told Music Ally¹⁴: “What was really important was that we wanted to be accessible to artists at any stage of their career. It won’t require any budget upfront. The model is accessible, democratic, it’s fairer. You don’t have to pony up cash.”

The scheme is still being tested. It has received support from distributor Believe and its affiliate TuneCore. The trade-out was labelled as “payola” in May 2021 by Artist Rights Alliance in an op-ed in Rolling Stone¹⁵. Other services such as Apple Music or Deezer said they were not using such promotional schemes.

Several respondents – in particular creators and CMOs – have taken a very strong stance against the practice of using royalty-free content in playlists, or content for which the creators have agreed to a lower royalty rate in exchange for visibility.

“The emerging promotional schemes for artists against a lower royalty rate are a form of slavery we can’t accept,” said Italian songwriter and performer Christiano Godano, lead singer for the band Marlene Kuntz. “Being musicians at the mercy of music platforms, nowadays, is like being heroes, or, at least, members of an orchestra that keeps playing while the ship is sinking, and only a few, a very few, will be able to survive.”

Some respondents have also raised concern about music – essentially instrumental – that is produced and developed by companies for streaming services, and that are featured on some prominent playlists. Both systems work more or less the same way with the same consequences.

The phenomenon of “fake artist” (or “ghost artist”) closely related to royalty-free music services that started to grow several years ago on streaming platforms also raises significant problems for the remuneration of creators.

A member of STEF, the Icelandic Composers Rights Society, reported that she/he identified on one of Spotify’s playlist – ‘Peaceful Piano’, on which it is usually difficult to upload songs – a list of artists that would appear to be “fake” in that they do not seem to relate to existing artists with established profiles.

“We have known for quite some time of this practice of fake artists, but it seems to have scaled fast upwards recently,” commented Guðrún Björk Bjarnadóttir, CEO of STEF. “It is safe to say that now this has become the rule and is no longer an exception.” This is proven by most recent examples as well.¹⁶

There are some music production companies that operate with a model consisting of hiring composers and acquiring all rights to their compositions and then offering them as “rights-free” songs, or for a nominal fee. In the case of streaming services, these compositions can come at a reduced price, hence the interest to feature them heavily on playlists where they can attract millions of streams at a lower cost to the service. By featuring compositions available at special rates from rights holders, streaming platforms are able to lower the royalty pot paid to rights holders.

The impact of such practices is twofold:

- ▶ It makes it very difficult for genuine artists and composers to be featured on certain playlists and
- ▶ It therefore constitutes an unfair practice, detrimental to artists, authors and composers.

¹⁴<https://musically.com/2020/11/02/spotify-artist-tool-boost-streams-discounted-royalty-rate/>

¹⁵<https://www.rollingstone.com/pro/music-biz-commentary/spotify-payola-artist-rights-alliance-1170544>

¹⁶“The Fake Artists Problem Is Much Worse Than You Realize”: <https://tedgioia.substack.com/p/the-fake-artists-problem-is-much?s=r> ; and “An MBW reader just blew open the Spotify fake artists story. Here’s what they have to say.”: <https://www.musicbusinessworldwide.com/an-mbw-reader-just-blew-open-the-spotify-fake-artists-story-heres-what-they-have-to-say/>

4. The question of the share of authors and composers from streaming revenues

The question of the share of the value of streaming revenues has been raised for some time and has reached a peak in the UK with the #FixStreaming campaign.

4.1 The rise of #FixStreaming movement in the UK and its implications

In the UK, performers as well as authors and composers via the Ivors Academy have been instrumental in building momentum around the #FixStreaming hashtag. This resulted in a formal inquiry by the Department for Digital, Culture, Media & Sport (DCMS) Committee in the British Parliament. One of the key issues raised by the advocacy groups involved was essentially to find a better balance between the owners of sound recordings and performers, through the implementation of equitable remuneration.

A secondary topic was the rebalancing of the streams of revenues between recording and compositions. The DCMS report recommends revenue parity between songwriters and composers. The Report considers that songwriters and composers' remuneration does not reflect the value of compositions. It also recommends that the Government introduces legislative proposals taking into consideration the need for the appropriate remuneration of songwriters and composers.

The music streaming market will also be the focus of an inquiry from the British Competition and Markets Authority (CMA), which has launched a market

study on competition in music streaming services with the goal to assess how it works “from creator to consumer, paying particular attention to the roles played by record labels and music streaming services.”

The report will essentially focus on potential harm to consumers, but the CMA will also assess if any lack of competition between music companies could affect the musicians, singers and songwriters. “A vibrant and competitive music streaming market not only serves the interests of fans and creators but helps support a diverse and dynamic sector,” said CMA Chief Executive Andrea Coscelli.

The CMA has until January 2023 to produce a report. It is expected to cover a wide range of topics and could offer a series of recommendations. “If the CMA finds problems, it will consider what action may be necessary,” said the competition watchdog.

British rights society PRS for Music welcomed the inquiry which could be instrumental in “securing a streaming market that properly rewards PRS members,” namely songwriters and music publishers.

4.2 Disorders in the streaming value chain

The conventional wisdom among authors and composers in Europe is that they are not “fairly remunerated from music streaming services,” as expressed by the European Composer and Songwriter Alliance (ECSA), which represents over 30,000 professional composers and songwriters in 27 countries, via 59 member organisations across Europe and beyond.

The #Fix Streaming movement further illustrates the feeling authors and composers have of being at the bottom of the totem pole when it comes to music streaming while they are at the start of the creative process.

The reasons for such feeling are multiple.

4.2.1 Remuneration

Although this report is not the place for a contribution to the current debate of the sharing of value in streaming, many creators surveyed for this report have highlighted it as one of the key issues for them.

The overall feeling from songwriters is that if the music industry has experienced a rebound for the past seven years thanks to the development of streaming, this boom has not yet reached songwriters, due to the rates applied to the remuneration of compositions.

As one European CMO explained: “For composers and lyricists, even more so when they are not performers too, streaming services have not been generous. Even though the unending availability of music has cut the level of online piracy, the revenues accruing to composers are still small. All statistics show that in order to receive an amount of royalties approximately comparable to minimum salary from streaming services, an author should have his or her song streamed millions of times. This is very hard to explain to authors when, on the one hand, the value per stream can be so low as to appear fundamentally unfair, and, on the other, we hear that the streaming market is flourishing.”

To give an idea of the scale necessary to earn a decent remuneration from music streaming, Spotify CEO Daniel Ek disclosed in March 2021 that 57,000 artists represented 90% of monthly streams on Spotify.¹⁷

Even though the number has quadrupled over the last six years, this is a small figure compared to the number of artists present on the site, which means that the vast majority of artists only account for 10% of the streams.

“

“Streaming is not well remunerated for creators, and if this segment is going to be a predominant aspect in the future of music, the same should be true also for remuneration, with streaming representing one of the major sources of author’s revenues, which is not the case today.”

