



House of Commons  
Culture, Media and Sport  
Committee

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# Creator remuneration

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## Fifth Report of Session 2023–24

*Report, together with formal minutes relating  
to the report*

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## The Culture, Media and Sport Committee

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## Summary

Despite the importance and global success of the UK creative industries, successful professional creators are struggling to make a living. Many people in the sector experience precarious rates of pay, employment conditions and contractual terms. There are many short- and long-term factors, including falling real-terms funding, new technologies and the legacy of Covid-19 and associated public health measures. We launched our inquiry to explore issues around fair remuneration and working conditions across the creative industries and consider possible solutions.

As new means of consuming creative content have become the norm, creators across the sector have experienced persistent declines in their royalties and residuals. Royalties can provide income smoothing, financial certainty, greater career flexibility and support during retirement for those who receive them. Royalties have been depressed by digital distribution in the UK, which pays out less to creators (if at all) compared to other modes of distribution. Simultaneously, gaps in the UK copyright regime—where creators are not compensated for private copying, whereby users download, store, copy and share content on digital devices—means that payments from abroad are under threat due to a lack of reciprocity with other jurisdictions. We recommend that the Government introduce a private copying scheme to safeguard those payments from abroad and provide a new, sustainable stream of income for creators.

We consider recent policy implications regarding the impact of the development of artificial intelligence (AI) on the creative industries, which we previously discussed in our report on *Connected tech: AI and creative technology*. We are particularly disappointed that the Government's working group on AI and intellectual property has failed to come to an agreement between the creative industries and AI developers on creators' consent and compensation regarding the use of their works to train AI. We call on the Government to ensure that creators have proper mechanisms to enforce their consent and receive fair compensation when their works are used by AI systems.

Our report scrutinises the prevalence of freelancing within the creative industries. Freelancing has several theoretical advantages, such as allowing creators to choose projects they pursue. However, freelancing can also leave creators vulnerable to economic downturns, unable to access rights to annual leave, parental leave and sick pay and lacking other forms of employee support. More broadly, many creators experience poor working conditions, including inconsistent use of contracts and terms and conditions, uneven responses to bullying, harassment and discrimination and a lack of proper support, accounting, training and development. We recommend that the Government appoint a Freelancers' Commissioner with appropriate powers and cross-departmental oversight to advocate in the interests of creative freelancers and address wider issues around contracts and working conditions.

Finally, we revisit our work on music streaming in order to review to progress on the “complete reset” we called for in our *Economics of music streaming* report. We explore the practical implications of the Government's work to date, which has included the commissioning and publication of relevant research, formation of several working groups and recommendation for a market study by the Competition and Markets Authority. Reflecting on its current programme, we urge the Government to bring

forward a package of reforms based on its research and revisit the membership of the recently-formed Creator Remuneration Working Group to give music makers a stronger and fairer voice in group discussions throughout the Group's timespan. We also note that songwriters and publishing rightsholders more broadly continue to receive pitiful returns from streaming, despite their importance to the streaming economy, and recommend that the Government bring forward measures to incentivise an optimal rate for publishing rights in order to fairly remunerate music makers for their work.

# Creator remuneration

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## Introduction

1. Culture creates meaningful moments in people’s lives, but many creators struggle to make a living. Short-term project-based employment, precarious public and private funding and technological disruption have all contributed to poor rates of remuneration. Many skilled, successful professional creators are now holding down multiple jobs, reliant on family support or leaving the profession altogether, which in the long-term may be to the detriment of our creative economy.<sup>1</sup> Reflecting on the plight and outcry of creators, Nile Rodgers, multiple Grammy winning musician, Rock and Roll Hall of Fame inductee and Songwriter Hall of Fame chairman, concluded: “[t]hat is all we are really talking about: equal pay for your work”.<sup>2</sup>

## The economics of the creative economy

### *The UK creative industries*

2. The UK Government was the first in the world to define what the “creative industries” are: namely “those industries which have their origin in individual creativity, skill and talent and which have a potential for wealth and job creation through the generation and exploitation of intellectual property”.<sup>3</sup> This definition underpinned projects to map the sector in 1998,<sup>4</sup> which was the first to set out the precise definition of the sector and identify the challenges it faced,<sup>5</sup> and 2001<sup>6</sup> in order to promote deeper understanding of its economic contribution and the issues it faced.<sup>7</sup> The “creative economy” is a related (albeit broader) concept, which refers to the collective economic contribution both of the

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1 [Qq55, 148](#)

2 [Q148](#)

3 Department for Culture, Media and Sport, [Creative Industries Mapping Documents 2001: Secretary of State’s Foreword](#), 9 April 2001, p. 5. Currently, DCMS uses a metric of “creative intensity” to identify relevant subsectors, of which there are nine, where more than 30% of the workforce work in Creative Occupations (set out in the Office of National Statistics’ list of Standard Occupation Classifications). The nine subsectors are: advertising and marketing; architecture; crafts; design (including fashion, product design and graphic design); film, TV, video, radio and photography; IT, software and computer services; publishing; museum, gallery and library services; and music, performing and the visual arts.

4 Department for Culture, Media and Sport, [‘Creative Industries Mapping Documents 1998’](#), 9 April 1998, accessed 19 December 2023

5 Jonathan Gross, *The Birth of the Creative Industries Revisited: An Oral History of the 1998 Mapping Document* (London, 2020), p. 11

6 Department for Culture, Media and Sport, [‘Creative Industries Mapping Documents 2001’](#), 9 April 2001, accessed 19 December 2023

7 The British Council, [Creative and Cultural Economy Series: Mapping the Creative Industries: A Toolkit](#), January 2010, accessed 19 December 2023, p. 15

creative industries as a whole and of all the people employed in “creative occupations” (specific roles listed by DCMS judged against specific criteria)<sup>8</sup> in the wider economy.<sup>9</sup> A glossary of terms can be found in the Annex of this report.

3. At present, the UK is a world leader in creative industries. Recent data shows that the creative industries collectively contribute approximately £108 billion in gross value added (GVA) to the UK economy annually,<sup>10</sup> equivalent to 6% of the UK economy, and more than the automotive, aerospace, life sciences and oil and gas industries combined.<sup>11</sup> While the Government no longer publishes economic estimates for the creative economy as a whole,<sup>12</sup> in 2014 the entire creative economy contributed £133.3 billion in GVA per year, of which £84.1 billion (63%) was from the combined creative industries and the remaining £49.2 billion (37%) were from creators employed outside the creative industries.<sup>13</sup> The creative industries now comprise over 300,000 UK businesses (11.8%, of the UK total) and accounted for 2.3 million jobs in 2022.<sup>14</sup> Comparably, the sector’s output is growing more than 1.5 times faster than the rest of the economy and its workforce is growing at five times the UK rate.<sup>15</sup> The sector also exports over £45 billion in services and over £9 billion in goods, with a total trade surplus of over £20 billion.<sup>16</sup> The largest trade partner by far for goods and services exports is the USA.<sup>17</sup> Highlighting the contributions of specific subsectors shows the breadth of the UK’s strength:

- The UK advertising industry contributed almost £30 billion GVA to the economy in 2021 and exports £11 billion in services annually;<sup>18</sup>
- The music industry generated £6.7 billion GVA and £4 billion in exports in 2022, employing 210,000 people;<sup>19</sup>

8 Department for Culture, Media and Sport, *Creative Industries Economic Estimates: Methodology*, 10 February 2016; Nesta, *A Dynamic Mapping of the UK’s Creative Industries* (January 2013). The list of creative occupations was initially drafted by DCMS in consultation with the sector based on the definition set out by Nesta, which incorporated five replicable criteria. Nesta’s overarching definition was “a role within the creative process that brings cognitive skills to bear to bring about differentiation to yield either novel, or significantly enhanced products whose final form is not fully specified in advance”. The five criteria, relied on by DCMS to develop the list, are: “novel process”; “mechanisation resistant”; “non-repetitiveness or non-uniform function”; “creative contribution to the value chain”; and “interpretation, not mere transformation”.

9 Department for Culture, Media and Sport, *Creative Industries Economic Estimates*, January 2016, p. 16

10 *“Ambitious plans to grow the economy and boost creative industries”*, Department for Culture, Media and Sport press release, 13 June 2023

11 Directors UK (CRE0002)

12 In 2016, the Government replaced the methodology that underpinned its annual *Creative industries economic estimates* with a new methodology to produce *DCMS Sectors Economic Estimates*. The intention of this reconfiguration was to look across the digital, culture, creative industries, gambling, sport, telecoms and tourism sectors “in a consistent way”. It should be noted that, since 7 February 2023, the methodology has changed again following machinery of government changes, which saw the digital and telecoms portfolios move from the then-Department for Digital, Culture, Media and Sport to the newly created Department for Science, Innovation and Technology (DSIT).

13 Department for Culture, Media and Sport, *Creative Industries Economic Estimates*, January 2016

14 Creative Industries Policy and Evidence Centre, *National Statistics on the Creative Industries*, 28 June 2022

15 Department for Culture, Media and Sport, *Creative Industries Sector Vision: A joint plan to drive growth, build talent and develop skills*, CP 863, June 2023, p. 5

16 *“Creative industries add almost £25bn to UK trade balance”*, Creative Industries Council press release, 27 September 2023

17 Department for Culture, Media and Sport and Department for Science, Innovation and Technology, *DCMS sectors economic estimates: Trade, 2021 - main report*, 3 August 2023

18 Creative Industries Council, *“Creative industries”*, accessed 13 December 2023

19 *“This Is Music Reveals Music Industry Delivers £4bn Exports Boost To UK Economy”*, UK Music press release, 7 November 2023



- Publishing contributed over £6 billion in GVA in 2022, including £3.8 billion in exports (as the world’s largest exporter of books)—which alone reduced the UK’s trade deficit by 2.2%;<sup>20</sup>
- The video game industry had a GVA of £7.05 billion as of 2023,<sup>21</sup> making it the leading market in Europe and sixth largest globally;<sup>22</sup> and
- Film and high-end TV (HETV) production in the UK added a record £6.27 billion of inward investment alone in 2022.<sup>23</sup>

4. The creative industries also have an intrinsic value beyond their economic impact. The Government’s recent Creative Industries Sector Vision, *A joint plan to drive growth, build talent and develop skills*, describes the sector as “an essential positive force for society, bringing joy, inspiration and opportunity to our lives” that provides “the news that informs our democracy, the designs that shape our cities and the content and performances that enrich our lives and strengthen our global image”.<sup>24</sup> As music executive and entrepreneur Merck Mercuriadis told us, “[i]t is one of the fundamental tenets of our life that people need music. If you got on the tube this morning at 8 am, you would see all these people with headphones on; people think they are being entertained as they go from point A to point B, but it is not entertainment. They are getting the sustenance that they need to get through whatever life is going to throw at them that day, good or bad.”<sup>25</sup>

### *The plight of professional creators*

5. Despite the creative industries’ economic contribution to the UK, many skilled and successful professional creators are struggling to make a living from their work. The underlying reasons for this range from historic, cross-sector issues to short-term, subsector-specific problems. These include:

- A **reliance on public funding**,<sup>26</sup> which, as we have noted in our report *Reimagining where we live: cultural placemaking and the levelling up agenda*, has been falling in real terms and remains precarious, particularly where the source is local authorities, and which has not been offset by private funding;<sup>27</sup>
- The **prevalence of freelancing**, which has several advantages but also leaves creators vulnerable to downturns and/or unable to access annual leave, parental leave and sick pay or contribute to a pension, and constrains social mobility in the sector;<sup>28</sup>

20 Creative Industries Council, ‘2022 CITIB Case: Publishing’, accessed 15 March 2024

21 UK Interactive Entertainment, *Annual Report 2023*, 13 September 2023, p 13

22 The Independent Games Developers’ Association, ‘About the UK Video Games Industry’, accessed 19 December 2023

23 “Official 2022 statistics reveal a record £6.27 billion film and high-end television production spend in the UK”, British Film Industry press release, 2 February 2023

24 Department for Culture, Media and Sport, *Creative Industries Sector Vision: A joint plan to drive growth, build talent and develop skills*, CP 863, June 2023

25 Q100

26 Qq7, 65–7

27 Digital, Culture, Media and Sport Committee, Third Report of Session 2022–23, *Reimagining where we live: cultural placemaking and the levelling up agenda*, HC 155, paras 23–4

28 Qq7, 9–12, 37, 39, 51–3; Directors UK (CRE0002); Creative UK (CRE0003)

- A related **squeeze in pay rates and remuneration through royalties**, reflecting how the copyright framework has become outdated given the prevalence of digital distribution including, but not limited to, streaming and private copying;<sup>29</sup>
- The **impact of other technological advancements such as artificial intelligence (AI)**,<sup>30</sup> on areas including the intellectual property (IP) rights of creators, which we have recently reported to Parliament about;<sup>31</sup> and
- **Long-term impacts of the Covid-19 pandemic and associated public health measures**, which has caused many freelancers to leave the sector entirely, the loss of grassroots cultural infrastructure and changes to audience behaviour, and which has resulted in uneven recoveries across the country.<sup>32</sup>

6. Meanwhile, sector-specific problems have included the struggles of regional theatre and grassroots music venues,<sup>33</sup> the debates among the music industry around the distribution of streaming revenues and codification of performer rights<sup>34</sup> and, in the film, television and radio subsectors, the recent industrial action in the United States taken by members of the Writers' Guild of America (WGA) and Screen Actors' Guild-American Federation of Television and Radio Artists (SAG-AFTRA) against the Alliance of Motion Picture and Television Producers (AMPTP), resulting in a pause in productions and concomitant commissioning slowdown.<sup>35</sup>

## Our previous work

7. Previously, we have explored issues relating to the experience of professional creators, which include technology and IP, grassroots cultural infrastructure and social mobility, through our *Economics of music streaming* inquiry<sup>36</sup> and follow-up report,<sup>37</sup> our *Reimagining where we live: cultural placemaking and the levelling up agenda* inquiry<sup>38</sup> and our *Connected tech: AI and creative technology* report.<sup>39</sup> In response to this work, the Government has launched a comprehensive programme on issues in music streaming,<sup>40</sup> refreshed the membership of the Creative Industries Council (a forum of government, creative businesses and other creative organisations)<sup>41</sup> and published its Creative Industries

29 [Q7](#); Directors UK ([CRE0002](#)); Creative UK ([CRE0003](#))

30 [Qq39–44, 86–90](#); Directors UK ([CRE0002](#))

31 Culture, Media and Sport Committee, Eleventh Report of Session 2022–23, [Connected tech: AI and creative technology](#), HC 1643

32 [Qq69–75](#); Creative UK ([CRE0003](#))

33 [Q70](#)

34 [Qq91–3](#) [Nile Rodgers]

35 [Qq1, 17](#)

36 Digital, Culture, Media and Sport Committee, Second Report of Session 2021–22, [Economics of music streaming](#), HC 50

37 Digital, Culture, Media and Sport Committee, Fifth Report of Session 2022–23, [Economics of music streaming: follow-up](#), HC 874

38 Digital, Culture, Media and Sport Committee, Third Report of Session 2022–23, [Reimagining where we live: cultural placemaking and the levelling up agenda](#), HC 155

39 Culture, Media and Sport Committee, Eleventh Report of Session 2022–23, [Connected tech: AI and creative technology](#), HC 1643

40 Department for Culture, Media & Sport and Intellectual Property Office, 'The government's work on music streaming', accessed 8 February 2024

41 Digital, Culture, Media and Sport Committee, Eighth Special Report of Session 2022–23, [Economics of music streaming: follow-up: Government Response to the Committee's Fifth Report](#), HC 1245, p. 3

Sector Vision.<sup>42</sup> It has also identified the creative industries as one of five “sectors of the future” with high global competitive advantage and potential for growth.<sup>43</sup> We are committed to ensuring that the Government delivers on its promises to the sector.

