



CMA initial review on Artificial Intelligence (AI) UK Music initial observations

June 2023

UK Music is the collective voice of the UK's world-leading music industry. UK Music represents all sectors of the music industry – bringing them together to collaborate, campaign for and champion music. UK Music promotes the music industry as a key national asset to all levels of Government.

We welcome the increasing significance attributed to regulating AI following the publication of the AI White Paper earlier this year. Recent advances in AI have been as rapid as they are transformative. This will have profound implications for consumers for all areas of modern society, of which music (and the music industry) is an essential part. It will be essential for a healthy future for music creativity in the UK that the CMA ensure a level playing field in the context of AI development.

The UK music industry is internationally successful: economically as a net exporter of our music globally, as well as influencing the international perception of the UK as a cultural powerhouse. The annual economic contribution of the whole of the UK creative industries, of which the music industry is part of, at some £116 billion, is substantial.

Just as we have seen with the advance of the internet, sea-change technological developments bring huge opportunities. The music industry is a highly innovative industry which embraces and uses new technologies when creating and consuming music. AI is already playing an important role as an assistive tool in our industry where it is used for tasks including detecting copyright infringement, and streaming fraud, creation and accuracy of metadata, analysing and predicting consumer trends, recommendation systems, as well as in assisting in the creation of music itself. But there are also disproportionate, anti-competitive risks and challenges unless the right safeguards are introduced around AIs development.

It is important to differentiate music-generative AI and Large Language Models (which can be used to generate lyrics and music) from other types of AI in this respect.

Generative AI has more far reaching impacts and potential negative consequences for consumers, for creators and the music industry, and it is on this that the concerns set out here are focused.

Addressing the specific questions of this initial review:

- I. How the competitive markets for foundation models and their use could evolve.

Foundation models are the basis of AI applications relevant for the music industry. AI is an algorithm which uses existing datasets (input) to make predictions (output), mimicking human creativity. It is vital that such models are developed in tandem with the music industry, on whose data they rely for an attractive offering of AI generated music. The approach for foundation models needs to be based on partnership between the music industry and the tech sector in order to ensure a truly competitive market.

As stated by the G7 in their recent statements on AI, considerations of AI must be inclusive and holistic, and accordingly need to ensure that copyright and other intellectual property are safeguarded.

Tech companies will need to be a responsible partner, particularly acknowledging and respecting innovative creative industries. One of the challenges to date has been that the tech sector has simply ignored their obligations to respect, gain permission to use and license, copyright works particularly at the point of ingestion.

This is reminiscent of the challenges copyright-based industries faced in the early stages of the growth of the internet. Notably, over time the importance of safeguarding copyright has been proven right and enabled both creative and tech sectors to grow. We hope that AI focused tech companies join discussions with the creative industries and explain what they would like to do with human authored works and to what purpose. This sort of dialogue is paramount, and as an industry we look forward to meaningful dialogue as partners.

As the regulator, we hope the CMA, or any other relevant regulator, will supervise tech companies in the field of AI and IP from the very start of this growth phase in order to ensure a legal and competitive level playing field, without repeating the mistakes of the past which almost destroyed the music market. This was ultimately at the expense of the consumer whose choice of music was reduced due to the decline of money available for investing in new music. We remain hopeful that competitive markets for foundation models will evolve not only for IP law, and copyright specifically, but also for the protection of creator's personal data when relevant. Data protection presumably falls within the

scope of the ICO for supervision, but we hope that the various regulators work together to ensure a thorough oversight of the AI sector, including foundation models.

We note that the CMA recently carried out a market study in music and streaming which took the view that should there be any future serious disruption, there could be major consequences to the operation of the market.

II. What opportunities and risks these scenarios could bring for competition and consumer protection.

Technical developments of generative AI technologies (i.e., AI which generates “music”) raise many concerning and difficult questions, for both market and consumer protection. We have seen recent examples including the use of AI to clone the voices of Drake and The Weeknd for the performance of a song that went viral after the software was trained on the musicians’ voices. AI can be used to accelerate streaming manipulation and fraud, with platforms currently struggling to keep pace with developments. But AI could also unlock solutions; it is important to strike the right balance. That is why UK Music is a supporter of the international [Human Artistry Campaign](#), including the key principle that human creativity lies at the heart of copyright protection.

- **Competitive market:** We repeat the risk to a competitive market if tech companies operate outside the legal framework ignoring the rights of the original creator in their music (i.e. copyright) as described above. A competitive market also requires transparency to work for all stakeholders. Tech companies need to operate in a transparent way to keep, and make available, records of the music they use for training. Commercialisation, or generally any control requires far greater transparency and detailed auditable record keeping. Keeping a record of all the music (including musical/literary works or sound recordings) ingested by the AI applications is important to accurately calculate and distribute any income from the use of music in the machine learning process; it is also important to evidence potential infringement. We note the availability of technologies which have some degree of traceability already embedded by design, but some foundation models will not know what trained them, whether the creators consented, or what biases may have been unwittingly introduced.
- **Consumer protection:** Consumers need information about the product or service they are acquiring, in this context whether it is human-created or machine-produced. This is not a new concept, as handmade craftwork is competing with machine made craftwork in many sectors. The key is that the consumer can decide on the products or services based on an informed choice.