Laila Al Habash, Songwriter and Performer (Italy)

¹⁷<https://newsroom.spotify.com/2021-03-18/spotify-founder-and-ceo-daniel-ek-discusses-the-economics-of-music-streaming/>

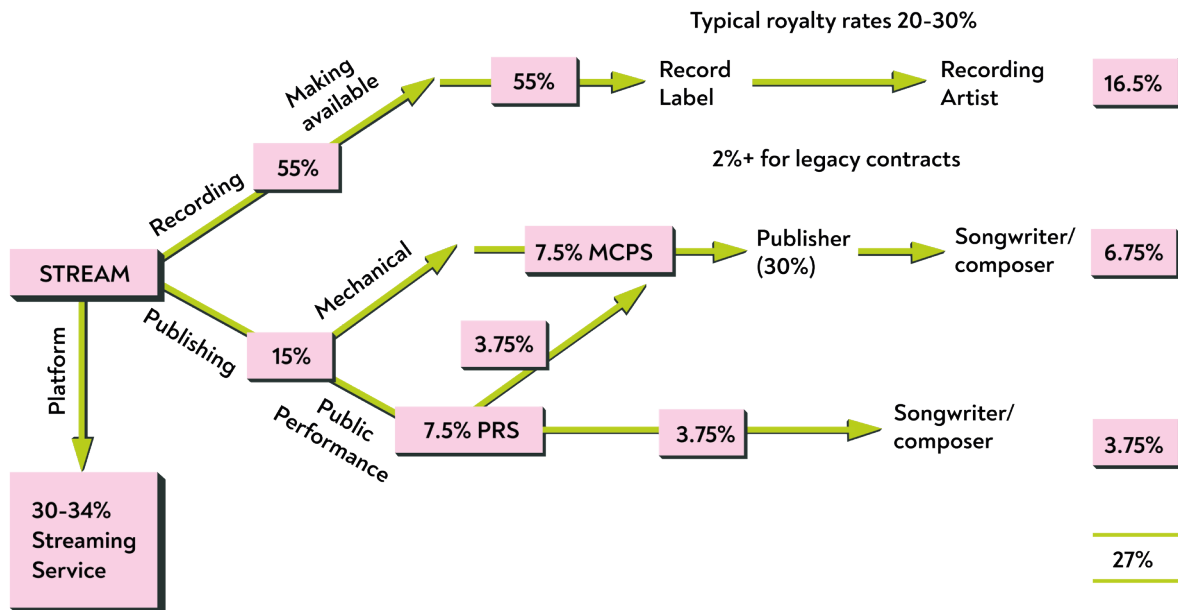
4.2.2 The split of revenues from streaming

The split of revenues from streaming between stakeholders is open to some interpretation as it also relates to contracts between, for example, a record label and a performer, or a songwriter and a publisher, the terms of which are not made public.

In its above-mentioned report, the DCMS Committee in the British Parliament suggests a possible split of the digital pie where 30/34% of the price paid by subscribers to streaming services, are kept by the streaming service, and out of the remaining 70%, 55% go back to the labels, 16.5% go to the artist-performer, 15% to the songwriter and music publisher.

Allocation of revenues from music streaming (after VAT)

All percentages are approximate or illustrative



Source: CC Young & Co Limited (EMS0077); Qq4, 53, 83-4

After surveying stakeholders, author Chris Cooke finds the same split in his report 'Dissecting the Digital Dollar', published by the Music Managers Forum in the UK.

This 80-20 split between composition and recorded music is a heritage from the CD era when most of the investment in putting music out was on the record labels, who had to incorporate the cost of physical distribution into their cost structure. Digital distribution, however, has taken many of these costs away from the P&Ls (Profit and Lost) of record labels. Cooke writes that the way streaming income is split is seen as “in-equitable” by all stakeholders apart from record companies. This sentiment has also been shared by multiple executives and creators interviewed for this report.

“

“Despite the key role that music streaming plays for the distribution and consumption of music, songwriters, authors and their publishers still do not benefit sufficiently from the proceeds of the music streaming model. As music streaming is replacing other formats, creators and rights holders should be equally able to make a living from music streaming royalties; regrettably that is not the case to date. Given the growing number of new tracks available every day, we need to grow “the pot” and songwriters need to receive a bigger share from the overall royalty distributions paid out by streaming services. Also, the allocation of royalties should ensure that local or niche repertoire is not under-valued.”

Goetz von Einem, SVP Digital & European Legal Affairs at Peermusic (Germany)

5. Towards a more author-centric streaming ecosystem

The music streaming eco-system could become more author and composer centric if several changes were applied throughout the three following pillars: Recognition; Remuneration; Identification & Attribution.

While most of these changes require a more responsible approach by services and/or rightholders to build a more sustainable and fairer streaming economy, some others would require further industry cooperation and in certain specific cases possible regulatory interventions.

Such changes would imply and require that those at the heart of the streaming economy as the main providers of the “content”: authors, composers and their CMOs are part of the streaming debate.



As Maestro Mogol, the author of many Italian hits and President of SIAE, puts it: “if the platforms want to keep offering vibrant and diversified music available in the future, the streaming environment must become much more author-friendly in terms of discoverability, attribution and remuneration. Music creation needs to be sustainable for new generations of authors”.

5.1 Recognition

Recognition of the role of authors and composers in the streaming economy is crucial to develop a fair and sustainable system that values their contributions to the eco-system and fosters cultural diversity.

If the streaming economy is a song economy – based on the consumption patterns of users – then it must ensure that those who are at the heart of that economy are better recognised and they receive the appropriate reward for their contributions.

This means ensuring authors and composers get visibility for their works.

There are two notable impacts linked to recognition: one is the ability for authors and composers to be identified for their creative contributions (i.e. the song or the composition); the other is the possibility for DSPs to build an eco-system for authors and composers within the wider eco-system of the services.

Authors also emphasise the importance of accessibility of lyrics – with identification – as a way to increase visibility and recognition. Several DSPs do offer access to lyrics covering the most popular songs, but there is the perception that more could and should be done in this area. “[Lyrics] should be further supported,” said a music publisher, “in particular, as it is proven that consumers listen to songs longer if lyrics are provided in parallel.”

In addition, efforts should be made to “push” niche repertoires or repertoire in languages other than English. A CMO from a “small” European country said that “recommendation algorithms do not work well for smaller repertoires,” and that since most DSPs have a performer-based approach, songwriter information “is missing or difficult to find.”

The same CMO suggested, for example, that contemporary “serious” music should be treated in a more dynamic way, with more classical music playlists, highlighting contemporary music pieces, or playlists similar to Spotify’s “pop rising” playlist, with a “classical rising” playlist, featuring lesser-known composers’ new works next to more popular composers’ works. “Search engines should be able to handle classical music styles, providing for more diverse and tailored search options for these works,” said the CMO.

Analytics, as described previously, are also key to a better recognition, if they can help access data linking to users and their consumption habits. “While some platforms do already provide in-depth data reporting capabilities for music creators, most do not,” said a CMO executive.