## Our inquiry

8. We launched our inquiry in the autumn of 2023, with evidence sessions in September and December. The aim of our inquiry was to explore issues around fair remuneration and working conditions across the creative industries and consider solutions to the problems that our witnesses highlighted. We heard from industry professionals across the creative industries, including panels with:

- Representatives from collective management organisations (CMOs), responsible for collecting revenues on behalf of creators in their subsectors;
- Cross-sector advocacy bodies Creative UK and the Creators’ Rights Alliance (CRA);
- Academics Professor David Hesmondhalgh and Dr Hyojung Sun, who co-authored among other things the Intellectual Property Office (IPO)-commissioned report into *Music creators’ earnings in the digital era*;<sup>44</sup> and
- Music industry professionals Nile Rodgers, VV Brown, Merck Mercuriadis and Paul Clements.

We thank everyone for taking the time to give evidence to our inquiry.

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42 The Sector Vision sets out the Government’s three goals “for the creative industries to become an even greater growth engine and where creative talent from all backgrounds, and creative businesses from all areas in the UK, can thrive”. The goals are: 1) grow creative clusters across the UK, adding £50 billion more in GVA; 2) build a highly-skilled, productive and inclusive workforce for the future, supporting one million more jobs across the UK; and 3) maximise the positive impact of the creative industries on individuals and communities, the environment and the UK’s global standing. The Government says it intends to achieve these objectives by 2030.

43 HM Treasury, *Spring Budget 2023*, [HC 1183](#), March 2023, p. 63

44 Intellectual Property Office, [‘Music creators’ earnings in the digital era’](#), accessed 13 December 2023

# 1 Future-proofing creator rights

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## Royalty and residual rates

9. Secondary payments, such as royalties or residuals (as they are known when paid to cast and crew of TV and film productions), in the context of the creative industries, are payments made to an individual or company in exchange for the ongoing permission for the use of particular assets—those assets being, in this context, copyrighted works such as musical works, performances, photographs, artworks and so on—in addition to the up-front payments that reimburse creators for their initial work. Permissions are typically given and defined under licensing agreements between parties. Royalties and residuals are often set at a percentage of revenue of gross or net revenues from the use of the relevant works, though other modes of compensation also exist. The collection of royalty and residual revenues, and in many cases licensing of works, are typically handled by collective management organisations (CMOs), which are membership organisations that administer creators’ rights in exchange for a small fee.

10. As new means of consuming creative content have become the norm, creators have experienced persistent declines in their secondary payments. This situation exists across the industry. Royalties can provide income smoothing (making earnings more stable) and financial certainty for those who receive them, particularly for creative freelancers both during their career and in retirement (in lieu of pensions).<sup>45</sup> While our various inquiries across the creative industries have shown that historic royalty rates have not always been particularly significant, particularly beyond the most successful creative talent,<sup>46</sup> there is also consensus that nominal amounts are falling or have been lost altogether.<sup>47</sup> As Nile Rodgers explained, this has been contrary to the initial promises of digitisation:

If you make it very simple, and you think that streaming is the way that you move the product from this place to that place, while the quality of the product stays digital and never degrades—that is amazing; it is absolutely amazing. Because that lowers the price of everything, what should naturally happen is that the people who are providing the music should make more money, because all the costs that they used to have have gone away. [...]

I have a business and all of a sudden my costs go down exponentially, then what I pay out to the people who support my business should go up, because I have plenty of money to go around.<sup>48</sup>

### Case study: actors and performers

11. The joint WGA and SAG-AFTRA strike in America highlighted concerns about residuals, both as a subject of that industrial action due to the rapid growth of streaming, but also with the ensuing slowdown in film and TV commissioning, which means creators will be more reliant on secondary income rather than up-front payments.

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45 [Qq3, 12](#); Directors UK ([CRE0002](#))

46 Digital, Culture, Media and Sport Committee, Second Report of Session 2021–22, [Economics of music streaming](#), HC 50, paras 44–5

47 [Qq3, 7, 12, 21, 55, 91–100, 104–5, 111–5, 148, 150–2, 155](#)

48 [Qq91–2](#)

12. Fundamentally, streaming means that TV and film productions are exploited more widely and for longer than has been the case traditionally, yet the industry’s model of pre-purchasing rights has not reflected these changes. The existing collectively bargained agreement for TV productions allows producers to purchase rights for streaming for an additional percentage of the original fee, regardless of a production’s success over that span. Specifically, the agreement gives producers options to pre-purchase what are known as the “Rest of World rights” up front, which includes most streaming rights outside the UK and US, for 7 years at 35% of the original fee.<sup>49</sup> The agreement also gives producers an option to purchase an additional 3 or 8 years at 2% or 5% of the original fee respectively, or for UK streaming rights for 5–15 years for 5–11% the original fee.<sup>50</sup> However, Ofcom’s annual *Media Nations* report notes that the reach and viewing of linear broadcast TV has declined by about 16% on average since 2019, and at a much faster rate among younger viewers (by almost 50%).<sup>51</sup> Meanwhile, use of broadcaster video-on-demand (such as BBC iPlayer) has grown year-on-year and use of subscription and advertising video-on-demand (such as Netflix) and video-sharing platforms (such as YouTube) remains high especially among individuals aged 4–34.<sup>52</sup> This means that producers are able to pre-purchase rights for streaming at a fraction of the original fee for the most important years of a production’s exploitation for what is becoming a dominant medium of consumption.

13. By way of comparison, actor John Hollingworth, on behalf of the British Equity Collecting Society (BECS), noted that, for previous generations of actors, the “backend pay from well-known shows in the 1970s and 1980s was huge”; for contemporary actors, only those in franchises like *Harry Potter* receive these residual rates.<sup>53</sup> As such, Mr Hollingworth noted that: “contracts have changed, backend remuneration has changed” and “yearly payments [...] are starting to decline because of a lack of reciprocity”.<sup>54</sup> Discussing the impact on artists, he told us:

There is an expectation that actors can live on thin air and can survive until the next job, instead of getting fair pay for the hard work that they do and getting the residuals that they are very much in right of receipt of. [...] It would be easy to assume, okay, I have been in lots of shows and have stood next to lots of famous people, but it is important to say that, even at my level, it is challenging year on year.<sup>55</sup>

A 2023 survey of actors’ agents similarly found that 77% of actors felt that the growth of streaming had led to either no change or an overall reduction in fees received (accounting for inflation).<sup>56</sup> Respondents also highlighted the prevalence of rights buyouts, lack of transparency around revenues and difficulties in enforcing contracts (due to power imbalances between parties) and primary concerns. Notably, in America, the WGA-SAG-AFTRA strike did manage to result in a tentative agreement with the AMPTP, whereby

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49 British Equity Collecting Society Ltd ([CRE0001](#)).

50 British Equity Collecting Society Ltd ([CRE0001](#))

51 Ofcom, *Media Nations UK 2023*, 3 August 2023, pp. 3–4

52 *Ibid.*, pp. 7–8

53 [Q3](#)

54 [Q4](#)

55 [Q6](#)

56 British Equity Collecting Society Ltd ([CRE0001](#))

creators secured gains to fixed residuals from streaming as well as foreign (non-US) residuals, success-based payments<sup>57</sup> and, for actors, an additional payment distribution fund.<sup>58</sup>

### Case study: film and TV directors

14. Directors have seen declines in revenues too. Most professional UK film and TV directors only make between £1,000-£3,000 per year in royalties.<sup>59</sup> A significant reason for this is the way on which streaming services negotiate with directors at the start of production. As Andy Harrower, CEO of Directors UK, set out: “[t]he system is that, at the point when you sign your employment contract, you [...] assign that copyright to the production company, either for nothing or for a buyout of that right—how can you possibly know at that stage what value or how successful that programme will go on to be?”<sup>60</sup> Delyth Thomas, whose work includes *The Bill*, *The Story of Tracy Beaker* and *The Worst Witch*, noted that residual payments for directors can be particularly unreliable and often significantly lower than for other creative talent working on the production.<sup>61</sup>

15. Testimonies we received from working, successful professional British directors, highlighted that residual payments were necessary to provide financial stability, such as during the “winter lull” or for children’s TV directors who typically work during the summer holidays, to cover necessities like food, childcare and mortgage payments professional requirements such as training, website hosting and domain name registration, IMDbPro membership and other costs needed to maintain an online professional presence, as well as any emergency costs that might arise.<sup>62</sup> Delyth Thomas also noted that residuals enabled successful directors to take time out of working to mentor young creatives pro bono in support of the talent pipeline.<sup>63</sup>

### Case study: professional musicians

16. As we found throughout our work on music streaming, professional musicians see very poor returns from streaming. Reflecting on the ecosystem as a whole, Professor David Hesmondhalgh of the University of Leeds observed from his research into musicians’ earnings that:

It is important to realise that a relatively small number of people earn substantial money from recorded music, compared with the number of musicians in the country. [...] Many musicians are struggling, and streaming, even as it has grown, still represents a source of income for relatively few people.<sup>64</sup>

17. VV Brown, a professional singer-songwriter and board member of songwriter trade body the Ivors Academy, described how the rise of streaming had impacted her income:

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57 These residuals apply when the equivalent of 20 percent or more of a streaming service’s domestic subscribers watch a TV season or movie in the first 90 days of an exhibition year.

58 “How SAG-AFTRA’s Streaming Bonus Compares to Other Guild Deals”, Hollywood Reporter, 13 November 2023

59 Directors UK ([CRE0002](#))

60 [Q12](#)

61 Directors UK ([CRE0002](#))

62 Ibid.

63 Ibid.

64 [Q95](#)

Streaming has impacted my income massively. Even with a recouped balance, I do not even look at my statements, because they make hardly any money. I speak on behalf of lots of artists in this position where we are not making the money that we should. I sold a lot of records and I don't even see my musical career as a way for me to survive, to eat, to pay school fees or to put food on the table for my children. Music does not do that for me. Like I said earlier, I have other jobs.

It is a very sad position. I would not say that I am Rihanna by any means, but I do represent a lot of the average artists on Spotify. If I, who have sold 2 million records, am not making any money, what about the younger artists? What about the independent artists? We have to change this; we have to reform.<sup>65</sup>

18. Nile Rodgers, reflecting on his own career, summarised these trends: “I have been doing this for 50 years of my life, and in 50 years, you would have thought that, with the advent of all the new technologies, people like me would have a much better life, that things would be easier and we would all profit together, but that is not the case”.<sup>66</sup> Dr Hyojung Sun of the University of York explained why this had not been the case: “the main reason for that is that the rights holders, who had power coming from the bulk of rights, found a way to reposition themselves in the new economics of music streaming”.<sup>67</sup>

## Private copying, storing and sharing on electronic devices

### *Private copying in UK law*

19. Even as streaming depresses royalties and residuals, UK creators do not have statutory rights to remuneration for other uses of their works, which creators enjoy in other jurisdictions. One such use has existed for longer than streaming, but remains effectively unlicensed: private copying, whereby individuals can use digital devices to download, store, copy and share content for personal use. As Reema Selhi, Head of Policy and International at the Design and Artists Copyright Society (DACS), discussed:

At the moment, we get a lot of royalties for relatively analogue uses for creative work—photocopying, reprography and educational broadcasting—but we have not followed the way people actually access, copy and download creative content. As we have heard, there has been a huge hunger for content and the way people use it. Our policy framework and our copyright framework has not kept up to date.<sup>68</sup>

20. The UK Government has previously tried to legislate on private copying, albeit on a different basis to other countries. In 2014, the Government made the Copyright and Rights in Performances (Personal Copies for Private Use) Regulations in order to provide an exception to the UK copyright framework for the copying of works made for private use (such as format-shifting, electronic storage or backing up) and non-commercial ends.<sup>69</sup>

65 [Q155](#)

66 [Q93](#)

67 [Q94](#)

68 [Q21](#)

69 [The Copyright and Rights in Performances \(Personal Copies for Private Use\) Regulations 2014](#), reg. 3

Despite concerns, the Government insisted that the proposed exception had been narrowly drawn—so that “if you lawfully own it, you can copy it, as long as you do not give copies to other people”—to, in theory, minimise harm to rightsholders.<sup>70</sup> However, a report by the Joint Committee on Statutory Instruments drew the attention of both Houses of Parliament that “there will be a doubt whether [the regulations] are *intra vires*” on the basis that “no provision is made in the draft Regulations for compensation” for rightsholders and that the Government would need “to satisfy a court that ‘fair compensation’ should, in effect, mean ‘no compensation’”.<sup>71</sup> Subsequently, judicial review of the regulations in the High Court concluded that the Government’s inferences of “*de minimis* harm” were inadequate given the evidence it received and that the exception was therefore unlawful.<sup>72</sup> The regulations were quashed entirely a month later due to flaws in the consultation process itself.<sup>73</sup> A press release by the IPO later announced that “[t]he Government is not intending to take further action to reintroduce an exception”.<sup>74</sup>

21. Other countries have taken a different position, implementing mechanisms to remunerate creators fairly for the private storing and copying of their creative works. Currently, 45 countries require creators to be paid for private copying.<sup>75</sup> This includes countries that, similar to the UK, have significant cultural soft power and/or strategic economic interest in the creative industries, including Canada, Japan, France, Germany, Spain, Italy, Sweden and the USA;<sup>76</sup> in the case of Germany, a mechanism has existed since the 1960s.<sup>77</sup> This typically manifests as a small levy on blank media and/or electronic devices, collected by CMOs,<sup>78</sup> ranging from 0.1% (as in Spain until last year) to 1.3% (in France) of retail prices.<sup>79</sup> In 2018 alone, private copying mechanisms generated for over £286 million in Germany, £239 million in France and £110 million in Italy for creators.<sup>80</sup>

