

Cross-Party Group on Music

1st March, 2022, 1800

Minute

Present

MSPs

Michelle Thomson MSP (Chair)
Claire Baker MSP

Invited guests

Malcolm Reavell
Daniel Gordon, Hayley Fletcher, Carol Anne Frame (Competition and Markets Authority)

Non-MSP Group Members

Alan Morrison (Creative Scotland), Alison Reeves (Making Music), Andrew Cruickshank (Musicians Union), Carol Main (Live Music Now Scotland), Caroline Sewell (MU), Craig Russell Horne, Diane McIntyre, Hilary Brooks (SWIM), Jenna Main (ABRSM), John Wallace (MEPG), Kenneth Taylor (St Mary's Music School), Lisa Whytock (Active), Lois Fitch (RCS), Luke McCullough (BBC), Karen Dufour (New Music Scotland), Raymond Black (Craft Management), Sarah Mills (Red Note), Shonagh Stevenson (HITS), Stuart Fleming (PRS for Music), Matthew Whiteside (The Night With), David Francis (Traditional Music Forum), Association of British Orchestras

Apologies

Paul MacAlindin (Glasgow Barons), Ed Milner (NYOS), Mae Murray (MEPG), Rab Noakes (MU)

Agenda item 1

Music Economics

- a) Malcolm Reavell: Job Guarantee and Universal Basic Income. Presentation attached

Slides can be accessed at:

<https://1drv.ms/p/s!AuN9Omu7cVLVgZwfDyG8WpkNRsc6Ew?e=Ufvsal>

- b) Daniel Gordon: Competition and Markets Authority Streaming Enquiry

Daniel Gordon outlined the remit of the Competition and Markets Authority, the primary law enforcement agency for competition and consumer law in the UK, the primary duty of which is to encourage competition for the benefit of consumers. A market study allows the CMA to assess particular markets and gather information about them. It can deliver outcomes such as a clean bill of health, or a range of enforceable measures and recommendations. The objective of the market study on streaming is to assess whether the market is working well for consumers. The key point of understanding is the systemic change in how the industry's products are monetised, and where the money goes, that has been brought about by digitisation.

<https://www.gov.uk/cma-cases/music-and-streaming-market-study#launch-of-market-study>

Michelle Thomson: Have you managed to contain the scope of the enquiry in order to meet the one year deadline?

DG: We have a unique opportunity to create an understanding of a complex market that others will be able to draw on. We should know by about the half-way point whether there are issues that the CMA will need to take forward.

Matthew Whiteside: Could the scope also include not just listeners but musicians as consumers of the service?

DG: I wouldn't want to overstate the divergence of interests between musicians and consumers. If people want a certain kind of music and the market isn't getting it to them that is a problem for both. We try to look at markets from the point of view of 'how can it work better for everyone', starting with the consumer and working back from there. But we will be looking at the interests of musicians.

Claire Baker: Is the enquiry focused only on UK services, given that streaming is an international issue? And are you looking at the ways in which musicians are paid?

DG: We will be looking at where the money goes and the different points on the value chain. In terms of the first question the business models that obtain in the UK tend to be similar to those in other large economies.

CB: Recommendations by the CMA wouldn't extend to multi-national companies then.

DG: We're focused on anything that impacts consumers in the UK, so the location of the business is irrelevant. Any business that is serving UK consumers is in our jurisdiction.

David Francis: What was the impetus behind the enquiry? It would appear that the consumer is already getting a very good deal in that for the price of one CD per month the consumer is getting access to almost all the recorded music ever produced at great cost to the people who actually produce the music.

DG: The direct impetus was the DCMS Select Committee report on streaming. That report was focused on remuneration for musicians, especially during the pandemic. They asked the CMA to look at two issues – the opacity of the market, and the

intellectual property regime. There are some other pieces of work going on, looking at musicians' situation, again as a result of the DCMS report.

Caroline Sewell: One of the MU's concerns is the way in which the majors with their control over massive back catalogues push out independent labels. Whatever the streaming service they all seem to use the same catalogue because of the dominance of the major labels.

DG: That's something we're definitely keen to look at. We're also looking at innovation and how people with exciting new propositions are able to get them to the consumer.

c) Claire Baker: Dynamic Pricing

In recent correspondence with Stubhub the ticketing platform indicated that the idea of 'face value' was becoming outdated (in their view). This is not right. Tickets for concerts are not the same as airline tickets or hotel reservations. The involvement of the CMA has brought things under a bit better control. However, I was shocked to find that Ticketmaster are operating dynamic pricing. This is where they keep back some tickets from sale, arguing that this will undermine secondary ticket sellers because you'll be buying from the official seller. But they then inflate the price, arguing that if you want tickets at the last minute you'll pay a premium, which means you could be paying four or five times what the person sitting next to you has paid. Writing to Ticketmaster produced no good reasons for the practice. They insist that it is in agreement with the artist, with making up Covid losses now being used as a justification for dynamic pricing.