“The ability to connect directly with a fanbase based on streaming consumption is key to enable creators to derive long-term and sustainable revenue from fans.”

Other suggestions include:

5.1.1 Ensuring that DSPs put in place tools and systems to increase visibility and recognition

To ensure the visibility of authors and composers, DSPs will have to create, develop or re-assign existing tools to showcase authors and composers. This in turn will give them a wider choice of services for their users, through direct use of the data in playlists or specific content pages, and by integrating it into algorithms.

The result should be a more diverse and richer output for users, opening doors to more choices and discovery through a wider set of entry points.

For Italian rights society SIAE, higher visibility for authors and composers could be achieved on different levels: user interfaces, curated playlists, creators and producers’ profiles that could be easily navigated and searched by users and serve as a catalogue of the works (like a CV or a portfolio) of each creator.

“Currently, streaming services provide details on a song’s creators. Nonetheless, such information is hardly visible and it only consists in a list of non-clickable names,” said a SIAE spokesperson.

5.1.2 Ensuring equal access to market for all authors and composers

Access to and use of data about authors and composers should not be limited to top tracks, but cover the whole repertoire, including more niche material. Cooperation between DSPs and CMOs should ensure the equal access to market. This is a critical condition to ensure a wider canvas for cultural diversity.

CMOs will be (and “are”) the guarantors that cultural diversity permeates the music streaming eco-system by ensuring that all repertoire is taken care of by DSPs, and not simply the most popular music genres. CMOs also have the ability to promote their repertoire through partnerships with DSPs, showcases, songwriting seminars, etc.

It is necessary to make more room for less popular repertoires to benefit a wider diversity of authors and composers.

5.1.3 Improving discoverability

A lot of research has been made in Canada¹⁸ with regards to discoverability, in particular in the context of French-Canadian music, which is subject to quotas for over the air broadcasters which however do not apply to music streaming services.

The research shows that while the lists of new releases from Québec, studied are present in a large proportion on streaming platforms, they are “not very visible and very little recommended.” It further shows that the situation is even worse when it is not about new releases, including hit music, when the presence of titles “drops radically.”

It is not very difficult to imagine that if we were to swap Québec in the above sentence with the name of any country from the European Union, and even with music from the European Union as a whole, we could find similar results.

As a recommendation, this study invites European stakeholders and the European Commission to consider commissioning a similar research to develop similar indexes, monitor European content and determine if there are similar restrictions in the exposure of European content.

It is worth keeping an eye on the currently discussed Canadian Online Streaming Act. This draft bill proposes to oblige online streaming services to contribute to audiovisual, films and music production as well as its promotion. In the way the 2019 European Audiovisual Media Services Directive has extended certain audiovisual rules to video sharing platforms and social media service, this Canadian bill goes further by including music streaming services. Although the regulation's objective is clear, cultural diversity production and promotion obligations are not detailed and their articulation is not yet sufficient.

5.1.4 Monitoring diversity

Organisations such as the European Music Observatory, that the music sector is calling for, or within the European Commission itself, could help the music sector create tools to monitor the presence, visibility and discoverability of European authors on digital services.

In addition, it is recommended to connect the notion of discoverability with algorithmic transparency, in order to take into effect lesser-known repertoires. DSPs could also voluntarily agree to give more prominence via algorithms to the discoverability of European authors and less popular music genres or languages.

¹⁸More specifically, LATICCE — a component of the University of Quebec at Montreal (UQAM) which stands for Research Laboratory on the Discoverability and Transformations of Cultural Industries in the Era of Electronic Commerce — has been working with a team of 10 people for 2 years on creating a “discoverability index to measure inventory levels and the quality of recommendations from niche repertoires such as that of independent French-speaking artists in Quebec,” according to one of the researchers in the programme Jean-Robert Bisailon.



5.2 Remuneration

Authors and composers are expecting a better and fairer creation and sharing of value from the streaming market.

The music streaming market has been expanding non-stop for the past 15 years. While the growth of new subscribers has slowed down in the most mature markets, such as in North America and Europe, other parts of the world still enjoy steady growth rates in terms of further penetration of streaming services. Therefore the music streaming market is mature enough to take the next steps for a meaningful growth for the creators and rightholders by growing the revenue pie through more realistic market oriented pricing models and value-added services.

This would immediately benefit authors and composers, who will likely see an up-take in revenues as the overall volume of users and subscription fees grow with market conditions. Once the pie of streaming revenue grows, then the split of revenue allocated to authors, composers and music publishers within this additional pot should evolve in different and fairer ways.

5.2.1 Ensuring that authors and composers are part of the debate on the remuneration from streaming

Authors and composers, as seen in the UK with the DCMS process, deplore that they have been left of the side of the road when it comes to the streaming economy. They feel treated like a minor by-product of a sound recording, when in fact without them, there would not be a song.

There is also a compelling reason for authors and composers to take a front seat in the discussions about the allocation of the revenues from streaming: the new streaming economy is song-based, and songs are written and composed by songwriters. If the streaming economy truly wants to be a song economy, it should then treat the music creators who are at the beginning of the value chain accordingly.

The issue of fair and balanced remuneration will remain on top of the agenda of authors and composers, with the view that progress needs to be made in this field.

5.2.2. Set variable pricing models to attract new consumer spending

As described previously, pricing is the entrance door to a better remuneration of rights holders and as such of authors and composers. Because subscription prices have not increased and are running to the bottom to attract new consumers, the remuneration of rights holders has greatly suffered. Prices should be set in order to make content and services more valuable and then attractive for music users.

DSPs could set variable pricing models based on the new offered features to attract new consumer spending in relation to streaming subscriptions: increasing quality of sound, access to NFTs, etc, this could in turn provide new revenue streams for rights holders.

5.2.3 Re-balancing the value gap

The other issue expressed by rights holders relates to user-generated content platforms, that have historically remunerated rights holders below market rates, if at all, compared to what streaming services pay. The perceived value gap that ensued got its first correction with the adoption of the EU's Directive on Copyright in the Digital Single Market, with its Article 17, which requires UGC platforms to make “best efforts” to identify rights holders, secure licences or take down the content.

The expectations from the creator's side is that the obligation for UGC platforms, – and most notably for the largest, YouTube – to make “best efforts” to identify rights holders and license content will result in higher volumes of royalties paid to rights holders and more even playing field in the streaming market. It is yet too soon to know to what extent this will be the case, but in any case, market conditions have changed in a way that is more balanced towards rights holders.

5.2.4 Create a set of best practices

The idea is to have authors and composers as parties to a set of best practices to which DSPs as well as CMOs, would adhere. These should consist in prohibiting or eliminating the following practices:

“Payola” schemes

DSPs should no longer offer schemes enabling authors and composers to have greater visibility on playlists and through algorithms in exchange for lower royalty rates. Their remuneration should not be a variable against promotional visibility.