22. As a net creative industries exporter, UK creators also benefit from such schemes abroad. Data provided by BECS shows that, in 2021 alone, it received €8.3 million from foreign CMOs, more than 2.5 times greater than German CMO GVL, the next closest in terms of international revenue, due to the global popularity of British TV and film.<sup>81</sup> In 2019, the difference was even more stark, with BECS receiving €5.7 million, almost 4.5 times as much as Spanish CMO AISGE, the next closest that year.<sup>82</sup> In total, private copying remuneration from other countries is BECS’s largest source of collections.<sup>83</sup> In fact, compared to other types of statutory remuneration, private copying contributes

70 HL Deb, 19 July 2014, cols 1553–1582 [Lords Chamber]

71 Joint Committee on Statutory Instruments, Third Report of Session 2014–15, [3rd Report - 15 Statutory Instruments reported](#), HC 332-ii/HL Paper 9

72 [R \(British Academy of Songwriters, Composers and Authors and others\) v Secretary of State for Business, Innovation and Skills \[2015\] EWHC 1723 \(Admin\)](#), 19 June 2015

73 [R \(British Academy of Songwriters, Composers and Authors and others\) v Secretary of State for Business, Innovation and Skills \[2015\] EWHC 2041 \(Admin\)](#), 17 July 2015

74 “[Quashing of private copying exception](#)”, Intellectual Property Office press release, 20 July 2015

75 The Smart Fund, [The Smart Fund Report: Levelling up communities, creators and performers through innovative funding](#) (24 September 2021), pp. 8–9; see also [Qq20–1](#)

76 *Ibid.*

77 [Q23](#); see also World Intellectual Property Office, [International Survey on Private Copying: Law & Practice 2012](#) (24 October 2012), p. 3

78 [Q22](#)

79 The Smart Fund, [The Smart Fund Report: Levelling up communities, creators and performers through innovative funding](#) (24 September 2021), p. 19

80 *Ibid.*, p. 11

81 British Equity Collecting Society Ltd ([CRE0001](#)), schedule 3

82 *Ibid.*

83 *Ibid.*, para 2



almost 39% (€63 million overall) of actors' and performers' revenues—significantly more than the combined revenues from TV broadcasts (21%, €34 million overall) and streaming (7%, €11 million).<sup>84</sup>

23. Introducing a statutory private copying scheme as an amendment to the copyright framework in the Copyright, Designs and Patents Act 1988 would have two significant benefits for UK creators:

- Providing a new, additional domestic revenue stream, which advocates estimate will generate between £250–300 million per year;<sup>85</sup>
- Safeguarding payments from other countries with private copying schemes due to reciprocity of arrangements between the UK and those countries (and, given that the UK is a net exporter of creative works, will ensure a greater inflow to the UK creative industries than any outflow from domestic revenues to creators abroad).<sup>86</sup>

As the UK is a net creative industries exporter, British creators will receive more in reciprocal payments from other countries than the domestic scheme would send abroad.

24. On the safeguarding of payments, evidence from BECS and Directors UK in particular has indicated that payments from other countries may decline or be lost altogether due to a lack of reciprocity with the UK, affecting those whose IP is nonetheless exploited in those countries.<sup>87</sup> Indeed, the national law of many EU countries specifically prohibits their CMOs from paying to third country counterparts where there are no statutory private copying schemes. Written evidence from John Hollingworth disclosed that his private copying remuneration exceeded £2,500 in 2021 and 2022 but has since declined, while *Red Dwarf* and *Death in Paradise* actor Danny John Jules pointed out that “no matter how popular UK films and series are and how often our work is on TV in those countries, we won't get the statutory payments we used to get and which we relied on to keep us going”.<sup>88</sup> In order to meet these requirements, any UK scheme must similarly have a statutory footing.<sup>89</sup>

### **Proposals for a private copying scheme**

25. Pre-empting the need to implement a private copying scheme to, at minimum, safeguard payments from abroad, a group of UK CMOs across the creative industries<sup>90</sup> has developed a proposal for a statutory mechanism called the “Smart Fund”. Building on the “established principle in rights management that service providers pay rightsholders so that the users don't have to”, the Smart Fund's backers propose that “technology manufacturers would pay a small fraction of the value of each device they sell into a fund that can be paid out to creators, with a portion flowing to local community projects with

84 Ibid., schedule 5

85 The Smart Fund, *The Smart Fund Report: Levelling up communities, creators and performers through innovative funding* (24 September 2021), p. 19

86 British Equity Collecting Society Ltd (CRE0001); Directors UK (CRE0002)

87 Q4; British Equity Collecting Society Ltd (CRE0001); Directors UK (CRE0002)

88 Ibid.

89 British Equity Collecting Society Ltd (CRE0001), paras 3–7

90 This includes ALCS, BECS, DACS, Directors UK and PICSEL (the Picture Industry Collecting Society for Effective Licensing, also representing visual artists).

a focus on digital creativity and skills”.<sup>91</sup> In terms of payments to community projects, Reema Selhi cited similar schemes implemented in France and Germany, where “10% to 15% of that is deducted and goes into national arts and culture funding” such as “education, access to culture [and] access to music and schools”, and proposed that a UK equivalent “could be supplementary to Arts Council funding”.<sup>92</sup>

26. Discussing the specific form that the scheme could take, however, Reema Selhi stated that the Smart Fund proponents were ultimately agnostic, as long as any scheme was adequate to trigger reciprocity with schemes from abroad:

[B]ecause we are in a unique position outside of the European Union, we can cherry-pick from the best parts of the schemes overseas. We can look to France, for example, where they decide who pays for their private copy levy through an independent commission, which is appointed by the Minister of Culture. Canada has a copyright board that decides what types of tariffs should apply to different devices; that could be, for example, the Copyright Tribunal in the UK.<sup>93</sup>

It was mentioned that France, for example, has recently applied the scheme to refurbished devices,<sup>94</sup> whilst a 2022 ruling by the Court of Justice of the European Union held that fair use reproduction also applies to cloud storage and other cloud computing services.<sup>95</sup>

27. During our session with the Smart Fund’s proponents, we queried whether such a levy would be passed to consumers. Indeed, we heard that, during initial discussions between the CMOs and DCMS in 2022, Julia Lopez MP—the then-Minister for Digital and currently jointly Minister for Data and Digital Infrastructure and for Media, Tourism and Creative Industries—had similarly raised concerns about the impact on consumers, leading to the former commissioning a “wide-ranging economic study on consumer impact”, exploring the inflationary impact on devices over a ten year period.<sup>96</sup> This independent analysis by Frontier Economics of the data on the pass-through of private copying levies to consumers found that there was no empirical evidence that device prices are higher in countries that have higher per device levies (and in fact observed the opposite relationship to some extent) nor that changes in levy tariffs result in equivalent changes in device prices.<sup>97</sup>

28. This trend was observed, for example, for Apple products across France, the Netherlands and Spain, where the price remained the same across all countries despite the tariff levied at 1.5%, 0.8% and 0.12% respectively; instead, demand and price were instead influenced by branding and reputation, within-country competitive dynamics,

91 The Smart Fund, ‘How will the Smart Fund work?’, accessed 5 February 2024; The Smart Fund, *The Smart Fund Report: Levelling up communities, creators and performers through innovative funding* (24 September 2021), p. 12

92 [Qq27–8](#)

93 [Q21](#)

94 [Q23](#)

95 Dentons, ‘Private copy levy for reproduction in cloud computing storage’, 30 March 2022

96 [Qq24–5](#)

97 Frontier Economics, *Pass-through of private copy levies to electronic devices: Analysis for DACS* (14 October 2022), p. 2

marketing, cross-border constraints and menu costs.<sup>98</sup> In fact, these findings have been corroborated from Government-commissioned research, published in 2012 by the IPO.<sup>99</sup> As Reema Selhi summarised:

If anything, people in the UK still pay more for their devices than people in countries that have these levies in place and so there has been no risk of selling overseas. In some countries where the tariffs have changed over time—at one point a tariff had dropped down to almost zero after a court case—no saving was passed on from the consumer. We have also heard from one of our societies in Austria that, according to consumer research, because the private copy levies have been in place for so long, no one knows about them.<sup>100</sup>

John Hollingworth similarly posited that “[t]he amount of the levy would be down to the legislator and down to further discussions with different committees, but people would not mind paying £2 to £3 when they buy a smartphone or a smart TV or a similar device every four, five or six years, if it guarantees that the actors who are able to be watched on that device benefit from that Smart Fund”.<sup>101</sup> Disappointingly, our witnesses noted that, since the initial discussions in 2022, they have received no response either from the Department, from individual tech companies or from the trade body techUK.<sup>102</sup>

**29. Revenue from private copying from abroad is an important source of income for creators, remunerating them for the use of their works that is integral to the demand for electronic devices. Not only does a lack of such a scheme in the UK prevent British creators from receiving payments from the domestic market, but it has also put their payments from abroad under threat due to a lack of reciprocity with other countries. We recommend the Government work with the UK’s creative industries to introduce a statutory private copying scheme, which, at minimum, safeguards reciprocal payments from abroad, to be produced within the next twelve months.**

## Artificial intelligence

30. Even as threats to existing private copying arrangements require a focus on current technologies, emerging tech continues to be of concern to the creative industries. Our report on *Connected tech: AI and creative technology*, published in July 2023, focused on the immediate threat to intellectual property in the creative industries posed by what we described as the Government’s potentially disastrous—and since abandoned—proposals for a blanket exemption for artificial intelligence (AI) developers to use creative works to train their systems.<sup>103</sup> This process, called text and data mining (TDM), creates datasets from internet-scale text and other media to identify and extrapolate relationships, patterns and trend from those data.

98 Ibid., pp. 4–5

99 Intellectual Property Office, [Private Copying and Fair Compensation: An empirical study of copyright levies in Europe](#) (28 March 2012), p. 7

100 [Q24](#)

101 [Q26](#)

102 [Qq25–6](#)

103 Culture, Media and Sport Committee, Eleventh Report of Session 2022–23, [Connected tech: AI and creative technology](#), HC 1643, paras 22–33

31. AI developers have been vocal in articulating their demands for a more permissive copyright regime:<sup>104</sup> as recently as January 2024, Sam Altman, the CEO of the \$100 billion company OpenAI, developers of generative AI tool ChatGPT, told the House of Lords Communications and Digital Committee that “because copyright today covers virtually every sort of human expression—including blog posts, photographs, forum posts, scraps of software code, and government documents—it would be impossible to train today’s leading AI models without using copyrighted materials”.<sup>105</sup>

32. Creative industries and media organisations have voiced concerns that AI developers have been exploiting their work illicitly, without seeking licence agreements with or providing fair compensation for rightsholders, and otherwise claiming that using creative works in this way is not copyright infringement.<sup>106</sup> Similarly, a survey of visual artists about AI, published in January 2024, found that approximately 95% of artists felt that they should be asked, credited and compensated if AI models were or have been trained on their works, and 22% had already identified their work as having been used for AI training.<sup>107</sup> 84% of respondents to the survey said that they would sign up for a licensing mechanism where they were paid for use of their work by AI.<sup>108</sup> Summarising the findings, Christian Zimmermann, CEO of the Design and Artists Copyright Society (DACS), said that it was “imperative for the government to act, offering stronger protection for artists and their creations”.<sup>109</sup>

33. Our previous report called on the Government to “work to regain the trust of the creative industries following its abortive attempt to introduce a broad text and data mining exemption”, such as by “[being] clear that licences are required to use copyrighted content in AI” and “[acting] to ensure that creators are well rewarded in the copyright regime”.<sup>110</sup> We also recommended that the Government should “proactively support small AI developers in particular, who may find difficulties in acquiring licences”.<sup>111</sup>

34. Since our *Connected tech* report, we have also explored the impacts of AI outputs on the creative industries. Paul Clements, CEO of the Music Publishers’ Association (MPA), for instance, speculated that, although AI “might not yet be ready to compete effectively with human authored content, it will get there” and “certainly could be synchronised for music in a BBC TV drama, an ITV drama or something on Netflix”, which “in turn deprives creators of the combined revenues that they can collect from the use of their music”.<sup>112</sup> Speaking about the impact of AI on visual artists, Reema Selhi stated that “[a] lot of artists see that their work has been ingested as part of AI training” and “[t]hen the outputs look so incredibly similar to theirs that it effectively competes with them in the marketplace”.<sup>113</sup> Craig Peters, CEO of image library Getty Images, which is suing an AI

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104 [Q87](#)

105 “*OpenAI warns copyright crackdown could doom ChatGPT*”, The Telegraph, 7 January 2024

106 [Q87](#); “*British media and creative industries quizzed over AI risks to copyright*”, The Financial Times, 21 August 2023

107 Design and Artists’ Copyright Society, *Artificial Intelligence and Artists’ Work: A survey of artists on AI* (18 January 2024), pp. 8–10

108 *Ibid.*, p. 10

109 “*New survey shows 89% of UK artists want the Government to better protect their work by regulating AI*”, Design and Artists’ Copyright Society press release, 18 January 2024

110 Culture, Media and Sport Committee, Eleventh Report of Session 2022–23, *Connected tech: AI and creative technology*, HC 1643, paras 31–2

111 *Ibid.*, para 31

112 [Q166](#)

113 [Q31](#)

image generator for copyright infringement, described the Government’s approach as “a bit of a perplexing trade-off”.<sup>114</sup> Nicola Solomon, Chair of the Creators’ Rights Alliance (CRA) and CEO of the Society of Authors, asserted that there was a need for both “good licensing regimes” and “good enforcement mechanisms” to ensure transparency around inputs and outputs and fair compensation for creators, and a bullish IPO “to stand up and say that it is copyright infringement”.<sup>115</sup>

35. Actor John Hollingworth similarly stated that “[AI] is absolutely a real problem that is stripping jobs from British actors as we speak”. He highlighted three particular areas of concern:

- Voiceover work, which is relatively well-paid and available for performers, but where they are already facing a wide-scale threat from AI-powered speech synthesisers (computer systems that produce human speech);<sup>116</sup>
- Animation, impacting visual effects (VFX) artists and animators as well as performers; and
- Image rights in live action film and TV, with Mr Hollingworth describing how, for a major film, that “[a]s part of the filming, all actors and scenic artists [extras] had to be scanned by a series of cameras to have our likenesses captured for the visual effects arm of the film, to animate us, to take the actor’s body and composite together and create an army of thousands of people”, with no contractual clarity over how those scans might be used long-term.<sup>117</sup>

Indeed, these concerns were one of the key disputes in the industrial action taken by the WGA and SAG-AFTRA against the AMPTP.<sup>118</sup> Recent reports concerning voice actors in the video game industry suggest this will remain an ongoing issue in future.<sup>119</sup>

36. In its response to our *Connected tech: AI and creative technology* report, the Government cited both its proposals for a voluntary code of practice on copyright and AI (through an industry-led working group of rightsholders and AI developers) to codify rights to protect performers’ reputations,<sup>120</sup> and its plans to explore the case for stronger protections for creators against generative AI as evidence of its work to rebuild trust with the sector.<sup>121</sup> Notably, the Government’s announcement of the working group stated that “[i]f the code of practice is not adopted or agreement is not reached, legislation could be considered”.<sup>122</sup>

114 [“Back UK creative sector or gamble on AI, Getty Images boss tells Sunak”](#), The Guardian, 14 January 2024

115 [Q87](#)

116 See also: [“How actors are losing their voices to AI”](#), Financial Times, 1 July 2023

117 [Q14](#)

118 [Q13; “‘Bargaining for our very existence’: why the battle over AI is being fought in Hollywood”](#), The Guardian, 22 July 2023

119 [“Gaming voice actors blindsided by ‘garbage’ union AI deal”](#), BBC News, 11 January 2024

120 These refer to the rights set out in the Beijing Treaty on Audiovisual Performances, which provides performers with an “attribution right”, where they can claim to be identified as the performer, and an “integrity right”, where they can object to any distortion, mutilation or other modification of their performance that would be prejudicial to their honour or reputation. The Government had previously committed to implementing and ratifying the Treaty but had not taken any action on this until the publication of our report in August. A consultation on options, including draft legislation, subsequently ran from September to November and provisions are now expected to come into force in the latter half of 2024.

