



December 2016

## **Digital Economy Bill - House of Lords Committee Stage Briefing**

UK Music is the umbrella body representing the collective interests of the UK's commercial music industry, from songwriters and composers to artists and musicians, studio producers, music managers, music publishers, major and independent record labels, music licensing companies and the live music sector.

UK Music exists to represent the UK's commercial music sector, to drive economic growth and promote the benefits of music to British society. A full list of UK Music members can be found in the annex.

The music industry is worth £4.1 billion to the economy and generated exports of £2.2 billion in 2015. The industry now employs 119,020 people. Based on UK Music's annual Measuring Music report, the value of music the sector has grown by 17% over the past four years, out-performing much of the rest of the UK economy.<sup>1</sup> During this time there has been a massive change in consumer behaviour, from ownership of music to streaming. The music industry strongly supports the growth of a legal functioning digital market and believes that the creative output produced by our members will continue to enable this significant part of the economy to flourish.

UK Music supports the Digital Economy Bill. We argued during the House of Commons stages that the Bill could go further in certain respects to ensure the opportunity to provide a robust digital legislative framework is not missed.

UK Music's priorities for the House of Lords stages of the Bill include:-

1. Search engines and copyright infringement.
2. Bots and ticketing for live events.
3. Clause 27 and 29.

We ask members of the House of Lords to support these priorities in the Second Reading debate on 13<sup>th</sup> December.

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<sup>1</sup> <http://www.ukmusic.org/research/measuring-music-2016/>

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## **1. Search engines and copyright infringement**

The Conservative Government was elected on a manifesto to “work to ensure that search engines do not link to the worst-offending sites”. Copyright infringement remains a significant challenge to the music industry with 78 million music tracks being accessed illegally between March and May 2016.<sup>2</sup> 20% of internet users participated in some form of illegal music activity online during the same period.<sup>3</sup>

Search engines are one of the key means for consumers to discover music and artists. To warrant a prospering commercial market for UK music which benefits the creative sector, as well as consumers, it is essential that the main method of discovery of music and artists directs consumers to legitimate sources.

Too often search terms link to infringing content. In some instances users of services like Google have to click through several pages of results before they can access a legitimate link to a legally available music track. Autocomplete, which predicts what users may be searching for based on typing the first few letters of a search term, can exacerbate this problem further and provide ease of access to stream-ripping or converter technologies. The problem is not confined to music but is also an issue that affects all other forms of creative content including books, video games, TV programmes and films.

We are therefore seeking an amendment to the Bill that would ensure the Secretary of State has a power to introduce a code of practice if voluntary efforts continue to fail to deliver one. During consideration of the amendment in the House of Commons, Digital and Culture Minister Matt Hancock MP stated that he agreed with the thrust of the arguments made but did not accept the amendment on the basis that “now is not the right time”. This is disappointing given that the Government has for several years facilitated a roundtable process between rights holders and search engines, the purpose of which is to reach agreement on how these services treat copyright infringing content. The amendment we are seeking would not compel there to be a code of practice but would provide a mechanism for there to be one if the Government decided it was appropriate.

## **2. Bots and ticketing for live events**

An amendment to the Digital Economy Bill was tabled in the House of Commons to create an offence to use digital ticket purchasing software to purchase tickets for an event over and above the number permitted in the condition of sale. The amendment also created an offence to knowingly resell tickets using such software. A similar law was successfully passed by the New York state legislature in 2016.<sup>4</sup> The Government did not accept the amendment in the House of Commons but did agree to hold a roundtable with representatives of the creative sector with a view to determining the best way to tackle the problem.

The effect of the proposal would be to ban ticket touts from using computer software, such as bots, to resell tickets for events like live music concerts and festivals at inflated prices. This practice amounts to industrial-scale touting with massive sums being made

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<sup>2</sup> <https://www.gov.uk/government/news/online-copyright-infringement-down-as-people-turn-to-streaming>

<sup>3</sup> <https://www.gov.uk/government/publications/online-copyright-infringement-tracker-survey-6th-wave>

<sup>4</sup> [http://gothamist.com/2016/06/17/forget\\_jake\\_its\\_scalper\\_town.php](http://gothamist.com/2016/06/17/forget_jake_its_scalper_town.php)

by people who are putting tickets out of the reach of ordinary fans. As a result they are not given a fair chance to buy tickets for events. Despite the colossal prices being charged, none of that mark-up is going to anyone involved in the creation of music or the staging of concerts. Banning bots via legislation would be a further step towards ensuring the ticketing market for live events works more fairly for consumers.

More generally in relation to the secondary ticketing market, UK Music asks that the new Consumer Rights Act is complied with and enforced. We call upon the Government to respond promptly and act on the nine recommendations outlined in the Waterson review.

### **3. Clauses 27 and 29**

UK Music supports clause 27 as drafted. This measure extends online penalties for copyright infringement from 2 to 10 years. This removes an inequality between existing penalties in the physical and the digital world. Increasing penalties for the online world and creating reciprocity recognises changes to the way copyright protected content is now consumed. Globally, digital music contributes 45% of recorded industry revenues, this year overtaking physical market revenues for the first time. Music needs to be respected in the digital world.

UK Music also supports the principle of clause 29 which repeals the exception within Section 73 of the Copyright Designs and Patents Act relating to retransmission. This existing exception is a hangover from the cable infrastructure of the 1980s and 1990s. Given technological developments and market changes this policy is clearly not relevant any more. The law as it stands grants a competitive advantage to cable infrastructure providers. The removal of section 73 will create a level playing field to negotiate fees for the use of material and the licence fees for the underlying works used in broadcasts, including music.

### **Annex**

UK Music's membership comprises of:-

- AIM – Association of Independent Music - representing over 850 small and medium sized independent music companies.
- BASCA - British Academy of Songwriters, Composers and Authors – BASCA is the membership association for music writers and exists to support and protect the professional interests of songwriters, lyricists and composers of all genres of music and to celebrate and encourage excellence in British music writing.
- BPI - the trade body of the recorded music industry representing 3 major record labels and over 300 independent record labels.
- FAC – The Featured Artists Coalition represents and promotes the interests of featured recording artists in the music industry.
- MMF - Music Managers Forum - representing 425 managers throughout the music industry.

- MPG - Music Producers Guild - representing and promoting the interests of all those involved in the production of recorded music – including producers, engineers, mixers, re-mixers, programmers and mastering engineers.
- MPA - Music Publishers Association - with 260 major and independent music publishers in membership, representing close to 4,000 catalogues across all genres of music.
- Musicians' Union representing 30,000 musicians.
- PPL is the music licensing company which works on behalf of over 90,000 record companies and performers to license recorded music played in public (at pubs, nightclubs, restaurants, shops, offices and many other business types) and broadcast (TV and radio) in the UK.
- *PRS for Music* is responsible for the collective licensing of rights in the musical works of 114,000 composers, songwriters and publishers and an international repertoire of 10 million songs.
- UK Live Music Group, representing the main trade associations and representative bodies of the live music sector

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