“Such promotional schemes are not compatible with collective rights management and risk undermining the collective bargaining power of authors,” said one European CMO.

Royalty free content

Similar to payola schemes, authors believe that royalty free content for which authors surrender their share of remuneration for whatever reason should be avoided.

Use of fake artists/ghost writers

Using ghost writers for music compositions that would be featured on playlists of certain music streaming services should be eliminated as well because of the ethical and economic concerns such practice raises.

Coercive practices

Music streaming services should not have recourse to coercive practices against authors and composers or their representatives. Such practices contravene the basic notion of fairness and equity. Especially in VOD production, broadcasting, advertising and video-games sectors coercive practices are quite common and significantly jeopardise the principle of “appropriate and proportionate remuneration” of creators guaranteed by the Article 18 of the new Copyright Directive.

Streaming fraud

This study also recommends the commissioning of a study to evaluate the depth of streaming fraud and mechanisms to avoid their spreading, as well as the adoption of a code of good conduct between stakeholders, some of which is already in place in several countries to stop streaming fraud.



“Collective Rights Management is an approved mechanism for easy and fair rights clearance. In this context, it is important to raise awareness on the fact that practices like buyout contracts and so-called royalty free music, which are often imposed on music creators, threaten to significantly undermine the collective bargaining position of music creators if they become widespread.”

Michael Duderstädt, Director of Political Communication, GEMA (Germany)

5.2.5 Discuss music streaming distribution models

Deezer has introduced the debate of which one needs to be aware of when reflecting on authors and composers' revenue from streaming exploitations.

The Market-Centric Payment System (MCPS)

The dominant payment model at the moment used by streaming services is the pro-rata model or Market-Centric Payment System (MCPS) which has been implemented since the very beginning.

It consists in the distribution of royalties to rights holders according to their market share of streams, based on a cost-per-stream. The DSP determines the cost per stream by adding all streams and dividing it by the overall pot of revenues.

According to the study on the User-Centric model published by the French Centre National de la Musique (CNM) and carried out by Deloitte, with the MCPS model, to pay specific tracks, DSPs also combine various parameters: "a track's total number of streams, the total number of streams on the platform that month, as well as the amount of royalties distributed by the platform (equivalent to the contractual share owed to rights holders from revenue generated by the platform, minus tax deductions)."

It continues: "The royalties for a track over the period of a month is calculated as the total number of streams of a track divided by the total number of streams on the whole platform. This figure is then multiplied by the total revenue distributed by the platform. With the Market-Centric Payment System (MCPS), rights-holder's royalties are calculated as the total sum of royalties generated from all of the rights-holder's tracks."

The rate also varies depending on whether the track was streamed on the Premium paid section of the service or on the advertising-supported section.

It also varies according to the geographical location where the tracks are listened to. The main services apply various subscription rates adjusted to the local economies where they operate. A stream in Germany is not remunerated the same way as a stream in India or in South Africa.

This leads to variations in the value of streams within monthly statements or between statements. This disparity is often confusing for performers, authors and composers whose revenues per stream can fluctuate.

For the sake of transparency, services could provide additional information to rights holders about the way royalties are calculated.

The User-Centric Payment System (UCPS)

The other model, which is known as the User-Centric Payment System (UCPS) is based on what is consumed by the subscribers of streaming services and on the proportionality of what is used versus what is paid.

The CNM report describes UCPS as such: "It works on an individual user-level, as the royalties from a user's subscription fee are distributed according to what songs the user listens to (one stream equates to a listening time of at least 30 consecutive seconds) over a given period. Every month, this model measures the following parameters for each user: the user's per-track consumption, total number of streams over the period, as well as the amount of royalties distributed by the user (equivalent to the user's subscription fee minus taxes and the service provider's operational costs)."

As a result, royalties for a track per user for a given month, are calculated by "dividing the total number of times a user listens to a given song by the total number of streams made by that user over the month period. This figure is then multiplied by the revenue generated by the user."

Under the UCPS, royalties for a track for a given month are defined as the sum of royalties paid by each user for said track; and the rights-holder's royalties are calculated as the total sum of all royalties from all of the rights-holder's songs played on the platform during a given time.

Intuitively, the UCPS model seems fairer in that artists, songwriters and owners of sound recordings would get paid on the real usage of their songs by each user.

The CNM study, so far the only one of its kind, does not make final determination as to whether switching to UCPS would work better for rights holders than the pro-rata model. CNM President Jean-Philippe Thiellay said the study's goal was to "measure the impact of the eventual switch from one model to another on the redistribution of royalties and thus inform the debate" rather than determine if one distribution method was better or fairer than the other.

There is no doubt that switching to UCPS would come at a cost as it is not the current model that was put in place by the streaming services when the market emerged. The CNM suggests that the development of the UCPS model "should be primarily the responsibility of the platforms".

This study suggests that a future European Music Observatory can make more in-depth studies on this to evaluate the full impact of different distribution models, and their potential benefits for stakeholders, in particular for European authors and composers.

5.3 Identification & Attribution

5.3.1 Identification

Identification of authors and composers is crucial not only for their recognition but also for their remuneration.

The key issue with identification has to do with data first and then the use of the data. Most music streaming services do not display the names of the authors and composers of songs because either they do not have the information or because the system is not designed to display this information.

The call for accurate and reliable data is among the main findings of the survey conducted for this report, and one that DSPs can also be attuned to, since it is also the best way for them to ensure that all the songs played by their users are identified.

The need to improve data from the point of creation

The key to accurate data is to be able to source from the origin of the creative process. Driven by their awareness of this and their special relations with authors and composers, CMOs worked together to improve databases to the benefit of all parties and are at the origin, sometimes through start-ups, of various initiatives and projects – and The MLC in the US¹⁹ as well – to help build better and more accurate data.

A company like Session – involving ABBA's Björn Ulvaeus, currently President of CISAC, producer Max Martin and entrepreneur Niclas Molinder – has for its part launched a platform for project collaboration in the audio space which follows a creative project at every stage of production, from songwriting to mastering, to ensure all credits are accurate.

Services such as Jaxsta, which is the largest database of song credits in the world, have also extended the sources of information available both for B2C purposes (their database can be licensed to services), and for consumers wishing to identify the “people” behind a song.

Young authors (and also established authors, songwriters and composers) do not always understand the ramifications of having proper data about their creations. Not documenting who did what in a recording studio or during a songwriting session, and who are the contributors to a song, can seriously affect the way they will be identified as the authors or co-authors of a song, and their ability to be remunerated for their work.

We suggest that stakeholders – from record labels and music publishers to CMOs and DSPs – conduct regular awareness-raising campaigns to ensure that songwriters better understand the value of proper data and its consequences on their careers.