121 Culture, Media and Sport Committee, Third Special Report of Session 2023–24, [Connected tech: AI and creative technology: Government Response to the Committee’s Eleventh Report of Session 2022–23](#), HC 441, pp. 5–6

122 [“The government’s code of practice on copyright and AI”](#), Intellectual Property Office press release, 29 July 2023

37. Despite these initiatives, the Government’s stance received criticism from the creative industries. The cross-sector panel of CMOs we heard from, for example, supported our report and recommendations.<sup>123</sup> Barbara Hayes, CEO of the Authors’ Licensing and Collecting Society (ALCS) has said that:

[i]t is disappointing that the Government has not taken this opportunity to reassure creators by accepting calls from the Committee to review licensing frameworks. Without a clear plan to review licensing schemes, or indeed to develop a transparent copyright framework through properly administered licensing and permissions regimes, this remains a missed opportunity to reassure creators that their works will not be used without consent or fair remuneration in the development of AI and its outputs.<sup>124</sup>

The MPA’s Paul Clements told us that “there is a huge black cloud hanging over us in that we do not seem to have been able to make progress with the UK Government or IPO yet on laying down a proper regulatory framework that protects the interests of creators, whether they be musicians, authors or screenwriters”.<sup>125</sup>

38. These criticisms were subsequently borne out when the Government published its response to the consultation on its AI Regulation White Paper, which announced that “[u]nfortunately, it is now clear that the working group will not be able to agree an effective voluntary code” and that “ministers will now lead a period of engagement with the AI and rights holder sectors, seeking to ensure the workability and effectiveness of an approach that allows the AI and creative sectors to grow together in partnership”.<sup>126</sup>

**39. Despite our previous recommendations that the Government win back the trust of creators regarding their concerns over AI, its working group has not been able to bring forward a code of practice on AI and intellectual property. Although the Government asserted that it could consider legislating were agreement not reached, it has not indicated that it will do so. It is unlikely that simply conducting a further period of engagement with the sectors, with no clarity over its overall aims, will have any meaningful effect. We are concerned that the status quo simply favours AI developers, given creators’ concerns that their IP is already being used in AI development without licence or any practical means of recourse.**

**40. *The Government must ensure that creators have proper mechanisms to enforce their consent and receive fair compensation for use of their work by AI developers. It should set out measurable objectives for the period of engagement with the AI and rightsholders sectors, which it has said ministers will lead on, and provide a definitive deadline at which it will step in with legislation in order to break any deadlock. We will continue to monitor developments in this area and recommend that our successor Committee do the same next year.***

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123 [Q30](#)

124 [“ALCS calls for greater safeguards for creators and copyright”](#), Authors’ Licensing and Collecting Society press release, 16 January 2024

125 [Q166](#)

126 Department for Science, Innovation & Technology, *A pro-innovation approach to AI regulation: government response*, [CP 1019](#), 6 February 2024, paras 29–30

## 2 Freelancing and contractual terms

### The prevalence of freelancing

41. Freelancers and the self-employed<sup>127</sup> comprise a significant minority of the creative workforce. A 2017 report by the Creative Industries Federation (a predecessor to Creative UK)<sup>128</sup> found that the roles that freelancers fill in the wider creative economy range from creators themselves—including artists, designers, directors, photographers, producers, writers, and so on—to engineers, programmers and riggers to agents, coaches, consultants and stylists.<sup>129</sup> DCMS’s economic estimates for its sectors, published in July 2023, classified 675,000 filled jobs in the creative industries as self-employed during the 2022 calendar year out of a total of almost 2.4 million.<sup>130</sup> Indeed, the rate of self-employment in the sector has remained around 32% (albeit varying somewhat between 28% to 35%) during the last ten years, compared to 16% for the economy as a whole.<sup>131</sup> Statistically, creative freelancers are more prevalent in Scotland and South West England and significantly less prevalent in Northern Ireland.<sup>132</sup> The cultural sector, which DCMS defines as “those industries with a cultural object at the centre of the industry” and has significant overlap with the creative industries,<sup>133</sup> is even more reliant on self-employment than the creative industries, with approximately 47% of the UK-wide workforce working on a freelance basis in 2022, equivalent to 327,000 jobs out of 694,000.<sup>134</sup>

### Advantages of the freelance model

42. Freelancing can have several benefits for creators and other professionals in the creative industries. Primarily, freelancing may give creators more creative control over their work by being able to pursue the projects they want to pursue and reject other work.<sup>135</sup> Beyond this, many creative professionals may have skills that are too specific or specialist for companies to need to employ on a full-time basis. The 2017 Creative Industries Federation report noted that animators, VFX artists, translators and other jobs were often

127 While the terms “freelancer” and “self-employed” are often used interchangeably, given that neither term is explicitly defined within employment law, they refer to slightly different things. “Self-employed” people are those who are owners of a company or their own boss and are responsible for how and when they work but have few employment rights. “Freelancers” usually refers to people who are engaged by a company directly on flexible contracts, through their own company (overlapping with the self-employed) or through other companies.

128 The Creative Industries Federation, a non-profit advocacy organisation, merged with Creative England, a publicly- and privately-funded screen sector agency, in November 2021 to form Creative UK.

129 Creative Industries Federation, [Creative Freelancers](#) (17 July 2017)

130 Department for Culture, Media and Sport and Department for Science, Innovation and Technology, [‘Economic Estimates: Employment in DCMS sectors and Digital sector, January 2022 to December 2022’](#), 28 July 2023

131 [Q12](#); Creative Industries Policy and Evidence Centre, [‘National Statistics on the Creative Industries’](#), 28 June 2022; see also [Q51](#)

132 Department for Culture, Media and Sport and Department for Science, Innovation and Technology, [‘Economic Estimates: Employment in DCMS sectors and Digital sector, January 2022 to December 2022’](#), 28 July 2023

133 Department for Culture, Media and Sport, [‘DCMS Sector Economic Estimates: Methodology’](#), 8 December 2022. The cultural sector includes: film, TV, music and radio (all of which overlap with the creative industries); heritage (which overlaps with the tourism sector); arts and museum activities (both of which also overlap with both the creative industries and tourism) and retail of music and video recordings, manufacture of musical instruments and reproduction of recorded media.

134 Department for Culture, Media and Sport and Department for Science, Innovation and Technology, [‘Economic Estimates: Employment in DCMS sectors and Digital sector, January 2022 to December 2022’](#), 28 July 2023

135 [Qq9](#) [Andy Harrower], [11](#) [John Hollingworth]; Creative Industries Federation, [Creative Freelancers](#) (17 July 2017), pp. 10–2

outsourced.<sup>136</sup> Other professionals surveyed for the report noted that freelancing gave them the flexibility to work remotely, balance caring responsibilities (particularly for mothers, whose prevalence in the freelance workforce rose 79% between 2008 and 2016) and/or start and build a business around a creative passion.<sup>137</sup>

43. Businesses across the creative industries, or those that contract creative professionals, are also incentivised to rely on freelancers to a significant extent. Many creative industries businesses work on a project basis and therefore have differing job specifications between individual projects.<sup>138</sup> As actor John Hollingworth, on behalf of BECS, explained:

Often film and television companies are put together as special vehicles to limit their liability. They are put together as a legal tax entity to make the thing and then they are shut down quickly afterwards. That mechanism requires freelancers to come in and work for them. It happens a lot in film. The money is put together, it is corralled, it is green-lit, it is made and then that entity is disbanded afterwards. It is literally a special vehicle just to deliver that particular job. They work on a freelance model.<sup>139</sup>

Freelancers can provide businesses with particular expertise and skills to a company and allow them to be more ambitious in their projects.<sup>140</sup> Businesses may also benefit financially by contracting freelancers because they do not need to pay employer national insurance contributions.<sup>141</sup> Illustrating the sector's reliance on freelancing, pre-Covid statistics produced by the Creative Industries Policy and Evidence Centre (PEC), found that 41% of companies worked with as many or more freelancers than they had employees, and 75% of creative industries companies had worked with a freelancer in that calendar year.<sup>142</sup>

## **Downsides for professional creators**

### **Lack of choice**

44. John Hollingworth and Andy Harrower, CEO of Directors UK, both posited that the theoretical benefits of creative control and flexibility only manifest for creators in certain subsectors, and even then, only in certain conditions (for example, there being a favourable climate for commissions and opportunities); otherwise, most professional, even well-established, creators face concerns about securing the next job even while contracted and may not have the luxury of declining work.<sup>143</sup> A February 2024 report by the Broadcasting, Entertainment, Communications and Theatre Union (Bectu), a sector of the trade union Prospect, found that, in the freelancer-reliant screen sector, 68% of film and TV workers are not currently working, mainly due to industry slowdowns.<sup>144</sup> This

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136 Creative Industries Federation, *Creative Freelancers* (17 July 2017), pp. 10–2

137 *Ibid.*, pp. 13–4; see also [Q9](#) [Andy Harrower]

138 [Qq9, 48, 51](#); Creative Industries Federation, *Creative Freelancers* (17 July 2017), pp. 10–2

139 [Q9](#)

140 *Freelancers in the arts and creative sectors*, House of Lords Library, 9 June 2023

141 *Ibid.*

142 Creative Industries Policy and Evidence Centre, *Freelancers in the Creative Industries* (14 May 2021), p. 1

143 [Qq2, 9, 11](#)

144 Bectu, [UK film and TV industry: a sector in crisis](#) (26 February 2024), p. 3



was only marginally better than in September 2023, when 74% were not working.<sup>145</sup> As John Hollingworth told us: “much of the job, both for me and for my agent, is based on trying to get the next job; it is a struggle”.<sup>146</sup>

45. Many respondents to the survey underpinning the 2017 Creative Industries Federation report noted that they had become self-employed after being made redundant or felt forced to become freelance for reasons of poor health,<sup>147</sup> while another survey, undertaken by social enterprise Creative Access in 2023, found that disabled creative professionals were more likely on average to go freelance due to redundancy or experiencing toxic working environments.<sup>148</sup> As Caroline Norbury told us: “almost a quarter [of disabled creative professionals] become a freelancer due to negative experiences in a permanent role” and “disabled individuals are 30% more likely to be freelancing after negative permanent role experience”.<sup>149</sup>

### Poor rates of pay

46. As with self-employed people outside the creative economy, creative freelancers may also lose access to employment rights such as holiday pay, sick pay, pensions and the minimum wage, which can impede maintaining a healthy work-life balance.<sup>150</sup> Research based on surveys of freelancers working in the creative industries by the Association of Independent Professionals and the Self Employed (IPSE) in 2016 found that the average freelancer spent 15.5 days a year on average working for free and lost almost £5,400 to this unpaid work.<sup>151</sup>

47. The issue of low pay is pervasive across both the public and private sector. Reema Selhi, Head of Policy and International at DACS, told us that, “[f]rom studies in the visual arts sector, we have seen that artists earn on average £2.60 an hour when they work in publicly funded institutions”.<sup>152</sup> Creative UK submitted that 54% of freelancers claimed that they had been offered a day rate or salary below their level of expertise or experience<sup>153</sup> while the 2023 Creative Access survey found that half experience regular late payment.<sup>154</sup> A submission from Directors UK noted that remuneration for directors is deteriorating further, as freelancers’ pay rates have been frozen (and are therefore falling in real terms) while “six-day week contracts” and no overtime pay are becoming more common, despite paid overtime being standard for other key members of crew.<sup>155</sup> Because of a lack of collective bargaining or transparency around pay, pay negotiations can be undermined by fears of being undercut or undervalued.<sup>156</sup>

48. Often, creators are encouraged to work for no pay whatsoever. From the 2016 IPSE survey, 54% of respondents said that they had worked for free in the hope of “gaining exposure”—a euphemistic term for theoretical payment in kind promising public

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145 Ibid

146 [Q2](#)

147 [Qq7, 39, 55](#); Creative Industries Federation, [Creative Freelancers](#) (17 July 2017), p. 14

148 Creative Access, [Freedom or working for free? Freelancers in the creative economy](#) (21 March 2023), p. 5

149 Creative UK ([CRE0003](#))

150 Directors UK ([CRE0002](#)); [Freelancers in the arts and creative sectors](#), House of Lords Library, 9 June 2023

151 [“Freelancers are Losing £5k a Year to Free Work”](#), Musicians’ Union press release, 14 November 2016

152 [Q11](#)

153 Creative UK ([CRE0003](#))

154 Creative Access, [Freedom or working for free? Freelancers in the creative economy](#) (21 March 2023), p. 8

155 Directors UK ([CRE0002](#))

156 [Q55](#); Directors UK ([CRE0002](#))

promotion of a creator’s work—and 45% had worked for free to be associated with a reputable brand.<sup>157</sup> Highlighting individual subsector trends, according to research by the Musicians’ Union, 71% of musicians have been asked to work for free and 54% are regularly asked to work for exposure.<sup>158</sup> Matt Dowling, chief executive of the Freelancer Club, a membership organisation campaigning to end exploitative unpaid work, has written that it is difficult to quantify whether exposure even leads directly to remuneration further down the line, saying that “most creative professionals will secure paid work at some point, so you can’t draw a direct correlation”.<sup>159</sup> Anecdotal evidence from workers in the creative industries suggests that requests to work for free do not desist even as creators become more established.<sup>160</sup> One in five creative freelancers claimed during the IPSE survey that working for free was in fact standard practice in their subsector.<sup>161</sup>