Applying established principles to AI generated output requires clear labelling of AI generated music as such. We note that it will become increasingly difficult for

consumers to distinguish between human-created or machine-produced music given the development in technologies based on services such as AWS and Azure. By providing consumers with greater transparency and choice we hope labelling will also assist to address the oversaturation of the market with AI produced music and mitigate against the dilution of remuneration to the creators of copyright protected content.

III. Which principles can best guide the ongoing development of these markets so that the vibrant innovation that has characterised the current emerging phase is sustained, and the resulting benefits continue to flow for people, businesses, and the economy.

- **Copyright:** In addition to the importance of compliance with copyright regulations to ensure a competitive marketplace, we stress that a solid copyright and enforcement framework is essential for inward investment, consumer choice and competitiveness in the successful UK music industry (and all UK creative industries). Whilst intellectual property rights seem excluded from this review it would be a mistake if we did not mention them given their importance for an appropriately functioning competitive market.

Copyright provides the market solution: The music industry has a track record of developing effective licensing solutions for innovative new technologies, from the advent of radio and TV, video gaming and currently, with a host of apps and online platforms to emerging Web3 opportunities. AI is no different, and we are eager to work with the AI sector to find these solutions.

- **Human creativity:** We need to protect human creativity for the benefit of creators and consumers of the present and the future. AI does not create - it imitates, it generates. AI cannot produce music on its own. It needs to be trained, which happens through a process of “ingesting” a myriad of existing pieces of music, copying and analysing the various patterns and structures, and then generating a “new” piece of music based on that computation. It relies totally on what is ingested. It does not have original thoughts and there is no imagination. It is never more than the sum of its (ingested) parts. This is reflected by the international Human Artistry Campaign; whilst the principles put forward in that campaign are not directly in the scope of this review it will enable the CMA to review the sector exhaustively.

The AI of today benefits from feeding on the entire history of music (where digitised) but if the market becomes predominantly filled with AI-generated music, there will be less truly original imagined work to feed to future AIs. Without ensuring space for human creativity to continue to flourish and innovate the future of music will be more

homogenised, diminishing consumer choice into the future as well as impacting artistic endeavour.

- **Labelling:** Irrespective of the separate detailed intellectual property law issues wrapped up in AI, AI generated music (and all AI generated products or services) need to be labelled as such, with requirements for record keeping to assist with transparency. It's important to know whether something has been generated by a computer, or if it is a human product. This is true not just for music, but for all forms of content – eg. advertisements, political campaign materials, reports or advice. This helps not only the creator, but also protects the consumer and the need for them to be protected is comparable to the concerns around deep fakes in the visual world.

Given the pace of developments we are looking forward to continued communication with the CMA on these important matters.

Annex

UK Music's membership comprises:

- The Association of Independent Music – the trade body for the independent music sector and community which make up more than a quarter of the UK's recorded music market. Representing 1000+ independent record labels and associated businesses, AIM's members range from globally recognised brands to the next generation of British music entrepreneurs.
- BPI - The British Phonographic Industry - The representative voice of the UK's recorded music sector. Their membership consists of approximately 500 music companies, ranging from hundreds of SME independent labels to the major global record companies Universal, Sony and Warner. They also organise the BRIT Awards, the Mercury Prize and administer the Music Exports Growth Scheme (MEGS).
- FAC – The Featured Artists Coalition - UK trade body representing the specific rights and interests of music artists. A not-for-profit organisation, they represent a diverse, global membership of creators at all stages of their careers and provide a strong, collective voice for artists.
- The Ivors Academy - An independent association representing professional songwriters and composers. As champions of music creators for over 70 years, the organisation works to support, protect and celebrate music creators including its internationally respected Ivors Awards.

- MMF – Music Managers Forum - representing over 1000 UK managers of artists, songwriters and producers across the music industry with global businesses.
- MPG - Music Producers Guild - representing and promoting the interests of all those involved in the production of recorded music – including music studios, producers, engineers, mixers, remixers, 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 over 32,000 musicians from all genres, both featured and non-featured.
- PPL licenses recorded music in the UK when it is played in public or broadcast and ensures that revenue flows back to our members. These include independent and major record companies, together with performers ranging from emerging musicians to globally renowned artists. In 2022 we collected £272.6 million while also distributing money to 165,000 performers and recording rightsholders.
- PRS for Music 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.
- UK Music also has an informal association with LIVE (Live music Industry Venues & Entertainment), the voice of the UK's live music and entertainment business. LIVE members are a federation of 13 live music industry associations representing 3,150 businesses, over 4,000 artists and 2,000 backstage workers.