Better dissemination of ISWCs and matching with ISRCs

A song usually comes with two identifiers:

- ▶ ISRC, the International Standard Recording Code, for the sound recordings and music video recordings. ISRCs are unique to each recording, regardless of the format (CD, digital audio file).
- ▶ ISWC, or International Standard Musical Work Code, for the composition. The ISWC is a code which connects accurately, efficiently and quickly authors to a specific musical work. According to the ISWC Network, it allows CMOs, publishers, DSPs and any stakeholder in the music value chain “to track, identify and ensure that music creators are attributed the remuneration that is duly owed to them for the use of each specific musical work.”

¹⁹The Mechanical Licensing Collective is a new US entity created by Music Modernization Act of 2018 grants mechanical licences to eligible streaming and download services in the US.

One of the main issues with ISWCs is that they are not directly accessible by the DSPs, and the information that they contain is not necessarily transferred to the DSP, in particular the names of the songwriters, lyricists and composers. Stakeholders should work towards a better inclusion of ISWC data into the systems and make it also available to the public.

The onus will be on rights holders to improve works and rights data and to attach relevant metadata for each work and deliver to DSPs. But DSPs are also invited to use technical solutions to improve the identification in closer cooperation with CMOs.

In the above-mentioned DCMS report, British MPs were suggesting that the Government should “oblige record labels to provide metadata for the underlying song when they license a recording to streaming services.” This recommendation stems from the fact that songs are usually delivered to DSPs by record labels, digital distributors or aggregators, and that the parties who do have the metadata for the composition (performers, songwriters, music publishers and CMOs) are not party to the process.

By linking the obligation to provide ISRCs with ISWCs, one major step could be made. But there are some limits to that process. For a start, ISWCs are often allocated after a song has been distributed to DSPs, as artists and labels tend to speed up the distribution of songs, sometimes before they have identified all the parties to a song.

Discussions are already taking place between stakeholders to improve the quality of metadata, but, as suggested by the DCMS, there could be an industry goal “to establish a minimum viable data standard within the next two years to ensure that services provide data in a way that is usable and comparable across all services.”

“Currently a few services show credits but those are often very difficult to be found,” commented a representative from a CMO. “It is important to note here, that being able to display author credits to consumers requires the DSPs to take steps in consolidating and matching data on recordings and works in the background. This will also serve to improve the quality of data used for matching usage reports to musical works, and the quality of royalty distributions.”

Strong obligation on DSPs to report properly and accurately

Metadata coming out from the DSPs is often as good as what has been ingested when DSPs are serviced by rights holders, but putting on DSPs an obligation to report properly and accurately data would ensure that both rights holders and DSPs have the quality of data in mind.

Especially on the UGC platforms, not properly ingesting authors' data, not sharing proper usage data, or using identification tools for authors' works that are not attached to a sound-recording are major issues that create bottlenecks for remuneration of creators due to missing links and information. The new Copyright in the Digital Single Market in the EU Directive contains, through Article 17, a specific obligation on the Youtube-like services to provide transparent information about the usage of music on their platforms.

Moreover Article 17 of the Collective Rights Management Directive provides a broader obligation to report in agreed format and time period on all users of protected works. This would ensure that quality of data would permeate throughout the whole chain.

EU funds for rights management

CMOs rely on data and therefore should be part of any solution improving the flow of data to and from DSPs.

CMOs have already engaged in programmes to improve the quality of data, through individual initiatives, partnerships between CMOs, or through CISAC.

The European Union can play a role in the improvement and wider use of data management technologies in the music sector by allocating resources for projects destined to improve capacities of CMOs in this respect. More specifically, as part of the Creative Europe or the Horizon programmes, a pilot programme to help CMOs to manage the digital transition would accelerate the ability for CMOs to capture the value from digital and redistribute to their members.

5.3.2 Attribution

The concept of attribution is linked to the need for identification. It may sound obvious, but you cannot attribute something that has not been identified. So, the foundation of attribution is proper and accurate data.

Authors and composers need to be properly identified at all steps of the process, and that data needs to flow throughout the streaming system, from rights holders to DSPs and vice-versa.

Attribution is also about making sure that all authors and composers – regardless of their origins and their music genre – receive equal treatment in the identification of their data. With the ubiquity of streaming, music content is now accessible anytime from anywhere. The licensing efforts made by DSPs, owners of sound recordings and CMOs to cover as many territories as possible has made all kinds of repertoires available globally.

Hence the need to be able to identify every single piece of musical works susceptible to be streamed. It has economic relevance and is also a guarantee of cultural diversity, as every single work will matter.

Another aspect of attribution is the often frustrating situation that authors face when their works are used on User Generated Content platforms. Aside from the licensing issues linked to UGC, works that are used in such content are rarely identified, depriving authors of the recognition they are entitled to.

In the context of smart devices, attribution is also a key element in ensuring that songs can be identified through their songwriters, composers or lyricists (Alexa, play me a song by Max Martin!).

“Some providers are reflecting on providing more visibility to the contribution of authors and producers (Apple Music, Spotify), even though still on a reduced scale and in many cases on an experimental basis,” said one CMO. Several steps could ensure a better attribution of credits to authors and composers.

Ensure that data on authors and composers is

available to consumers

Data on authors and composers is not always apparent or even available on streaming services. In general, DSPs aside, data on songwriters accessible by consumers is hard to find. As described above, efforts by services such as Jaxsta to provide such data is only recent and for the moment their reach is limited.

DSPs argue that a lack of accurate data is often the reason why they cannot feature the names of songwriters.

Discussion among stakeholders – in particular DSP and CMOs – to find ways to better disclose to the public information about authors and composers could lead to an increase in the data available to consumers.

Ensure that song data is included and

available to DSPs

The discussions between DSPs and CMOs and interested stakeholders could lead to a better transfer of data to DSPs and also the creation of the tools necessary for DSPs to ingest data related to authors and composers. The benefits will be felt on both sides of the value chain. Authors and composers will have identification and the tools for attribution. CMOs and DSPs will have more accurate data to share.

More data transparency from DSPs

“More transparency is required” said IMRO CEO Victor Finn, “increased transparency in relation to streaming rates, usage reports, unidentified works is critical to ensure creators have full confidence in how they are remunerated from the exploitation of their works on streaming platforms.”

“Transparency should be a requirement,” stated a label and management company executive, talking about the need for DSPs to provide more data about the usage of songs. Some bigger services provide daily APIs (Application Programming Interfaces) of information, but he says not all DSPs are required to deliver robust API of info to their suppliers. Another issue for rights holders is that they often have to wait for the quarterly distribution of royalties to have a picture of where the music has been played.

“We are in a metric business and we have to be able to measure our core business and we are not getting the full picture if only a few do that,” he said. “Better metadata and better feedback to suppliers would help with streaming consumption because we would be able to better analyse what happens and where. What gets measured get managed. We need more data, more consistent and with a unified format.”

Transparency efforts could however clash with some privacy laws such as Europe’s GDPR, which could limit the access to certain type of data.

Create tools ensuring that authors and composers can be searched

and incorporated in playlists and algorithms

DSPs shall tailor specific tools for consumers to access such data, with the knock-on effect on recognition and remuneration.

