

8 September 2020

## **ABOUT IFPI**

IFPI represents the interests of the recording industry worldwide. We have some 1,300 members around the world and in all major European markets, ranging from small-to-medium enterprise (SME) to global labels. We work to promote the value of recorded music, to campaign for the rights of record producers and to expand the commercial uses of recorded music in all markets where our members operate.

### ***The digital music industry***

Over the last two decades, the recorded music industry has dramatically transformed itself from an almost entirely physical distribution model (via Compact Discs and vinyl) into a multi-faceted digital industry.

Reflecting the industry's progressive approach to embracing innovative methods of providing access to recorded music online, record companies have licensed hundreds of digital music services with more than 60 million tracks<sup>1</sup>. By 2019, more than 57% of recording industry revenues came from digital uses of recordings, with some 42% from subscription streaming, which is driving a return to growth for the industry.

Of course, physical distribution remains an important and substantial part of the recorded music market. So too are performance rights (broadcast and public performance), which continue to contribute substantially to the overall revenue mix.

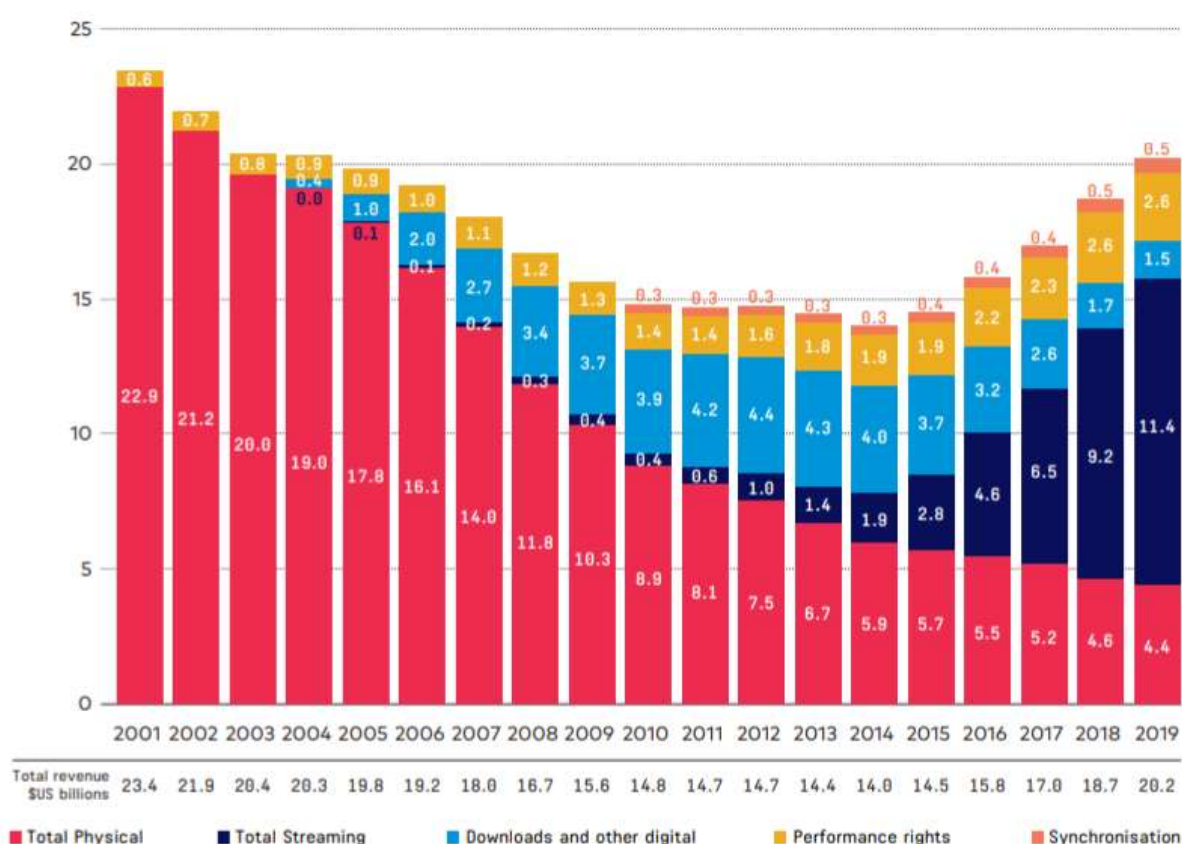
But today's recorded music market is largely and increasingly digital. That provides several important advantages. For example, there are few barriers to entry for new companies. Companies of all sizes have access to global sales channels. As a result, consumers have more choices than ever before, enjoying easy and affordable access to 60 million licensed tracks on music streaming services, while also being able to enjoy music in other digital and physical formats.

