

RECORD LABELS 12/2/2021

The UK's Streaming Bill Is Splitting the Music Biz Over Higher Artist Royalties & Reversion Rights

BY RICHARD SMIRKE



Prime Minister Boris Johnson speaks during Prime Minister's Questions in the House of Commons, London. House of Commons/PA

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ONDON – Politicians in Parliament's House of Commons are scheduled to debate a proposed law on Friday (Dec. 3) that would require record companies to pay musicians and songwriters a bigger slice of revenue from music streaming platforms, as well as give British artists the chance to reclaim their exclusive recording rights after 20 years.

The Copyright (Rights and Remuneration of Musicians) Bill contains four key clauses that could change how royalties are paid out for music streams and radically alter contractual terms between music creators and labels and publishers. If eventually voted into law, the bill could set a global precedent for the re-ordering of the nascent music-streaming economy, triggering repercussions for artists, labels and publishers in the U.K. and other major music markets.

The proposed law's most divisive measure would bring streaming in line with TV and radio broadcasts in the U.K. by obligating record companies to pay performers 'equitable remuneration' on music that is streamed, on top of the agreed contractual royalties.

The bill doesn't detail what slice of streaming revenue would go to creators — performers and rights holders would negotiate those splits — or whether equitable remuneration would apply only to acts signed to U.K. labels. Given labels' resistance to handing over a bigger share of revenue, some artist representatives question how effective those negotiations would be.

The proposals in the bill, which is being presented by **Kevin Brennan**, an MP from the opposition Labour Party, have already bitterly divided the U.K. music industry, pitting major labels and streamers against many of Britain's most-famous music artists — including [Paul McCartney](#), Coldplay's [Chris Martin](#) and [Kate Bush](#) — as a Parliament committee [held hearings](#) with music industry executives about the fairness of the streaming economy.

A similar statutory right to equitable remuneration has existed in the U.K. since 1996 for TV and radio broadcasts, where performers receive 50% of the revenues distributed by the collecting society PPL, with 50% going to labels. If an artist owns the copyright in the sound recording, they get both pots of revenue, minus PPL's administration fee.

For many artists on traditional label deals, equitable remuneration is a highly attractive prospect. Under those deals, record labels collect and distribute streaming revenues and then pay artists at royalty rates ranging from 6% for heritage acts to 20-25% for new artist deals and upwards of 30% for A-list talent.

For veteran artists who never recouped their advance and are currently receiving zero streaming royalties, the revamped model is even more enticing. "Equitable remuneration is a really effective, transparent method of reapportioning money from the labels and making sure it's fairly distributed to performers and artists," says **Crispin Hunt**, chair of The Ivors Academy, one of several U.K. creator groups supporting the bill.

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Applying equitable remuneration could boost an artist's average share of streaming royalties from 16.5% to 22%, while reducing the record labels' earnings from 38.5% to 33%, according to calculations submitted by music accountant **Colin Young** last year to the Digital, Culture, Media and Sport (DCMS) Committee inquiry into the music streaming business.

Industry groups dispute the potential benefits to recording artists. The U.K.'s Association of Independent Music (AIM) says equitable remuneration will only see artists on a royalty rate of less than 16% increase earnings. The majority of artists signed to U.K. indie labels are already receiving more than that, AIM notes, with some indie labels paying up to 35% of streaming income to artists or offering 50/50 profit-share deals.

Royalty rates for traditional label deals in the U.K. (for indies and majors) have risen by 40% from an average of 15-18% in the CD era to around 25-30% for new artist deals today, according to U.K. labels trade body BPI.

AIM fears that many acts on favorable royalty rates will see income fall as a result of equitable remuneration. According to BPI, it would favor the most successful artists on streaming platforms and heritage acts signed to legacy contracts but would result in costly bureaucracy for mid-tier contemporary acts who may see little financial gain.

"It's a bill for copyright lawyers," says one senior label executive. "They're the ones who would celebrate if this bill were to pass. No one else."

Label groups point to the problems experienced in Spain, where a version of equitable remuneration already exists for music streaming, although is paid by streaming platforms, not labels. Since its introduction several years ago, the process has been mired in litigation and has lifted collecting society administration fees to as high as 23%, according to industry experts. The resulting benefits for artists and performers have been minimal, say label execs.