A music publisher suggested that search engines allowing to identify authors, composers and music publishers should be “a standard feature” on digital services.

A whole new layer of tools can be created around authors and composers’ data, multiplying the potential offers to DSPs’ subscribers/users, offering a wider possibility for searches, expanding the ability to build playlists centred around authors and composers, and feeding algorithms with additional data, leading to deeper capacity to address recommendations to users.

One CMO suggested that it would be “useful” for artists (and creators in general) to have “more specific and qualitative figures among those provided by the platforms, especially those related to their total streams and their follower bases.”

It added: “Ideally, for each artist’s or creator’s profile, the follower base could be segmented according to the nature and the quality of the users to get a clearer picture on their ‘quality’ fans, telling them apart from random followers or listeners.”

However, a data specialist warned that access to too much data could have unintended consequences for songwriters, if for example, all DSPs start providing data about usage of songs based on songwriters in different formats, and without some consolidation.

“If you are a songwriter, do you want to log onto 20 dashboards? It’s at some point have to realise that having tools can also be time-consuming,” explained the expert. “It is more work for artists. Are they supposed to spend time writing songs or log onto 20 dashboards?”

Conclusion



The inexorable growth of the music streaming business creates a lot of expectations from authors and composers to see a valuable improvement in their relationship with DSPs as well as in the way they are identified and exposed by digital platforms.

This study was prepared in the midst of turmoil as the incomes of authors and composers are still affected by the health crisis and as usage has definitely shifted to streaming, highlights the need for creators to take back control for a fairer ecosystem.

As mentioned at different places in this study, the issue of fair remuneration will remain on top of the agenda of authors and composers, with the view that progress needs to be made in this field. For sure, CMOs with their authors and composers will play a big role to counter the 'race to the bottom' payment models by DSPs.

Besides describing the place and role of authors and composers in the streaming market, this study also tried to demonstrate how to value and protect them keeping in mind that the next challenge could also consider regulation for these services to remedy some imbalances in the way they operate. After all, video streaming services are starting to be subject to local regulation in Europe for content and investment in local production.

Annex: Questionnaire

Company/organisation:

Name:

Position:

Description of the company/organisation:

What is your professional connection to the music streaming eco-system:

How would you describe the streaming eco-system in general and its contribution to the music eco-system?

How would you describe the streaming eco-system from the perspective of songwriters, authors and composers?

What, in your opinion, are the pros of music streaming?

And the cons?

Questions for rights holders:

What are the key issues that need to be solved with music streaming services?

What would, in your opinion, improve significantly the visibility of songwriters, authors and composers in the music streaming eco-system?

Increasing the depth and diversity of repertoire?

Providing credits for songwriters, authors and composers?

providing specific playlists highlighting songwriters, authors and composers?

Providing a search engine capable of identifying specific songwriters, authors and composers?

Improving discoverability in all its forms on platforms? And how?

Introducing rules and standards for promotion and prominence of European works on the main page, user interfaces, curated playlists, etc of the services

Providing lyrics of songs?

Providing specific tools for songwriters, authors and composers?

Providing specific analytics for songwriters, authors and composers?

Providing specific information/pages on songwriters or on songs?

Engaging in ongoing industry initiatives for dispute resolution system for songwriters, authors and composers in case of ownership conflict?

Ensuring that algorithms take into account data about songwriters, authors and composers?

Improving sound quality?

Providing promotional schemes for songwriters, authors and composers or rights holders that are available against a lower royalty rate?

Respecting the moral rights of creators?

What are the most important elements that would improve the current situation?

Fighting against streaming fraud?

Adopting a user-centric v. pro rata royalty model?

Offering more transparency and how?

Certain positive content moderation/recommender obligations to include more diverse (or e.g. more European) authors/repertoires

More fairness in the online market as result of Art 17 and a more equal treatment of different services?

More consolidation of repertoires for a stronger bargaining position of authors

Transparency obligations on streaming and UGC platforms to understand the entire monetisation/exploitation model

Stopping payola schemes

Discouraging streaming manipulation arrangements that lead to lower revenues for authors

Development of new and better quality offers with different pricing to generate more revenues

Increasing the number of subscriptions, and how?

Funding and investment possibilities for new services to enter the market

More public and EU funding for cultural field (e.g. for small and medium right holders/

CMOs to invest in new data management technologies; awareness raising projects for new artists to properly register their works at early stage; etc.)

Questions for digital platforms:

How wide is the repertoire you offer to your clients?

Do you provide credits for songwriters, authors and composers?

And how are they accessible to users if available?

Do you provide specific playlists highlighting songwriters, authors and composers?

Is your search engine capable of identifying specific songwriters, authors and composers? (i.e. search Burt Bacharach)

Are lyrics of songs available on your platform? If not why?

Do you provide specific tools for songwriters, authors and composers?

Do you provide specific analytics for songwriters, authors and composers?

Do you provide specific information/pages on songwriters or on songs?

Do you participate in industry initiatives for dispute resolution system for songwriters, authors and composers in case of ownership conflict?

Do algorithms on your platform take into account data about songwriters, authors and composers?

Could algorithms be used in a different way to highlight more diversity and for instance more European works and how?

Could algorithms be used to better offer visibility to songwriters, authors and composers?

How could discoverability in all its forms be improved on your platform?

What kind of sound quality do you provide? Does it come with an extra payment from consumers / more revenues to authors/composers?

Do you have specific promotional schemes available for songwriters, authors and composers?

More specifically, do you have promotional schemes available for songwriters, authors and composers or rights holders in general that are available against a lower royalty rate or as part of your agreement?

What processes do you have to fight against stream fraud?

What is your position as a platform on the debate over user-centric v. pro rata royalty model?

Do you have any projects to provide more tools, data, information etc on songwriters, authors and composers? And what would they be?

How could transparency on business practices be improved and what processes do you have in place to improve transparency, if any?

How would you define your relationship with collective management organisations?

How do collective management organisations contribute to the value of your platforms?

What are your perspectives to grow the streaming market further both for creators and online music services?

What are the most relevant consumer trends that can make the streaming market grow for all stakeholders (or for creators in particular)?

Would you be prepared to be part of a group of professionals from all parts of the creative sector and the digital platforms to find ways to improve the situation of songwriters, authors and composers in the digital eco-system?

Glossary

Key players in the music eco-system (by alphabetical order)

Authors (composers and songwriters):

Composers write the music to a song or for an instrumental track. Songwriters write the words that make up a song. A lyricist can work with a composer to add words to a song or a composition and a composer can create a melody to go with words. Authors are assigned rights (authors' rights) that have moral and economic aspects, one that protects the personal/moral interests of the author on his/her works and the other that provides remuneration when the works are used or licensed.