49. Freelancers also face structural barriers to progression. In the 2017 Creative Access survey, 50% of respondents cited a lack of opportunities for training and professional development and a greater difficulty to progress or secure promotions as the biggest disadvantages to freelancing, after unpaid holiday (60%).<sup>162</sup> As Nicola Solomon, Chair of the Creators’ Rights Alliance (CRA) and CEO of the Society of Authors, stated:

One of the issues that has not yet been commented on is we have often heard DCMS called “the Ministry of Fun”. This is about people taking creative work seriously and what creators do seriously as work, and not being able to cite this fantasy of the artist and say, “You would do this anyway. You would do it for no pay.”<sup>163</sup>

### Working conditions

50. As we have explored previously in our report *Reimagining where we live: cultural placemaking and the levelling up agenda*, poor working conditions have also impacted the viability of the creative industries as a career.<sup>164</sup> Nicola Solomon of the CRA and Caroline Norbury, CEO of cross-sector body Creative UK, highlighted several practices where working conditions, contracts and terms of employment were often unfair, including:

- An array of contract formats, with many people on unwritten contracts,<sup>165</sup> or otherwise a vast variety of terms of conditions and agreements creating, a culture of uncertainty and inconsistencies in the use of contracts;<sup>166</sup>
- A general lack of support and training in how to handle contract negotiations or paperwork, coupled with prohibitions against union bargaining;<sup>167</sup>

157 “Freelancers are Losing £5k a Year to Free Work”, Musicians’ Union press release, 14 November 2016

158 Musicians’ Union, ‘Empowering Musicians to Say No to Unpaid Work’, accessed 4 September 2023

159 “Creative careers: is it ever worth working for ‘exposure’?”, The Guardian, 9 July 2018

160 Ibid.; see also Directors UK (CRE0002)

161 “Freelancers are Losing £5k a Year to Free Work”, Musicians’ Union press release, 14 November 2016

162 Creative Access, *Freedom or working for free? Freelancers in the creative economy* (21 March 2023), p. 9

163 “Freelancers losing £5k a year due to unpaid work”, Freelancer News, 24 October 2016

164 Digital, Culture, Media and Sport Committee, Third Report of Session 2022–23, *Reimagining where we live: cultural placemaking and the levelling up agenda*, HC 155, paras 59, 62–3, 80–5

165 Q55

166 Small Business Commissioner, *Poor Payment Practice in the Creative Sectors: Actions for Change* (April 2020), p. 7

167 Q55

- A lack of proper accounting<sup>168</sup> and consistent late payments, with the Small Business Commissioner finding that 41% of creative businesses and freelancers are consistently paid late, 43% to 55% have never been paid for some work carried out and that average delays have been increasing;<sup>169</sup>
- No HR support, which can lead to a lack of advice and poor outcomes when facing work-related issues;<sup>170</sup>
- A lack of robust and consistent action on bullying, harassment and discrimination, evidenced by the mixed response to the new Creative Industries Independent Standards Authority, including a disappointing lack of response from Apple and Netflix.<sup>171</sup>

51. In response to our *Reimagining where we live: cultural placemaking and the levelling up agenda* report, the Government pointed to the fact that it had part-funded the PEC's *Independent Review into Job Quality and Working Practice in the Creative Industries* as evidence of its commitment to tackling poor working conditions.<sup>172</sup> Looking across four broad policy areas, the resulting "Good Work Review" made several achievable recommendations, including to: strengthen social protections for creative freelancers; strengthen the voice of freelancers and marginalised groups; co-design Good/Fair Work Standards for the sector and introduce a tiered accreditation programme; and require all organisations in receipt of funding or participating in major events sign-up to those principles.<sup>173</sup> The Government has not taken steps to implement these recommendations in the year since, despite calls from across the sector to do so.<sup>174</sup>

### A freelancer-specific support

52. The Creative Industries Policy and Evidence Centre (PEC) has asserted that, because freelancers are not a specific category, they have historically lost out on major policy initiatives from government interventions on skills, immigration and post-Covid emergency support.<sup>175</sup> As we set out in our report *Reimagining where we live: cultural placemaking and the levelling up agenda*, this is one of the key reasons why the sector fares so poorly in terms of geographic disparities and social mobility.<sup>176</sup> The status of freelancers creates particular challenges where groups face structural barriers to inclusion and thus would benefit from such interventions. Because of these issues, the PEC has concluded

168 Ibid.

169 Small Business Commissioner, *Poor Payment Practice in the Creative Sectors: Actions for Change* (April 2020)

170 [Q48](#)

171 [Qq48–50, 76–85](#)

172 Digital, Culture, Media and Sport Committee, Sixth Special Report of Session 2022–23, *Reimagining where we live: cultural placemaking and the levelling up agenda: Government Response to the Committee's Third Report*, HC 1104, p. 19

173 Creative Industries Policy and Evidence Centre, *Good Work Review: Job Quality in the Creative Industries* (22 February 2023). The four areas covered were: *i*) strengthening the baseline of protection for creative workers; *ii*) driving improvements in management capability; *iii*) enhancing professional development amongst the workforce; and *iv*) improving worker representation.

174 [Q58](#); Creative UK ([CRE0003](#))

175 Creative Industries Policy and Evidence Centre, *Freelancers in the Creative Industries* (14 May 2021); *Freelancers in the arts and creative sectors*, House of Lords Library, 9 June 2023

176 Digital, Culture, Media and Sport Committee, Third Report of Session 2022–23, *Reimagining where we live: cultural placemaking and the levelling up agenda*, HC 155, paras 59, 62–3, 81–7

that the current “one-size-fits-all” approach to creative industries and employment policymaking “doesn’t work for creative freelancers” and has called for “targeted support for freelancers” for “the long-term health of the creative sector”.<sup>177</sup>

## Proposed solutions

### A “Freelancers’ Commissioner”

53. Voices across the sector have called for the Government to create a Freelance Commissioner to advocate for the needs of freelancers, including within the creative industries. Ahead of the 2020 Spending Review, a coalition comprised of the Creative Industries Federation, Federation of Small Businesses, IPSE and the union Prospect called on then-Chancellor of the Exchequer Rishi Sunak MP to establish a Freelance Commissioner and a Future Workforce Commission to “build more resilience into this workforce and ensure no worker falls through the gaps”.<sup>178</sup> The group said that the proposed position would have a remit to “work closely with this group to drive change in government and business, turning ideas into action and eradicating red tape”.<sup>179</sup> The proposal has since been endorsed by creative industries cross- and subsector trade bodies, as well as the PEC and parliamentarians, including the all-party parliamentary groups for creative diversity, visual arts and writers.<sup>180</sup>

54. The UK Government and devolved administrations have created a series of “commissioner-style” roles in recent years, and this trend is typical in other countries too, who have inspired and been inspired by the UK’s creation of such posts.<sup>181</sup> Whilst commissioners are not technically a distinct type of position within government, the Institute for Government nonetheless identifies common themes attached to such roles, including providing “a degree of independent scrutiny of government activity”, “[promoting] a particular interest” and “[giving] under-represented groups a voice”.<sup>182</sup>

55. Several different commissioner models exist, including: individual commissioners, who are advocates of a particular constituency, such as the Victims’ Commissioner, Children’s Commissioner and Independent Anti-Slavery Commissioner; independent statutory arm’s length bodies (ALBs) that monitor government performance in certain areas, such as the Equality and Human Rights Commission, Social Mobility Commission and the now-defunct Commission for Rural Communities; and “tsars”, non-statutory personal ministerial appointments to bring coherence and progress on an issue.<sup>183</sup> These roles can be contrasted to officeholders with regulatory functions who nonetheless carry the title of “commissioner”, such as the Commissioner for Public Appointments and the Investigatory Powers Commissioner.

56. Throughout our first oral evidence session, industry voices set out the prospective remit and functions, likely avenues of inquiry and the advantages of a Freelance Commissioner.

177 Creative Industries Policy and Evidence Centre, ‘[One size can’t fit all](#)’, 4 May 2021

178 ‘[Prospect joins call for new Freelance Commissioner](#)’, Prospect press release, 20 November 2020

179 Ibid.

180 [Freelancers in the arts and creative sectors](#), House of Lords Library, 9 June 2023; All-Party Parliamentary Group for the Visual Arts, ‘[APPG Visual Arts – Creative Freelance Commissioner Briefing](#)’, accessed 9 January 2024; All-Party Writers’ Group, ‘[APWG roundtable on Freelancer Commissioner proposal](#)’, accessed 9 January 2024

181 Institute for Government, [How to be an effective commissioner](#) (February 2021), pp. 10–1

182 Ibid., pp. 8–10

183 Ibid., p. 8

Providing advocacy for freelance workers and expert knowledge of how the freelance sector intersected with the creative industries within government were considered most vital for its remit.<sup>184</sup> Richard Combes, Head of Rights and Licensing and Deputy CEO of ALCS, and Nicola Solomon also told us that a Commissioner should be given “genuine oversight” over policymaking in areas where freelancers are acutely affected, such as pay, taxation and benefits, pathways into industry and employment rights, with the power to make interventions on behalf of the sector.<sup>185</sup> PEC also suggested that the Commissioner could to “come up with a strategy to ensure clear government communication of key policy initiatives to a fragmented freelancer workforce”.<sup>186</sup>

57. Discussing prospective areas of inquiry for such a commissioner, Richard Combes agreed with the suggestion that consideration should be given to finding sustainable alternatives to apprenticeship schemes and to discerning how parental leave could be applied in freelancer-reliant subsectors.<sup>187</sup> Reema Selhi posited that a commissioner would address the disparate departmental responsibilities for freelancers, which intersect with HM Treasury and the Departments for Business and Trade and Work and Pensions at minimum, alongside DCMS;<sup>188</sup> this would contrast with DCMS’s current engagement with industry through the Creative Industries Council, which engages only with DCMS ministers and officials. Richard Combes asserted that appointing a commissioner would also reflect a lesson learned from the problems highlighted by the pandemic where, “despite the programmes that the Government put in place to support work, many freelancers fell through the gaps due to qualification issues”.<sup>189</sup>

**58. Freelancers make up a significant portion of the creative workforce but lack a single clear voice representing their interests to Government. This has resulted in a decline in pay and conditions that will cause long-term harm to the sector. We recommend that the Government appoint a Freelancers’ Commissioner, with appropriate powers and cross-departmental oversight, to advocate across Government in the interests of creative freelancers, and of other freelance and self-employed people more broadly.**

### **Fair contractual terms for creators**

59. The CRA, as a coalition of 23 major creator-led groups, has been campaigning to address through their Pay the Creator and Fair Terms for Creators campaigns the disparity in pay between creative professionals and other sector workers and to tackle the inequality in bargaining power between creators and those who exploit their work. The Fair Terms for Creators campaign in particular sets out seven ‘CREATOR’ principles:

- **Clarity:** Clear, written contracts, negotiated promptly and with transparency, setting out the exact scope of rights that are granted/assigned/licensed over intellectual property

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184 [Qq12, 18–9, 25, 58–9](#)

185 [Q12](#)

186 Creative Industries Policy and Evidence Centre, [Freelancers in the Creative Industries](#) (14 May 2021), p. 2

187 [Qq12, 37](#)

188 [Qq18–9, 25](#)

189 [Q12](#)

- **Remuneration:** Fair, equitable and unwaivable remuneration for each use or exploitation (e.g., sales, broadcasts, rentals, streaming, etc) of work, including “bestseller clauses” where creators share in revenues if a work does far better than expected even if their rights were assigned
- **Exploitation:** “Use-it-or-Lose-it” clauses covering all modes of exploitation
- **Accounting:** Fair, understandable and comprehensive accounting clauses
- **Terms:** Reasonable contract terms, with adjustment mechanisms for new forms of exploitation, underpinned by reversion rights (i.e., where transfers of copyright return to the creator after a set period of time)
- **Ownership:** Creators should be appropriately credited for all uses of their work, the integrity of artistic works should be respected and the ownership of moral rights (i.e., the right for a creator to be recognised and their work attributed to them) should be unwaivable
- **Reasonable:** All contracts should be subject to a general test of “reasonableness”, with a list of defined clauses which are automatically deemed to be void and a general safeguarding provision where any clause contrary to the requirement of good faith (i.e., which causes a significant imbalance in the stated rights and obligations to the detriment of the author) “shall be regarded as unfair”.<sup>190</sup>

60. Arguing for the feasibility of these principles, Nicola Solomon emphasised that they represent “points that are in other people’s legislation; they are not new”.<sup>191</sup> Indeed, principles such as “clarity” and “reasonableness”, for example, equate almost entirely to the principles of “transparency” and “fairness” respectively, which are set out in the UK’s Consumer Rights Act 2015.<sup>192</sup> Others, like “fair remuneration”, “exploitation” and “terms” are enshrined elsewhere in Europe, including France, Spain, Belgium, Hungary, Poland, Germany and Sweden.<sup>193</sup> Summarising the perceived need for and practicality of the CRA’s CREATOR principles, Nicola Solomon asserted:

Every single one of these works well in other places and could be put together in a very simple way. These are things that good companies do. There is nothing radical in this. When we look to other organisations the responsible organisations will say, “Yes, of course we expect these things from contract terms,” but because this is a world of dreams there are also plenty of cowboys out there.<sup>194</sup>

**61. Many creators experience poor working conditions, including inconsistent use of contracts and terms and conditions, uneven responses to bullying, harassment and discrimination and a lack of proper support, accounting, training and development. This compounds the poor pay available in the profession and its high barriers to entry.**

190 Creators’ Rights Alliance, ‘[Fair Terms for Creators](#)’, accessed 15 January 2024

191 [Q55](#)

192 [Q56](#); see also Competition and Markets Authority, *Unfair contract terms guidance: Guidance on the unfair terms provisions in the Consumer Rights Act 2015*, [CMA37](#), 31 July 2015

193 [Q56](#); see also European Parliament, Directorate-General for Internal Policies of the Union, [Contractual arrangements applicable to creators – Law and practice of selected Member States](#), 11 February 2014

194 [Q56](#)

*The Government should acknowledge and address issues around contracts and working conditions by implementing the recommendations of the DCMS-sponsored Good Work Review, using the sector's CREATOR campaign as a basis for fair working standards.*

## 3 Economics of music publishing

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### The complete reset of music streaming

62. Our report on the *Economics of music streaming* called for a “complete reset” to address fundamental, structural problems within the recorded music industry and streaming economy. Some of the issues we highlighted included:

- Pitiful returns for performers, caused by unequal bargaining power with the major record companies, a lack of transparency (undermining their ability to audit) and poor standards of metadata on streaming services, which we suggested could be rectified by a package of measures including statutory rights to contract adjustments,<sup>195</sup> rights reversion<sup>196</sup> and equitable remuneration (ER);<sup>197</sup>
- Unequitable splits in revenues between recording (i.e., performers and record companies) and publishing (music publishers, songwriters, composers and arrangers) rights<sup>198</sup> to the music being streamed;
- The effects of the dominance of the major music companies on independent companies in the sector (those with less than has less than five percent of the world market in recording and publishing);
- The consequences for rightsholders of music streaming services’ practices, ranging from biases and pay-for-play (‘payola’) in playlisting and algorithmic curation, to the economic protections afforded to sites that host user-generated content like YouTube, which protect (and incentivise) ad-funded business models that generate less income on average compared to subscription models.<sup>199</sup>

63. This inquiry provided an opportunity to revisit lingering issues across music and streaming, given the prominence of musicians’ remuneration in our *Music streaming* report. In particular, we focused on songwriters/composers and publishers (the creators and music companies respectively that own and control the rights in the underlying lyrics and musical compositions), which we did not consider in our previous follow-up session

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195 A right to contract adjustment provides a means by which music creators can renegotiate their contracts if their royalty income becomes disproportionately low compared to revenues derived from the exploitation of their works or the duration of the copyright transfer proves to be excessive.