Supporters of the bill say it would also provide session musicians, who don't currently receive streaming royalties, with a much-needed source of income as streaming grows in popularity versus radio. Opponents say that by forcing artists to give a royalty share to session musicians many acts will opt to reduce the number of session musicians they employ or stop using them altogether.

Horace Trubridge, general secretary of the U.K. Musicians' Union, which also supports the proposed law, says that's an unlikely outcome. "The principle of ensuring that if a recording is successful all the musicians on that recording enjoy some extra payment, is one that's very hard to argue against unless you have got no moral compass," he says.

What is certain is that equitable remuneration will eat into record labels' bottom line by reducing their share of streaming revenues. Industry groups argue that will impact labels' ability to negotiate competitive deals with streaming services on behalf of artists and greatly reduce the amount of money they will have to invest in new artists, marketing and A&R.

For small independent labels that already exist on tight margins, the potential loss in streaming revenue could be disastrous for labels and their artists, says AIM CEO **Paul Pacifico**. “The bill seems designed to attack the majors,” he says, “but in fact it just makes the U.K. independent community collateral damage in that war.”

Pacifico says new transparency obligations included in the bill, such as a requirement for rights holders and self-releasing artists to provide performers with comprehensive quarterly reports detailing how their works are used online and what income is generated, will particularly disadvantage indie artists and small labels.

Unlike the European Union’s Copyright directive, which requires labels to provide detailed annual reports, small businesses and micro labels are not exempt from the reporting provisions detailed in the Brennan Bill. “All of those people will be in danger from this legislation as there is no proportionality,” says Pacifico.

Revocation Rights Could Drive Away Major Labels

Label bosses are also seriously concerned about the bill’s proposal of a revocation right that would grant artists the right to revoke “in whole or in part” the transfer or license of their rights after a period of 20 years. A similar ‘Termination of Rights’ clause exists in the U.S. under the 1976 Copyright Act, although in the U.S the term is 35 years and has proved notoriously difficult for artists to claim against. Earlier this year, Scottish indie band [The Jesus and Mary Chain](#) and country star Dwight Yoakam [both filed](#) lawsuits against Warner Music Group for refusing to terminate grants of copyright interests relating to 1985 and 1986 recordings, respectively.

Label bosses fear that if a 20-year revocation or termination right were to be established in the U.K. it would drive down A&R spending and could ultimately make the country less attractive for multi-national music companies to invest in. Decisions about where to build facilities and house employees “are reliant on a healthy, friendly and sustainable regulatory regime,” says a senior label exec, “so there’s no question that if any country makes it inhospitable then it’s increasingly difficult to work in that country.”

Label execs are also concerned whether the draft legislation is prospective — meaning it only applies to contracts signed after the bill is enacted — or retroactive. If it’s the latter, that would theoretically leave every record and publishing deal signed before 2001 up for renegotiation. “That would be devastating to any number of different players and rights holders on either side of the business,” says the exec.

Hunt says the 20-year revocation right will “fundamentally rebalance the relationship and the power structure between the people who make the music and the people who sell it, and that can only be a good thing.”

Other proposed changes to U.K. law included in the bill are a “contract adjustment” right for performers and songwriters where they believe their royalty rates are disproportionately low.

What It Would Take to Become Law

The Copyright (Rights and Remuneration of Musicians) Bill is a Private Members’ bill, meaning it is proposed legislation introduced by MPs and Lords who are not government ministers. Historically, Private Members’ bills have a low success rate and there’s a high chance that the legislation will be voted down when it is presented in the House of Commons on Friday.

If it does win enough votes it will proceed to Committee Stage, where a detailed examination takes place, including any suggested amendments and new clauses. The bill then has to pass through multiple readings and votes in the House of Commons and then the House of Lords before it can become law.

Few execs believe that’s a likely outcome, at least not without significant amendments to the legislation. Despite the bill having support from dozens of MPs and many in the artist community, the British government has indicated it is reluctant to further legislate the music business, preferring to press ahead with the industry-wide working groups set up earlier this year looking at many of the same solutions the bill proposes.

Even if it does fail, “this is a marker to the industry that all the friction currently surrounding streaming isn’t going to go away,” says Hunt.

“Friday is another building block towards where we will eventually get,” says Trubridge, “but it’s not going to happen overnight.”

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