Raymond Black: As an artist manager the frustrations described for ticket buyers are the same frustrations felt by managers and artists. Artists do have a certain amount of leeway in making decisions, but Ticketmaster is the dominant actor in the field. Writing to the artist or their management is potentially more fruitful than writing to Ticketmaster. The other challenge is what they charge in service fees. Artists, depending on their size, have some influence on this area as well. It's something that innovation might change as new actors come into the field.

Alan Morrison: Can any of this be challenged on an equalities policy? People who cannot buy tickets as soon as they go on sale are effectively being discriminated against.

DG: The CMA have done a lot of work in this area, with Viagogo having been sanctioned more than once. The law only requires that there is a face value on the ticket and that it is available at the face value at some point. We would agree that it is often promoters and artists that are encouraging the practice, but there are ways for artists who want their fans to pay only at face value to ensure that that happens if they really want to.

Stuart Fleming: PRS is levied only on the face value of the ticket so rights-holders don't get any share of add-ons or tickets sold above face value. Add-ons can sometimes be as much as 100% of the face value of the ticket with no return to the rights-holder.

Agenda item 2

Music Education

John Wallace: The Music Education Partnership Group has produced a refreshed strategy <https://wemakemusicscotland.org/wp-content/uploads/2022/03/MEPG-STRATEGY-2022-26-PDF1.pdf> which looks towards 'a Scotland where the transformative potential of music is valued, nurtured, and experienced by all'.

A number of initiatives are in place as part of the Covid recovery: a Scottish Young Musicians Competition, involving 22 local authorities and the independent sector. Progress is being made on the question of GTCS registration for instrumental instructors.

The music instrument library scheme will be piloted in Edinburgh, Fife, and North Ayrshire, launching in June.

Agenda item 3

Raymond Black: Post-Covid issues

Thanks to Michelle Thomson for bringing up in the topic of the Covid recovery consequentials after the last CPG, which brought about a response from the Chief Secretary to the Treasury in the UK Government. It was not clear in his response whether the consequentials had been passed on at that point, but it seems that the money is now flowing.

There is still concern that the voice of artists is not being heard in terms of cultural recovery. SG and Creative Scotland have done good work in supporting the resilience of music in Scotland, but the feeling in the artist community is that the emergency is ongoing. Some artists haven't benefited from available funds, and working capital is diminishing for meeting the demands of live touring, which is now the chief source of revenue for the majority of artists. There are pressures in the system: there is a glut of shows at the moment so artists that want to tour can't get venues. How can artists be at the centre of a cultural recovery?

Referring back to the job guarantee presentation at the start of the meeting, it's clear that if artists are supported they will create work, tour it, and make it available to the public's benefit. Thinking about from 2023 onwards.

MT: Would people appreciate hearing from Neil Gray, the new Culture Minister, at the next meeting?

Lisa Whytock: The last round of cancellation funding was very welcome and made a huge difference to a lot of artists. It doesn't solve all of the problems for the longer term recovery, which is not being dealt with. Revenues from tours don't only come from ticket sales. As was previously mentioned PRS and merchandising are all contribute, and don't if the gigs aren't there. People don't have reserves, which means they can't meet upfront costs like marketing shows that are coming up. Upfront costs are also an issue for touring in countries like the US. Flight, transport and visa costs have gone up. It's still a crisis which needs to be addressed now or the situation in two years will be even worse.

MT: The complexity around the trading environment for artists is quite significant. One of the issues for the Scottish Government has been dealing with annual funding, which everyone agrees doesn't allow certainty to build frameworks.

AM: We have been arguing for a more strategic use of emergency funding, which hasn't been happening until now. The £3.5m boost to the Creative Scotland Open Fund will be used strategically. By its project-based nature it suits individuals, and bids by organisations for projects tends to mean work for freelancers. The Open Fund has been keeping going over the pandemic and has been able to fund albums, R and D, songwriting, mentoring; the boost to the Open Fund will be able to support artists right through to the latter part of this year.

Agenda item 4

Other Business

SF: There is situation whereby there's an opportunity being missed in Scotland. In England and Northern Ireland PRS centrally licenses Government, allowing state schools to use music

in any context they want, whether that be copying music or online use. At the moment individual teachers are still having to navigate their way through an extremely complex system. We've been talking to local authorities in Scotland for several years. Despite the fact that most local authorities would welcome such a scheme, our understanding is that unless 100% of the authorities agree the Scottish Government won't implement it. PRS Head of Licensing would like to talk to the group at the next meeting.

Hilary Brooks: Commending the fact that for the first time since starting to attend the group it had featured a majority of women.

DF: Showcase Scotland this year included a delegate from Ukraine, Anastasia Voytchuk, who has remained in touch with other delegates through a What's App group. Anastasia, whose festival offices have been turned into a refugee transit station, has written that any expressions of support and solidarity are extremely welcome and do make a difference to morale.

LW: Another delegate to Showcase Scotland has been working on refugee support. What we've seen is an international effort from the music business, and a huge outpouring of support through that Showcase Scotland group.

DONM

June 7, 2022