196 A reversion right provides a means by which music creators can terminate their contracts after a certain period of time or reclaim the rights to their music if it is not being exploited.

197 Equitable remuneration, or ER, is a performer right, established in international law, that provides a statutory right to payment when their music is exploited in certain circumstances, such as when it is broadcast. The right to equitable remuneration cannot be waived or assigned as part of any contract agreement. There are different forms that equitable remuneration can take, and the treatment differs from country to country. In the UK, where ER applies and where an artist has signed a deal for less than a 50% share of income, the artists’ rate would be adjusted to equal 50%, reducing the label share, and could not be used to repay advances or other costs that are levied against their share of revenue. In Spain, where ER extends to streaming (unlike the UK), the right is held against the streaming service and 5.6% of streaming income is shared out between artists.

198 When recorded music is consumed in any fashion (sold, broadcast, downloaded, streamed, etc), two bundles of rights are exploited simultaneously: the recording (or “master”) rights, which are the copyright in the sound recordings of the performance and associated “performer rights” that protect the performer’s economic interests; and the song (or “publishing”), which are the copyright in the underlying lyrics (literary works) and the copyright in the musical compositions, including melody, rhythm, harmony and timbre (musical works).

199 See: Digital, Culture, Media and Sport Committee, Second Report of Session 2021–22, [Economics of music streaming](#), HC 50; Digital, Culture, Media and Sport Committee, Fifth Report of Session 2022–23, [Economics of music streaming: follow-up](#), HC 874



and report.<sup>200</sup> Our *Music streaming* report also provided a comprehensive overview of the copyright framework, the advent of music streaming, streaming services' business models and the music industry revenue share model for reference.<sup>201</sup>

### Progress to date

64. Several witnesses to our inquiry noted the promising work that has come from the Government's ability to convene stakeholders into working groups in order to solve the practical issues facing creators. This has led to the publication of a voluntary code of practice on transparency and an industry-wide agreement on metadata.<sup>202</sup> In tandem, these should help rightsholders, including creators—and particularly songwriters—to be paid, correctly, in a timely fashion and with greater accountability.<sup>203</sup> The efficacy of these measures will rely on industry take up,<sup>204</sup> and we expect the Government to continue to monitor this into the next parliament. The Government has also published research on *Music creators' earnings in the digital era*, streaming services' algorithms (by the Centre for Data Ethics and Innovation), contract adjustments and rights reversion and, most recently, equitable remuneration (published by the IPO).<sup>205</sup> Following a letter from ministers in response to our *Music streaming* report, the Competition and Markets Authority (CMA) launched a market study on competition in the music and music streaming markets, which reported in November 2022.<sup>206</sup>

65. Recording rightsholders have also taken voluntary measures, most notably with the three major record companies having disregarded unrecouped balances—whereby the performer's royalties have not offset the up-front costs and advance payment covered by the label—for legacy artists on pre-2000 deals. Dr Hyojung Sun, Lecturer in the Business of Creative and Cultural Industries and co-author of the IPO-commissioned *Music creators' earnings in the digital era* report, which explored how creators earn money through streaming, noted that this measure “would not have been possible without the Committee's intervention”.<sup>207</sup> However, as VV Brown pointed out, unrecouped balances have not been disregarded by the majors for songwriters and composers, meaning that music makers on the publishing side have not benefitted as performers have.<sup>208</sup>

### Proposals for further action

66. Despite these positive developments, however, Dr Hyojung Sun told us that there was “a long way to go before we can say that the music industry has been reset”.<sup>209</sup> Professor David Hesmondhalgh, Professor of Media, Music and Culture at the University of Leeds and co-author of the *Music creators' earnings in the digital era* report, added that, because

200 Ibid.

201 Digital, Culture, Media and Sport Committee, Second Report of Session 2021–22, *Economics of music streaming*, HC 50, Chapter 2 'The dominance of digital music'; Chapter 3 'Creator remuneration'; and Annex 2 'Music streaming service models'.

202 Department for Culture, Media & Sport and Intellectual Property Office, '[The government's work on music streaming](#)', accessed 21 February 2024

203 [Qq94 \[Dr Sun\]](#), [127 \[Merck Mercuriadis\]](#), [149 \[Paul Clements\]](#); see also [Q104 \[Nile Rodgers\]](#)

204 Intimated in [Q149](#)

205 Department for Culture, Media & Sport and Intellectual Property Office, '[The government's work on music streaming](#)', accessed 21 February 2024

206 Competition and Markets Authority, '[Music and streaming market study: final report](#)', 29 November 2022

207 [Q94](#)

208 [Q160](#); see Paragraph 62 and Fig. 1 for the distinction between recording and publishing rightsholders.

209 [Q94](#)

of “tensions between stakeholders [...] things seem very slow, and they seem to involve matters that are somewhat marginal to the real power issues—the real issues concerning creator remuneration”.<sup>210</sup>

67. Reflecting on *Music creators’ earnings in the digital era* research, Professor Hesmondhalgh acknowledged that the recorded music industry, which was devastated by digital piracy in the early 2000s due to the emergence of illegal downloads, has likely recovered to pre-2000 levels, while Dr Sun explained that framing the issues in “pay per unit” (i.e., per stream) terms was unhelpful.<sup>211</sup> Instead, both academics told us that the most contentious area regarded the share of revenues accruing to the recording companies (the “split of the pie”) relative to performers, publishers and songwriters, and the “winner takes all” market created by the confluence of digitisation of music consumption, caused by the market power of the size of the majors’ catalogues.<sup>212</sup> This has come at the expense of working artists relative to back catalogue, and of “the long tail” of new, up-and-coming, independent and less-promoted professional musicians relative to a select few superstars.<sup>213</sup>

68. We heard that there needs to be greater policy focus on distributing revenues fairly, such as by introducing equitable remuneration for performers, using streaming services’ systems to push money and consumer attention down the “long tail” and tackling stream-ripping (where pirates use unsanctioned software to record legitimate streams of music for unauthorised playback and distribution).<sup>214</sup> With relevance to the work on contract adjustment and rights reversion, Dr Sun added that “[i]n the States they have termination rights, but the US music market is stabilised, and we have found that those legal provisions tend to be a prompt for music creators to go back to their labels or publishers and resit or renegotiate their terms”.<sup>215</sup> We note that our original report made comprehensive recommendations in all these areas that should be revisited by the Government and industry in future.<sup>216</sup>

**69. We welcome the Government’s ongoing commitment to the reset of music streaming which we have advocated and note the recent metadata and transparency codes agreed by the working groups it led. The Government must now maintain this momentum in light of the finalised publications of research into “Music creators’ earnings in the digital era”, “Equitable Remuneration (ER) in the Streaming Age” and “Contract adjustment and Rights reversion”. *The Government must take stock of the results of the extensive research it has commissioned and look at how it can drive fundamental reform of music streaming with a package of measures designed to make streaming work for all.***

70. Alongside publication of the equitable remuneration research, the Government announced the terms of reference and membership of its Creator Remuneration Working Group (CRWG). The CRWG was formed in response to our recommendation that Government needed to build on the momentum created by its transparency and metadata

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210 [Q95](#)

211 [Qq97–8](#)

212 [Qq94, 97–8](#)

213 [Qq94, 97–9](#)

214 [Qq130, 162](#); see also [Qq105 \[Dr Sun\]](#), [165 \[VV Brown, Paul Clements\]](#)

215 [Q115](#)

216 Digital, Culture, Media and Sport Committee, Second Report of Session 2021–22, [Economics of music streaming](#), HC 50, paras 19, 59–77, 126, 152–3, 186–7; on equitable remuneration, see further: Digital, Culture, Media and Sport Committee, Fifth Report of Session 2022–23, [Economics of music streaming: follow-up](#), HC 874, paras 7–12

working groups and focus on the central issues of remuneration, contracts and performer rights.<sup>217</sup> The terms of reference state that the CRWG will review the evidence base, explore matters raised by industry representatives and “[w]here possible and appropriate, seek cross-industry action on creator remuneration from music streaming”.<sup>218</sup>

71. Despite comments from the BPI suggesting otherwise,<sup>219</sup> the equitable remuneration research does not set out explicit conclusions against any particular model for equitable remuneration other than the “broadcast model”.<sup>220</sup> The “broadcast model” refers to the characteristics of ER that apply to radio, where the performer share is increased to a 50:50 split with the record label (only in instances where their royalty rate is less than 50%) and are paid irrespective of costs levied by the company against the their share.<sup>221</sup> However, as the research notes, artists on a rate greater than 50%, such as independent artists, would receive less money, as a portion of their revenue would be paid to non-featured artists such as backing singers and session musicians and administration fees to their collective management organisation PPL. Irrespectively, this means that a “partial broadcast model” (applying a 50:50 split where music is not selected by the user—i.e., for playlists or algorithmic selections) or a “Spanish model” (where the right to an additional payment is made, either against the streaming service itself or the recording rightsholder) could still be considered; indeed, we concluded that these models were more compelling in our original report.<sup>222</sup>

72. However, the Council of Music Makers has raised concerns that Government’s selected composition of the CRWG has resulted in only a quarter of the membership representing creators.<sup>223</sup> Instead, half of the group members come from record companies and music publishers, including two record label trade bodies (the BPI and Association for Independent Music) and four labels themselves (the three majors—Universal, Warner and Sony—plus Beggars Group).<sup>224</sup> Record producers are not included, despite concerns over producer pay being raised in the IPO’s *Music creators’ earnings in the digital era* report,<sup>225</sup> while a further five members either represent both creators and labels/publishers (pan-industry body UK Music and collective management organisations PRS for Music and PPL) or none (YouTube and the Digital Entertainment and Retail Association).

**73. We welcome the Government’s publication of the terms of reference for the Creator Remuneration Working Group and expect to see tangible steps to improve musicians’ remuneration and performer rights in the next twelve months. However, we note concerns that the group’s membership leaves creators themselves with a minority**

217 Digital, Culture, Media and Sport Committee, Fifth Report of Session 2022–23, [Economics of music streaming: follow-up](#), HC 874, para 12

218 Department for Culture, Media and Sport & Intellectual Property Office, ‘[Creator Remuneration Working Group \(CRWG\): Terms of Reference](#)’, 19 February 2024

219 ‘[ER report divides industry ahead of first meeting of remuneration working group](#)’, Complete Music Update, 20 February 2024

220 Intellectual Property Office, [The potential economic impact of ER on performers and the music market in the UK](#) (19 February 2024); see also [Correspondence](#) from Julia Lopez MP and Viscount Camrose to CMS Committee of 19 February setting out plans for working group

221 Intellectual Property Office, [The potential economic impact of ER on performers and the music market in the UK](#) (19 February 2024)

222 Ibid.

223 [Letter](#) from David Martin et al, Council of Music Makers, relating to the Creator Remuneration Working Group, dated 22 February 2024

224 Department for Culture, Media and Sport & Intellectual Property Office, ‘[Creator Remuneration Working Group \(CRWG\): Membership](#)’, 19 February 2024

225 Intellectual Property Office, ‘[Music creators’ earnings in the digital era](#)’, accessed 13 December 2023

voice and vote among their peers and that record producers, who are integral to the music making process, are not included. *We recommend that the Government revisit the Creator Remuneration Working Group’s membership, in order to give music makers a stronger and fairer voice over issues of remuneration for the duration of the Group’s timespan.*

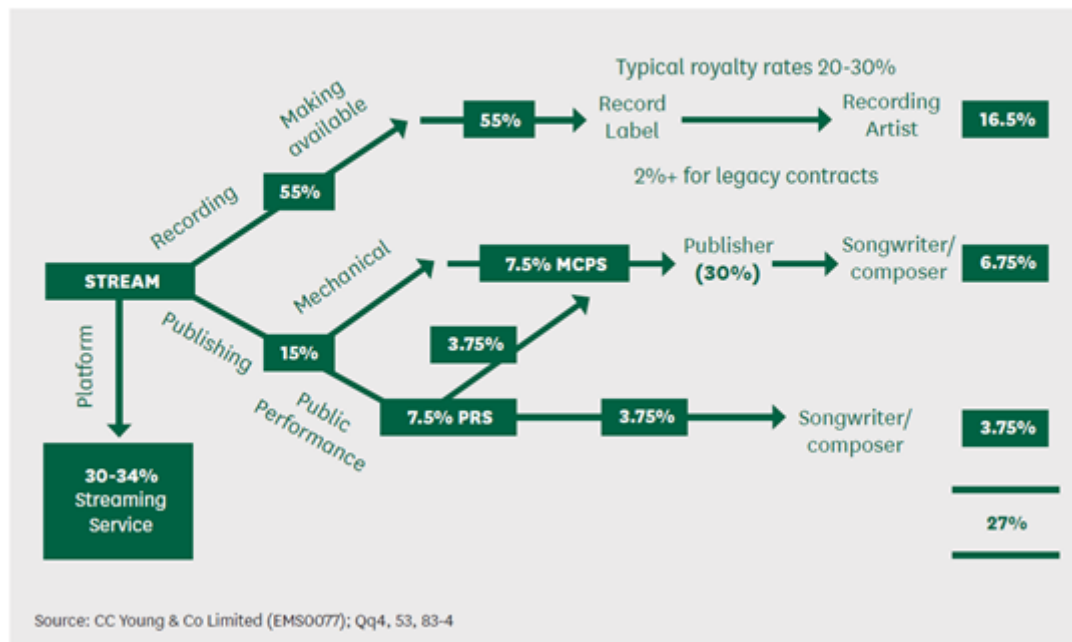
## Songwriter remuneration

### Ongoing tensions with the valuation of song rights

74. Our *Economics of music streaming* report emphasised that the primary reason for poor rates of remuneration for publishing rightsholders (including songwriters, composers and arrangers) was the split in revenues between the recording and publishing rights, which broadly equate to 55% and 15% of revenues respectively after accounting for the 30% or so share that goes to streaming services (after VAT has been deducted) (See Fig. 1 below).<sup>226</sup> The disparity between the overall revenues for the recording and publishing rights means that songwriters and composers will likely see less in revenues from streaming than performers, which offsets the fact that, in contrast to performers, individual songwriters are typically contracted on more generous terms with their publishers than performers are with their record labels, and also in part are remunerated on the basis of a right to equitable remuneration.<sup>227</sup> We will subsequently refer to the 55%/15% revenue sharing between recording and publishing rightsholders respectively as the overall revenue splits.