Collective management organisations:

Collective management organisations (CMOs) are formed and governed by their members, for example songwriters, composers and publishers, and collectively license their rights to users of music such as radio stations, businesses using music, digital platforms, etc. CMOs usually operate under some form of blanket license for offline usages at national level and based on their mandates for cross-border online usages. They are not-for-profit organisations and in Europe, CMOs are regulated in particular through the so-called European CRM Directive of 2014.

Distributors/Aggregators:

Distributors are the companies that bring the music to the physical or digital retailers (download platforms and streaming services). All major companies have their own distribution division. Independent labels get distributed either through major companies or through independent distributors and aggregators such as Believe/Tunecore, CD Baby or FUGA.

Managers:

This is the person or entity responsible for looking after the interests of the artists. A manager can be associated with an act at a very early stage and will pilot the development of the artists' profile and career. The manager advises the artist on all business-related decisions and promotes the artist through direct personal networking, media coverage, distribution of demos.

For independent bands, the manager is often a member of the group and also acts as the 'booking agent' of the ensemble. Professional managers are normally under a contract and are paid a percentage of the group's profits.

Performers:

Music performers are the individuals such as singers and musicians that perform music for recordings or on stage. They may be part of an orchestra, band or group; solo artists; or a group of singers, including backing singers and vocalists. Performers are assigned certain rights known as neighbouring rights when their performances are communicated to the public. The European Union recognises neighbouring rights for performers throughout the Union so that when a song is played on radio, performers get royalties. Some countries like the USA do not recognise neighbouring rights for performers when recordings are played on terrestrial radio.

Publishers:

Music Publishers used to mainly deal with the copyrights associated with printing and distributing sheet music. Over the years the role of publishers has evolved. Overall, music publishers deal with the rights attached to the compositions, not the recordings. These days, in addition to print rights, publishers help musicians with new licensing opportunities, A&R, professional development and also collect money on their behalf for publishing-related copyrights as well as from mechanical and performance rights, when the music is reproduced and/or played in public respectively.

Record labels:

Record labels are the companies that market recorded music and music videos. Record labels engage in a wide range of functions in the music industry including new artist recruitment and development (known as A&R or Artist & Repertoire), marketing and promotion of music and artists, distribution (physical and digital), and copyright enforcement.

There are two types of record companies: major record companies, that have significant global market share, and usually belong to a conglomerate (market leader Universal Music Group was owned by Vivendi and is now listed on the Amsterdam Euronext stock exchange, Sony Music Entertainment is a division of Sony Corp., and Warner Music Group is part of Len Blavatnik's Access Industries); and independent music companies, usually owned by the founder(s) such as Beggars Group, Because or PIAS, that operate nationally, regionally or globally.

Record labels offer recording deals to music artists. The exclusive contracts normally include the financing, the marketing and the distribution of recordings for which artists receive a royalty rate. Record labels such as majors but also several independents own their distribution network that reaches out to digital platforms and physical retailers.

In recent times, labels have started proposing what is known as “360 deals” agreements to artists, that include other aspects of the artists' business such as live music, merchandise, management, etc. Record labels usually divide their artists and repertoire between frontline, which includes all the new releases, and catalogue, which regroups all the previous releases controlled by the record company.

Services companies:

Services companies provide artists or labels a range of services, from digital distribution to marketing and promotion. With the development of digital streaming services, more and more artists are using services companies such as CD Baby, Believe, The Orchard, or AWAL to get their music to market.

Copyright – copyright management (by alphabetical order)**Authors' rights:**

Authors' right as a term refers to the continental European legal system (droit d'auteur in France, Urheberrecht in Germany, etc.) and includes protection for both economic and moral interests of the authors. These are, in particular, the rights granted to composers, songwriters and lyricists, and by extension (through contract of authors), where economic interests are concerned, to music publishers, who are the custodians of these rights. In the music sector economic rights are typically licensed through CMOs (with the exception of for instance adaptation rights).

Copyright :

Copyright is defined as the set of exclusive rights granted to the creator of an original work, including the right to copy (reproduction), publicly perform, distribute and adapt the work. These rights can be licensed, transferred and/or assigned. Copyright is the term used at international level covering both the protection for literary and artistic works and other protected subject matter like sound recordings. However it is more associated with the Anglo-American legal systems, where publishers and producers have more control on the 'copy' of the work.

ISRC (International Standard Recording Code)

ISRCs are unique to each recording, regardless of the format (CD, digital audio file). ISRCs are an ISO standard.

In 1989, the ISO designated the International Federation of the Phonographic Industry (IFPI) to serve as the registration authority for ISRCs. In turn, IFPI has appointed local or regional agencies to allocate ISRCs (<https://isrc.ifpi.org/en/faq>).

ISRC data includes three elements: Prefix Code, Year of Reference and Designation Code. Only one ISRC should be issued for a single song.

ISWC (International Standard Musical Work Code)

ISWC is an ISO-approved (International Organisation for Standardisation) unique, permanent and internationally recognised reference number for the identification of musical works, according to the definition from the ISWC Network.

The ISWC was developed by CISAC to respond to the needs for information in the digital age. The ISWC is administered by CISAC, the Registration Authority as appointed by ISO.

The ISWC is a code which connects accurately, efficiently and quickly authors to a specific musical work. According to the ISWC Network, it allows CMOs, publishers, DSPs and any stakeholder in the music value chain “to track, identify and ensure that music creators are attributed the remuneration that is duly owed to them for the use of each specific musical work allocated an ISWC.”

Licensing:

In the music industry context, it means to grant permission for one person or company to use or perform another person's song or instrumental track. A license allows limited rights to another party. The terms of the license will specify duration, exclusivity, territory, royalties due etc.

Mechanical rights:

Mechanical royalties are collected based on “reproduction right”, which are typically collected by CMOs in Europe, but also directly by publishers for Anglo-American repertoires, as opposed to a recording. Songwriters and composers who create original music are entitled to a mechanical royalty for the “reproduction” of their composition. In the physical world, this means mechanical reproduction in the form of CDs or vinyl. In the digital world, both downloads and streams are considered virtual mechanical reproductions.

Neighbouring rights:

Neighbouring rights are the set of rights that are attached to a sound recording, such as first fixation, reproduction, distribution, performance and making available. It's a rather recent right – introduced globally in 1961 with Rome Convention – that benefits the producer of the sound-recordings as well as the performances of performers and musicians.

Performance rights:

Performance rights are related to the public performance of a composition. They generate royalties that are paid to authors and composers and music publishers when their compositions are played on the radio, streaming platforms or performed in public. These rights are typically collected through CMOs.

Rights management:

This is the function of managing the rights on behalf of rights owners. It can be companies whose sole purpose is to ensure that content that has been licensed has delivered royalties that are identified and accounted for. The role can be taken by collective management organisations or by independent management entities (which differ from CMOs in that they are neither not for profit nor owned and controlled by their members) on behalf of songwriters, composers, performers, music publishers, or record labels. Rights management organisations usually receive logs from digital service providers for the usage of music, which is then matched with rights holders data and royalties are then accrued to the account of the rights holders.