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<sup>1</sup> <https://investors.spotify.com/financials/press-release-details/2020/Spotify-Technology-S.A.-Announces-Financial-Results-for-Second-Quarter-2020/default.aspx>,  
<https://www.apple.com/uk/apple-music/>,  
[https://www.amazon.com/music/unlimited/ref=as\\_li\\_ss\\_tl](https://www.amazon.com/music/unlimited/ref=as_li_ss_tl).

The changing revenue mix, and the central importance of subscription streaming is shown in the recording industry revenues from 2000-2019:

**Global Recorded Music Industry Revenues 2001-2019 (US\$ Billions)**



But it is not solely the distribution of recorded music that has evolved. The marketing opportunities for recording artists have also diversified enormously. For example, artists can now choose to go direct-to-market by producing their own recordings and making them available on the digital music platforms of their choice or they can partner with a number of service providers who have begun to offer their own packages, from digital distribution to marketing and more.

In addition, record companies have expanded and diversified the services they offer to artists, from distribution-only deals to full service partnerships whereby the record

company supports all aspects of an artists' career including distribution, marketing, promotion, touring and other areas. The diversity in routes to market means that artists have a vast array of choices in how to get their music to their fans and record companies face stiff competition to partner with them.

However, record companies remain the primary investors in artists and repertoire (A&R), supporting artists' career development, marketing and more to help them achieve creative and commercial success. Each year, record companies spend about USD 5.8 billion in A&R and marketing combined (USD 4.1 billion going to A&R and USD 1.7 billion to marketing) to support their artists – more than one-third of the companies' revenues. Furthermore, record companies invest more than financial resources, but also human and industry resources. A record company offers the artist access to its network of other music professionals, to its expertise in music production, marketing, promotion and distribution services and numerous other services.

### ***The elements of a thriving competitive digital music market***

A thriving digital music market therefore embodies robust and fair competition at all levels in the value chain. In this short paper, we distinguish between **music production** (the process leading up to and including the production of sound recordings) and the ultimate **distribution** of those recordings (the point at which the consumer has access to recorded music).

### ***Observations in response to the Commission's consultation***

The Commission is now considering the adequacy of existing competition rules in the digital marketplace to determine whether these rules need to be adjusted.

#### **Music production**

The market today is intensely competitive. Thousands of record companies compete with each other and with service providers to attract artists by offering them a vast range of services that cater to their unique needs. Artists may choose not to partner with a record company nor to engage any other service, instead going direct to market themselves.

Digital technology has enabled new ways to produce and distribute music, which has further intensified competition on the **production** side (upstream level). Furthermore,

technology has not created potential gatekeepers in this space; on the contrary, it has helped to diversify production.

The existing competition rules and applicable thresholds for applying those rules remain valid. We are not aware of any new factors affecting competition which would require a re-assessment of the adequacy of those rules. As illustrated above, the music production market is vibrantly diverse, with easy market access for record companies, artist service companies and artists alike. The new competition tools currently contemplated by the Commission, if applied generally rather than in a targeted manner to digital services with strategic market power, would raise concerns as they would create legal uncertainty, which in turn is likely to hinder innovation.

#### Music distribution

The **distribution** of music has moved predominantly online and consequently the factors affecting competition have evolved.

A dynamic and competitive marketplace among the online content distributors is important for IFPI's member record companies that license digital music platforms to make their recordings available to the public.

One of the new factors that may require attention, and which is also already identified by the Commission, is **control of data** (such as that collected and kept by the large content sharing platforms, including social media platforms) as a relevant factor to be taken into account when considering a service provider's positioning in the market from a competition law perspective.

As a digital industry, we are interested in the work undertaken by the Commission to explore competition in digital markets, and we would welcome the opportunity to contribute further to this project. Our industry supports and depends upon strong competition, which is already underpinned by the existing regulatory framework. We agree that any adjustments to this framework must be based upon clear evidence-based policy, and we look forward to the findings of the present consultation, after which we hope the Commission will be in a position to more clearly demarcate any areas that it considers require further consideration.