Fig. 1: Allocation of revenues from music streaming (after VAT)

All percentages are approximate or illustrative



226 Digital, Culture, Media and Sport Committee, Second Report of Session 2021–22, *Economics of music streaming*, HC 50, para 26

227 Music streaming is considered to exploit both the reproduction (or “mechanical”) and public performance rights for the song rights. In the case of the mechanical, songwriters are paid according to their publishing deals; the right to equitable remuneration applies in the case of the public performance.

75. Songwriters and composers also face additional pressures on their streaming revenues due to recent business practices that have emerged. Our *Music streaming* report and subsequent evidence-taking has identified three particular practices and highlighted the implications:

- Changes in norms around the production of music, with songwriters facing increasing pressures to self-finance writing sessions and cover expenses incurred during the recording and production process, and little recourse because of their reliance on having their songs recorded to get them to market;
- Commonplace practices of adding more and more people (such as performers) to songwriting credits in order for them to claim shares of royalties—reflected in the industry mantra, “add/change a word, take a third”—diminishing individual songwriters’ share of revenues;<sup>228</sup> and
- Falling revenues from other modes of music consumption that have historically been most important for songwriters, such as performance rights, broadcast rights and sync rights.<sup>229</sup>

76. It has been noted throughout our initial *Music streaming* and follow-up inquiries that the justifications for the recording rightsholders’ share of 55% (accruing mainly to record companies) have been weakened by the digitisation of music distribution. This has led to falling production and distribution costs, such as manufacturing, storage, transportation and breakage costs (originally borne by recording rightsholders for physical media like vinyl and CDs, rather than the publishing rightsholders), while marketing and promotion costs have been shared with streaming services and music makers themselves.<sup>230</sup> While record companies have argued that falling costs have allowed them to invest to a greater extent in creators—known as artist and repertoire costs, or A&R—Dr Hyojung Sun stated critically that research has found that in fact reduced manufacturing costs have not been offset by an increased investment in performers, irrespective of the implications for songwriters.<sup>231</sup>

77. Concurrently, the influence of streaming on music consumption habits has made the role of songwriters even more important to the creation of successful tracks. As our report found, the prevalent streaming model is that of a “song economy”, where release schedules and user consumption focuses on individual tracks as opposed to albums as a result of the algorithmic curation and the importance of playlisting.<sup>232</sup> Statistical analysis has found that the quality of songwriting is as important as performing talent in determining the extent of music consumption.<sup>233</sup>

78. VV Brown and Nile Rodgers illustrated the plight of songwriters and composers with reflections from their own careers as music makers. As VV Brown explained:

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228 Digital, Culture, Media and Sport Committee, Second Report of Session 2021–22, *Economics of music streaming*, HC 50, paras 78–88

229 [Q101](#); as Professor Hesmondhalgh contextualised: “the continued international growth of streaming tends to favour performers, because songwriters are heavily reliant on neighbouring rights—that is, all those performance rights, broadcast rights and sync rights, which are not so much associated with streaming”.

230 *Ibid.*, paras 78–88

231 [Qq97, 107](#)

232 Digital, Culture, Media and Sport Committee, Second Report of Session 2021–22, *Economics of music streaming*, HC 50, para 79

233 *Ibid.*, para 78

When I released my record through a major publisher [in 2007], I was able to make a living. I was able to pay my rent at the time. In 2023, in the environment and the culture I am in—I have two children and a mortgage—there is no way for me to sustain myself as a human being in the industry any longer. I have six jobs; I have multiple streams of income. I have had to find ways to be able to pay my mortgage and look after my children.<sup>234</sup>

VV Brown also told us that, from her experiences working with young creators, “I am hearing it on the ground, I am hearing up-and-coming artists telling me how difficult it is”.<sup>235</sup>

79. Nile Rodgers reflected on changes to creator pay across his career. He began by setting out his experiences from his first royalty deal on a single-digit rate:

I was just starting out. I was homeless [...]. Our attorney said to me, “Guys, be satisfied with what you have, because any part of a million is great.” He was right; we made \$100,000 in 1977. That was a fortune for a guy like me who lived on the subway. The sales of that first single went on to drive live tours, merchandise and album sales. Album sales was the real money, because our single was just for sale for 70-something cents; the album was for sale for about \$8 or \$9.<sup>236</sup>

He contrasted that to the remuneration of modern creators from music streaming:

So where are we today? Is there anyone in this room—I am just throwing it out there—who can say that a songwriter, who is the foundation of the entire music business, is getting remunerated anywhere on the level of a then-novice songwriter like myself?

[... ]It was life-changing. I never did anything, and I made \$100,000, simply because I wrote something that touched people’s hearts. By the way, we were getting cheated every way you could imagine, because the guys that we had signed to had a contract that was giving them more than we were getting, and we wrote the songs. I just saw a post where superstar Snoop Dogg had streamed a billion. His remuneration was \$45,000 for streaming a billion.<sup>237</sup>

### ***Origins of the recording/publishing revenue split in streaming***

80. As Paul Clements of the MPA noted, “[t]here seems to be some form of misunderstanding as to the origin of this much lower rate” of revenues between the recording and publishing rights.<sup>238</sup> The key event was a referral of the MCPS-PRS Alliance, the precursor to PRS for Music, to the Copyright Tribunal shortly before the advent of music streaming.<sup>239</sup> The dispute arose after the MCPS-PRS Alliance levied a slightly higher tariff for digital music relative to physical and broadcasting in compensation for falling production, storage and distribution costs due to the rise of digital (discussed in Paragraph 76).<sup>240</sup> The BPI, the

234 [Q148](#)

235 [Q163](#)

236 [Q104](#)

237 [Q104](#)

238 [Q149](#)

239 “[BPI Dispute With MCPS-PRS Heats Up](#)”, *Billboard*, 1 July 2005

240 “[Brits Row Over Online Licensing Terms](#)”, *Billboard*, 5 July 2005

trade association for record companies, joined the suit on the side of the digital download stores and ringtone platforms,<sup>241</sup> arguing that “[t]he Alliance’s tariff threatens to seriously harm the development of the legal online and mobile music markets”.<sup>242</sup> In response, the Alliance reiterated their position that they “should recognise that digital liberates margin and why writers should share in the new wealth that modern record companies will be able to create”.<sup>243</sup> A partial settlement, subsequently endorsed by the Tribunal, agreed that the rate for publishing rightsholders should be set at an 8% share of revenues.<sup>244</sup>

81. Paul Clements described subsequent efforts by the publishing sector to negotiate higher rates for rightsholders:

What happened thereafter was that major publishers withdrew their rights from MCPS in the UK. They looked for multi-territory licensing of these platforms and drove hard at getting that rate increased from that 7% to 8% in that download ringtone environment to the effectively 15% to 18% we see today. That is what it took, and the societies followed suit.<sup>245</sup>

However, reflecting on the long-term impact of the Tribunal, he opined that “[i]f you are thrown in a ditch and given a 7% to 8% royalty rate, you have a big ditch to climb”.<sup>246</sup>

82. The CMA’s music and streaming market study, which was launched in response to our *Music streaming* inquiry and reported in November 2022, did explore this issue. On the long-term outlook for songwriter revenues, it concluded that:

Whilst we find that competition for songwriters has driven up the existing publishing share, concerns exist that the current split could still be sub-optimal, particularly for songwriters. If that is the case, it may take time for the split to adjust further, if at all, owing to the inherent licensing negotiation frictions and the bargaining power of music rightsholders we have described, and thus there could be restrictions to competition. There is also a limit on the extent to which competition to sign songwriters can drive further increases in the publishing share, particularly if an increase needs to be accommodated by a fall in the recording share. Competition policy is not therefore the right tool to reach an optimal split. It is a matter for Government and policymakers to determine whether the split is appropriate and fair, and to explore what, if anything, is needed to incentivise song writing as part of any wider policy interventions on this split and other measures, for example those relating to the copyright framework and how music streaming licensing rates are set.<sup>247</sup>

We are concerned that these conclusions, which in fact do not preclude further action on songwriter remuneration, have been lost or reframed among broader discussions over the CMA’s considerations of competition between the major record companies, performer revenues and deals between the majors and streaming services.

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241 [Q149](#)

242 “[Online music royalties challenged](#)”, BBC News, 30 June 2005

243 “[Songwriters challenge UK online royalty rate](#)”, The Register, 7 December 2005

244 [Q149](#); see also “[Partial Settlement Reached over Digital Royalty Rates](#)”, Billboard, 28 September 2006; “U.K. tribunal signs off on royalty deal”, [Hollywood Reporter](#), 17 July 2007

245 [Q149](#)

246 [Q162](#)

247 Competition and Markets Authority, [Music and streaming: Final report](#) (29 November 2022), para 5.169

**83. The revenue split between recording and publishing rights does not reflect the importance of songwriters, composers and publishers in the music streaming process. We note that the Competition and Markets Authority has also concluded that it is for the Government to determine what is needed to reach an optimal split. *Given the contribution of songwriters and composers to the success of music streaming, we recommend that the Government bring forward measures for consultation with fans, music makers and other stakeholders to incentivise an optimal rate for publishing rights in order to fairly remunerate creators for their work.***



## Annex: Glossary of terms

Table 1: Relevant glossary of terms

Term	Definition
AI	Artificial intelligence. An autonomous system that generates outputs (e.g., content, predictions, recommendations and decisions) and improves performance based on data inputs to achieve goals set by its programmers. Also known as machine learning, algorithms, etc.
ALCS	Authors' Licensing and Collecting Society. A CMO responsible for collecting and distributing royalties to literary authors, on behalf of over 120,000 members.
AMPTP	Alliance of Motion Picture and Television Producers. An American trade association and industry-wide collective bargaining representative for film studios, TV networks and over-the-top film and TV streaming services (such as Netflix, Apple TV+, etc). Involved in the 2023 joint-industrial dispute with the WGA and SAG-AFTRA, which contributed to the biggest interruption of film and TV since the Covid-19 pandemic.
Assignment	Where the ownership of intellectual property rights is transferred from one party to another.
Artist ( <i>general term</i> )	Someone who makes, practices or demonstrates creative works. Typically used to mean visual artists, though has a particular meaning when used within the context of the music industry.
Artist ( <i>music industry</i> )	Someone who performs the work written by a songwriter or composer during the recording of the track. Also referred to as a performer or recording artist.
Author ( <i>music industry</i> )	A catch-all music industry term for composers and songwriters.
BECS	British Equity Collecting Society. A CMO that is responsible for enforcing performers' rights in the UK and collecting revenue from statutory rights in other countries on behalf of its 32,000 members.
BPI	British Phonographic Industry Limited. A UK trade organisation representing the recorded music industry, including the three major record labels and over 400 independent record labels.
CIISA	Creative Industries Independent Standards Authority. An independent, non-statutory, industry-led body that aims to uphold and improve standards of behaviour and tackle bullying and harassment across the creative industries.
Cloud computing	Dispersed, remote computing services, such as data storage or processing, available over the internet and typically on-demand.
CMA	Competition and Markets Authority. The UK's competition regulator that works to promote competition for the benefit of consumers, both within and outside the UK.
CMO	Collective Management Organisation. A non-governmental body created by copyright law or private agreement which licenses copyrighted works on behalf of creators and engages in collective rights management. Also known as a collecting society, copyright collective, copyright society, copyright collecting agency, licensing agency or copyright collecting society.
Composer	Someone who writes music and lyrics for songs of any genre.

Term	Definition
Copyright	The legal right that protects the use of a work once it has been physically expressed.
CRA	Creators' Rights Alliance. A membership organisation that aims to "promote, protect and further the interests of creators through policy, advocacy and campaigning work". It brings together 23 major creator-led groups, CMOs, trade associations and unions, representing over 500,000 members between them.
CreaTech	Creative technology. Technology that enables the creative industries to produce new experiences, services, products and other forms of cultural activity.
Creative economy	The collective economic contribution both of the creative industries as a whole and of people employed in creative occupations in sectors outside the creative industries themselves.
Creative industries	Defined by the UK Government as "those industries in the UK economy which have their origin in individual creativity, skill and talent and which have a potential for wealth and job creation through the generation and exploitation of intellectual property". The subsectors are: advertising and marketing; architecture; crafts; design (including fashion, product design and graphic design); film, TV, video, radio and photography; IT, software and computer services; publishing; museum, gallery and library services; and music, performing and the visual arts.
Creative occupations	A list of job roles drafted by DCMS in consultation with the sector based on a definition set out by Nesta, which incorporated five replicable criteria. Nesta's overarching definition considered a creative occupation to be "a role within the creative process that brings cognitive skills to bear to bring about differentiation to yield either novel, or significantly enhanced products whose final form is not fully specified in advance". The five criteria are: "novel process"; "mechanisation resistant"; "non-repetitiveness or non-uniform function"; "creative contribution to the value chain"; and "interpretation, not mere transformation".
Creative UK	A membership organisation that brings together creators from across the creative industries. Formed from a merging of Creative England, a publicly- and privately-funded screen sector agency, and the Creative Industries Federation, a non-profit national advocacy organisation, in 2021.
Creator	A catch-all term for someone who makes creative works, such as literature, music, performing arts, visual arts, and so on.
CREATOR (CRA campaign)	Part of the CRA's "Fair Terms for Creators" campaign. An acronym setting out the seven areas of contract terms that the CRA says need to be protected. These are: clarity; remuneration; exploitation; accounting; terms; ownership; and reasonable.
DACS	The <i>Design and Artists Copyright Society</i> . A CMO that is responsible for collecting and distributing royalties to over 180,000 visual artists and their estates.
DCMS	Department for Culture, Media and Sport. The UK Government's ministerial department that supports culture, arts, media, sport, tourism and civil society across England.
Directors UK	The CMO that is responsible for collecting and distributing royalties to British audiovisual directors, with over 8,000 members.