Sheet music

At a time where there were no records, radio, TV, or movies, live performances were the way people could enjoy songs and sheet music the way they could enjoy them at home. Songwriters were called upon to create piano-vocal versions, sold by music publishers. This practice continues but “print” now covers more than “on paper” but also e.g. PDF lead sheet sold as a download or lyrics or guitar tablature displayed on a website.

Synchronisation:

Where synchronisation is recognized as separate right from mechanical rights e.g. in the United States, a music synchronisation licence, or “sync” for short, is a music licence granted by the holder of the copyright of a particular composition, allowing the licensee to synchronize (“sync”) music with some kind of visual media output (film, television shows, advertisements, video games, accompanying website music, movie trailers, etc.).

The digital eco-system for music (by alphabetical order)

Analytics:

Sets of data linked to the usage of music that provide insights into the way music is consumed, where, who by, as well as activity on social networks. The data can help identify where fans are, what type of music they favour, and so on.

Analytics are data-driven metrics that help make better informed decisions.

Blockchain:

Blockchain is a shared, immutable ledger that facilitates the process of recording transactions and tracking assets, for instance intellectual property rights, in a business network.. Applicable to music, the blockchain is a distribution ledger that can store cryptographic information related to music rights holders and register and validate transactions, while being theoretically very hard to tamper with.

Digital downloads:

Digital download consist in the paid acquisition of or the free access to a digital file, usually in MP3 format, that will be transferred from a digital service provider onto a device (laptop, phone, player, tablet). Platforms such as Apple's iTunes Music Store or Amazon provide access to legitimate digital files. Other platforms, usually operating on a peer-to-peer basis, provide access to unlicensed musical works. With the development of music streaming services, sales of digital downloads have plummeted over the past five years in all the main music markets.

Digital service providers:

Digital service providers (DSPs) are companies or organisations that provide access to services online. DSPs can provide access to music downloads, like Apple's iTunes Store, or access to streaming music like Spotify, or even provide satellite-delivered content such as SiriusXM in the USA.

Internet service providers:

Internet service providers (ISPs) are companies or organisations that provide access to the internet.

Playlists:

Playlists, applied to music streaming services, are bundles of songs chosen either by the streaming service (cf. Spotify's Discover Weekly) or by users themselves. The presence of a song on a prominent playlists can help reach millions of listeners and determine the success of a song. Streaming services also offer users personalised playlist for each listener, based on their history.

Social networks:

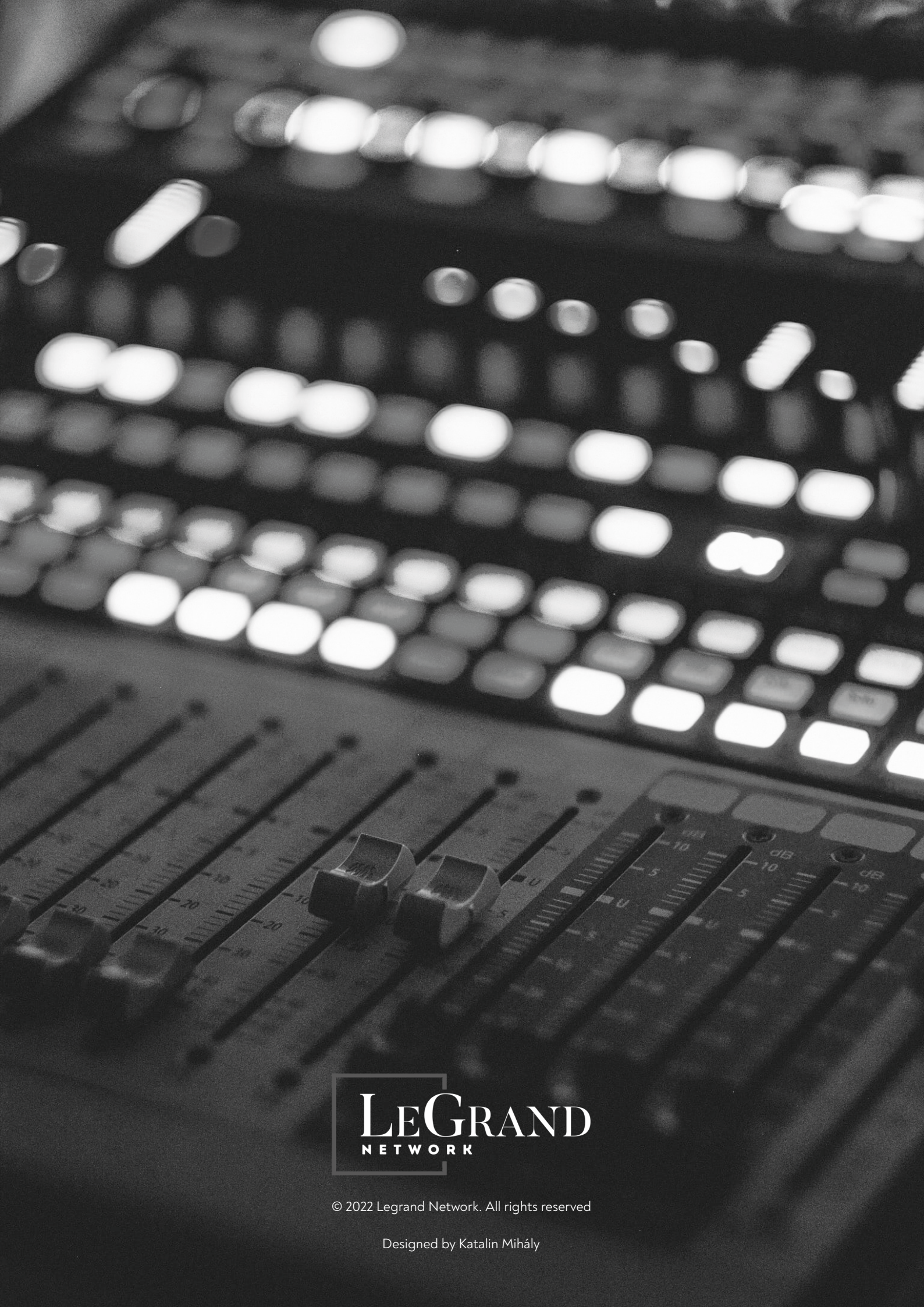
Social networks are digital platforms that allow users to interact among each other and share information, music, videos, snippets, etc such as Facebook, Twitter, Instagram, WeChat, TikTok...

Streaming service:

Audio streaming services are DSPs that offer online on-demand and/or customised listening to wide range of repertoire for users, as opposed to digital downloads of individual songs. Streaming services can be advertising-supported and free for the users or require a subscription. Some services such as Spotify have both a free tier (freemium) and a paid-for tier. Others, such as Apple Music, are subscription-based only. The main services can provide access to up to 50 million tracks.

Webcaster:

A webcaster is usually a terrestrial radio station that makes its content available online.



© 2022 Legrand Network. All rights reserved

Designed by Katalin Mihály