Term	Definition
Equitable remuneration	A performer right where musicians enjoy an automatic, unalienable, non-transferable statutory right to share in recording revenues. The right to equitable remuneration only applies in certain circumstances, as established in the Copyright, Designs and Patents Act 1988.
Equity	The UK trade union for the entertainment and performing arts sectors, with over 46,000 members.
Freelancer	People who are engaged to work by a company directly on flexible contracts, through their own company or through other companies on a short-term basis. Typically responsible for their own tax and national insurance contributions and not entitled to the same employment rights as other workers.
Generative AI	Artificial intelligence that generates images, text and other types of media in response to user prompts. Examples include ChatGPT and Bing Chat, DALL-E, Midjourney and Stable Diffusion.
Independent music company	A company which, together with the companies in its group, has less than five percent of the world market in recording and publishing. Known colloquially as an "indie" (label/publisher).
IP	Intellectual property. Creations of the mind, such as inventions, stories, artistic works, designs and symbols, names and images used in commerce. Protected in law by copyrights, patents, designs and trademarks.
IPO	Intellectual Property Office. The UK's official government body responsible for intellectual property (IP) rights, sponsored by the Department for Science, Innovation and Technology (DSIT).
Ivors Academy	A trade association representing professional songwriters and composers to support, protect and celebrate music creators, including through its internationally respected Ivors Awards. Formerly named the British Academy of Songwriters, Composers and Authors (BASCA). Now named for Ivor Novello, a Welsh composer and actor.
Major music company	A multinational company which, together with the companies in its group, has more than five percent of the world market in recording and publishing. Currently, there are three major music groups: Universal Music Group, Warner Music Group and Sony Music Entertainment. Known colloquially as a "major" (label/publisher).
MPA	Music Publishers' Association. A UK trade organisation that represents the music publishing sector, acting on behalf of 240 members ranging from the UK's major music publishers to independents and start-ups and representing close to 4,000 catalogues.
PEC	The Creative Industries Policy and Evidence Centre. A body that aims to "provide independent research and authoritative recommendations that aid the development of policies for the UK's creative industries, contributing to their continued success". Currently hosted by Newcastle University and originally hosted by Nesta, an innovation foundation, from 2018. Funded by the Arts and Humanities Research Council (AHRC).
Performer ( <i>film and TV industry</i> )	Synonymous with "actor". Artists who portray characters in a production, such as for theatre, radio, film or television.
Performer ( <i>music industry</i> )	Someone who performs the work written by a songwriter or composer during the recording of the track. Also referred to as an artist or recording artist.

Term	Definition
Performer rights ( <i>music industry</i> )	The specific rights of performers over sound recordings of their performances that co-exist with the rights of the rightsholder where the performer does not own the relevant rights to their performance. This includes the right to equitable remuneration.
Private copying	Reproductions made by a person for private use and for ends that are neither directly nor indirectly commercial. In legal terms, private use may include, depending on the jurisdiction, making back-up copies, archiving, format-shifting, passing copies to friends and family, downloading for personal use, uploading to digital storage facilities, file sharing in digital networks and online publication and distribution.
PRS for Music	A CMO that is responsible for the collective licensing of rights in the musical works of 150,000 composers, songwriters and publishers and an international repertoire of 28 million songs. PRS for Music was formed as a joint venture between the Mechanical-Copyright Protection Society (MCPS) and the Performing Right Society (PRS) and known initially as the MCPS-PRS Alliance. MCPS collects for 'mechanical' reproduction rights and PRS collects for public performance rights.
Publisher ( <i>music industry</i> )	A music company that owns and controls song rights, so called because they historically published sheet music books.
Record label	A company that markets recorded music and corresponding videos, invests in new artists and enforces copyright, so called because of the circular label that appeared on the cover of physical sales. Also known as a record company.
SAG-AFTRA	The Screen Actors Guild-American Federation of Television and Radio Artists. An American trade union representing 160,000 media professionals, including actors, DJs, broadcast journalists, stunt performers, puppeteers and voiceover artists. Notably one of the unions involved in the 2023 industrial dispute, which contributed to the biggest interruption of film and TV since the Covid-19 pandemic.
TDM	Text and data mining. The process of identifying and extrapolating correlations, relationships, patterns and trends from large amounts of data (textual or otherwise) that can then be used to make inferences, predictions, decisions and recommendations in the future. Also known as "knowledge discovery in data".
Visual artist	Someone who practices the visual arts, including painting, drawing, designing, printing, sculpting, crafting, photography and so on.
WGA	Writers Guild of America. An American trade union representing 11,500 screenwriters. Notably one of the unions involved in the 2023 industrial dispute, which contributed to the biggest interruption of film and TV since the Covid-19 pandemic.

## Conclusions and recommendations

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### Future-proofing creator rights

1. Revenue from private copying from abroad is an important source of income for creators, remunerating them for the use of their works that is integral to the demand for electronic devices. Not only does a lack of such a scheme in the UK prevent British creators from receiving payments from the domestic market, but it has also put their payments from abroad under threat due to a lack of reciprocity with other countries. (Paragraph 29)
2. *We recommend the Government work with the UK's creative industries to introduce a statutory private copying scheme, which, at minimum, safeguards reciprocal payments from abroad, to be produced within the next twelve months.* (Paragraph 29)
3. Despite our previous recommendations that the Government win back the trust of creators regarding their concerns over AI, its working group has not been able to bring forward a code of practice on AI and intellectual property. Although the Government asserted that it could consider legislating were agreement not reached, it has not indicated that it will do so. It is unlikely that simply conducting a further period of engagement with the sectors, with no clarity over its overall aims, will have any meaningful effect. We are concerned that the status quo simply favours AI developers, given creators' concerns that their IP is already being used in AI development without licence or any practical means of recourse. (Paragraph 39)
4. *The Government must ensure that creators have proper mechanisms to enforce their consent and receive fair compensation for use of their work by AI developers. It should set out measurable objectives for the period of engagement with the AI and rightsholders sectors, which it has said ministers will lead on, and provide a definitive deadline at which it will step in with legislation in order to break any deadlock. We will continue to monitor developments in this area and recommend that our successor Committee do the same next year.* (Paragraph 40)

### Freelancing and contractual terms

5. Freelancers make up a significant portion of the creative workforce but lack a single clear voice representing their interests to Government. This has resulted in a decline in pay and conditions that will cause long-term harm to the sector. (Paragraph 58)
6. *We recommend that the Government appoint a Freelancers' Commissioner, with appropriate powers and cross-departmental oversight, to advocate across Government in the interests of creative freelancers, and of other freelance and self-employed people more broadly.* (Paragraph 58)
7. Many creators experience poor working conditions, including inconsistent use of contracts and terms and conditions, uneven responses to bullying, harassment and discrimination and a lack of proper support, accounting, training and development. This compounds the poor pay available in the profession and its high barriers to entry. (Paragraph 61)

8. *The Government should acknowledge and address issues around contracts and working conditions by implementing the recommendations of the DCMS-sponsored Good Work Review, using the sector's CREATOR campaign as a basis for fair working standards.* (Paragraph 61)

### Economics of music publishing

9. We welcome the Government's ongoing commitment to the reset of music streaming which we have advocated and note the recent metadata and transparency codes agreed by the working groups it led. The Government must now maintain this momentum in light of the finalised publications of research into "Music creators' earnings in the digital era", "Equitable Remuneration (ER) in the Streaming Age" and "Contract adjustment and Rights reversion". (Paragraph 69)
10. *The Government must take stock of the results of the extensive research it has commissioned and look at how it can drive fundamental reform of music streaming with a package of measures designed to make streaming work for all.* (Paragraph 69)
11. We welcome the Government's publication of the terms of reference for the Creator Remuneration Working Group and expect to see tangible steps to improve musicians' remuneration and performer rights in the next twelve months. However, we note concerns that the group's membership leaves creators themselves with a minority voice and vote among their peers and that record producers, who are integral to the music making process, are not included. (Paragraph 73)
12. *We recommend that the Government revisit the Creator Remuneration Working Group's membership, in order to give music makers a stronger and fairer voice over issues of remuneration for the duration of the Group's timespan.* (Paragraph 73)
13. The revenue split between recording and publishing rights does not reflect the importance of songwriters, composers and publishers in the music streaming process. We note that the Competition and Markets Authority has also concluded that it is for the Government to determine what is needed to reach an optimal split. (Paragraph 83)
14. *Given the contribution of songwriters and composers to the success of music streaming, we recommend that the Government bring forward measures for consultation with fans, music makers and other stakeholders to incentivise an optimal rate for publishing rights in order to fairly remunerate creators for their work.* (Paragraph 83)

# Formal minutes

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**Tuesday 26 March 2024**

## **Members present:**

Dame Caroline Dinenage, in the Chair

Clive Efford

Julie Elliott

Rt Hon Damian Green

Dr Rupa Huq

Simon Jupp

Giles Watling

## **Creator remuneration**

Draft Report (*Creator remuneration*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 83 read and agreed to.

Annex read and agreed to.

*Resolved*, That the Report be the Fifth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No.134.

## **Adjournment**

Adjourned till Tuesday 16 April at 9.30 am.

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Tuesday 19 September 2023

**Richard Combes**, Head of Rights and Licensing and Deputy Chief Executive, Authors' Licensing and Collecting Society; **Andrew Harrower**, Chief Executive, Directors UK; **John Hollingworth**, Actor and BECS Member, British Equity Collecting Society Ltd; **Reema Selhi**, Head of Policy and International, Design and Artists Copyright Society

[Q1–47](#)

**Caroline Norbury OBE**, Chief Executive, Creative UK; **Nicola Solomon**, Chair, Creators' Rights Alliance

[Q48–90](#)

### Tuesday 12 December 2023

**Professor David Hesmondhalgh**, Professor of Media, Music and Culture, University of Leeds; **Merck Mercuriadis**, music industry executive, artist manager, and entrepreneur; **Nile Rodgers**, artist, producer and Chairman of the Songwriters Hall of Fame; **Dr Hyojung Sun**, Lecturer in the Business of Creative and Cultural Industries, University of York

[Q91–147](#)

**Paul Clements**, Chief Executive, Music Publishers Association; **VV Brown**, singer-songwriter, record producer and board director, The Ivors Academy

[Q148–166](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website

CRE numbers are generated by the evidence processing system and so may not be complete.

- 1 British Equity Collecting Society Ltd ([CRE0001](#))
- 2 Creative UK ([CRE0003](#))
- 3 Directors UK ([CRE0002](#))



# List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

## Session 2023–24

Number	Title	Reference
1st	Safety at major sporting events	HC 174
2nd	Gambling regulation	HC 176
3rd	Pre-appointment hearing for Chair of the BBC Board	HC 383
4th	Equity in Cricket	HC 526
1st Special	Draft Media Bill: Government Responses to the Committee's Twelfth and Thirteenth Reports of Session 2022–23	HC 155
2nd Special	Connected tech: smart or sinister?: Government and the Information Commissioner's Office Response to the Committee's Tenth Report of Session 2022–23	HC 302
3rd Special	Connected tech: AI and creative technology: Government Response to the Committee's Eleventh Report of Session 2022–23	HC 441
4th Special	NFTs and the Blockchain: the risks to sport and culture: Government Response to the Committee's Fourteenth Report of Session 2022–23	HC 461
5th Special	Safety at major sporting events: Government Response to the Committee's First Report	HC 617

## Session 2022–23

Number	Title	Reference
1st	Amending the Online Safety Bill	HC 271
2nd	Promoting Britain abroad	HC 156
3rd	Reimagining where we live: cultural placemaking and the levelling up agenda	HC 155
4th	What next for the National Lottery?	HC 154
5th	Economics of music streaming: follow-up	HC 874
6th	Current issues in rugby union	HC 1018
7th	Sustainability of local journalism	HC 153
8th	Appointment of Richard Sharp as Chair of the BBC	HC 1147
9th	Football governance	HC 1288
10th	Connected tech: smart or sinister?	HC 157
11th	Connected tech: AI and creative technology	HC 1643

Number	Title	Reference
12th	Draft Media Bill: Radio Measures	HC 1287
13th	Draft Media Bill: Final Report	HC 1807
14th	NFTs and the Blockchain: the risks to sport and culture	HC 598
1st Special	Major cultural and sporting events: Government Response to Committee's Ninth Report of Session 2021–22	HC 452
2nd Special	Influencer Culture: Lights, camera, inaction?: ASA System and CMA Responses to the Committee's Twelfth Report of Session 2021–22	HC 610
3rd Special	Influencer Culture: Lights, camera, inaction?: Government Response to the Committee's Twelfth Report of Session 2021–22	HC 687
4th Special	Rt Hon Nadine Dorries MP	HC 801
5th Special	Promoting Britain abroad	HC 1103
6th Special	Reimagining where we live: cultural placemaking and the levelling up agenda	HC 1104
7th Special	What next for the National Lottery?: Government and Gambling Commission Responses to the Committee's Fourth Report	HC 1208
8th Special	Economics of music streaming: follow-up: Government Response to the Committee's Fifth Report	HC 1245
9th Special	The sustainability of local journalism: Government Response to the Committee's Seventh Report	HC 1378
10th Special	Appointment of Richard Sharp as Chair of the BBC: Government Response to the Committee's Eighth Report	HC 1641
11th Special	Football Governance: Government Response to the Committee's Ninth Report	HC 1850
12th	What next for the National Lottery?: National Lottery Distributors' Response to the Committee's Fourth Report	HC 1913

### Session 2021–22

Number	Title	Reference
1st	The future of UK music festivals	HC 49
2nd	Economics of music streaming	HC 50
3rd	Concussion in sport	HC 46
4th	Sport in our communities	HC 45
5th	Pre-appointment hearing for Information Commissioner	HC 260
6th	Pre-appointment hearing for Chair of the Charity Commission	HC 261
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12th	Influencer culture: Lights, camera, inaction?	HC 258
1st Special Report	The future of public service broadcasting: Government Response to Committee's Sixth Report of Session 2019–21	HC 273
2nd Special Report	Economics of music streaming: Government and Competition and Markets Authority Responses to Committee's Second Report	HC 719
3rd Special Report	Sport in our communities: Government Response to Committee's Fourth Report	HC 761
4th Special Report	The future of public service broadcasting: Ofcom Response to Committee's Sixth Report of Session 2019–21	HC 832
5th Special Report	The Draft Online Safety Bill and the legal but harmful debate: Government Response to the Committee's Eighth Report	HC 1039

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2nd Special Report	The Covid-19 crisis and charities: Government Response to the Committee's First Report of Session 2019–21	HC 438
3rd Special Report	Impact of Covid-19 on DCMS sectors: First Report: Government Response to Committee's Third Report of Session 2019–21	HC 885
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