# BRITISH MUSIC RIGHTS' RESPONSE TO:

# THE CREATIVE ECONOMY PROGRAMME

## September 2006

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## Executive Summary of BMR's recommendations

We share the Government's aim to make the UK the world's creative hub.

The UK music industry is a successful and vibrant part of the economy, and is already a global hub. This is despite significant challenges posed from external pressures as well as some deficiencies from within the sector.

The supposition behind our submission to the Creative Economy Programme is that music businesses in the UK can achieve even higher levels of growth and productivity, provided the challenges and the deficiencies are adequately addressed. Government and public agencies have a role to play in this.

We comment on the Working Groups' analysis of the challenges facing the creative industries, and we endorse many of the recommendations put forward. In addition, we recommend specific areas where the Government should take further action.

Our priority recommendations for Government are to:

<u>Business Support:</u>

- employ a specific business advisor to work within music industry trade associations so that business support and advice is strategically coordinated across public and commercial provision and relevant to music enterprises at all stages of trade
- support the development of a third party endorsement procedure for a 'gold standard' of management training and business advice offered by professional trade associations

<u>Education & Skills:</u>

- embed IP education and awareness into the National Curriculum
- strengthen the connectivity between creativity and commerce in education
- enable all secondary schools who wish to do so to participate in the Young Enterprise Quickstart Music Programme, which brings enterprise education and IP awareness together in a single programme

<u>Competition and Intellectual Property:</u>

- broker better partnerships between the content and technology sectors with regards to respecting the value of music
- remove reference to copyright libraries and clarify terminology on "trusted third parties" and publicly owned materials in order to avoid likely inaccuracies about the ownership and management of copyright
- review fiscal incentives available to encourage investment in innovation in the UK's music sector with a view to better incentivising investment

<u>Infrastructure</u>

- create a dedicated body within Government charged with formulating policy relating to copyright as well as examining the impact of policy across all other Government departments on copyright
- support the development of a single forum for the music industry with which central and regional Government can effectively engage
- instigate a comprehensive review of public funding earmarked for supporting the development and growth of creative industries with a view to better aligning this public spend with the commercial sectors it seeks to stimulate

RESPECT THE VALUE OF MUSIC

Evidence

- agree a methodology for the collection of statistics that enables reliable, consistent and comparable analysis of the music sector on an ongoing and regular basis
- prioritise research that examines the growth potential of each sector of the creative industries and the effectiveness of interventions designed to remove barriers and stimulate higher levels of growth and productivity

## Foreword

British Music Rights[1] represents over 50,000 composers, songwriters, music publishers and their UK collecting societies (MCPS and PRS).

We applaud the aim of Creative Economy Programme (CEP) to position the UK as the creative hub in the global economy by creating the best environment for creative industries to increase their growth, productivity, and competitiveness.

Furthermore, we acknowledge the critical role that the Government, government bodies and publicly funded institutions – not least our education and publicly funded cultural institutions - have in the strategic planning, investment and delivery of provision towards that aim.

That said, the creative industries themselves must also be an integral part of the process at each stage, articulating sector needs and working in partnership with public bodies to ensure the most efficient and effective public investment towards that aim.

We note that an underlying assumption recurrent in the draft recommendations produced by the CEP working groups, with some notable exceptions, is that public agencies will continue to assume lead responsibility for the planning and delivery of provision intended to stimulate the growth, productivity and competitiveness of the creative industries.

While public bodies may indeed be well placed to take a leading role in many areas, we would urge the Government to consider areas where the commercial sector may be better placed to take a more proactive advisory role in the strategic planning, and in some limited cases, delivery of that provision.

There are many proposals and recommendations in the draft papers that we endorse. However, we believe that some recommendations are based on a needs analysis that is incomplete, and in some cases, wrong; and we indicate this in our responses under each Working Group section.

We also recognise the need for this CEP to develop more of an international perspective. For the UK to become the 'world's creative hub' we cannot be introspective in a global knowledge economy. Comparative analyses of Government interventions in other countries are needed and accordingly, any recommendations from the UK must take account of the international dimension.

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[1] British Music Rights is the consensus voice of Britain's composers and songwriters, music publishers and the UK collecting societies. The members of British Music Rights are the British Academy of Composers and Songwriters, the Music Publishers Association (MPA), the Mechanical-Copyright Protection Society (MCPS) and the Performing Right Society (PRS).

## The music industry's characteristics and contribution to the UK economy

The purpose of this section is to briefly describe the characteristics of the music sector insofar as they are relevant to the design of any policy solutions intended to positively affect the sector.

### Characteristics of the commercial music sector

The music sector is a complex sector with the component parts of the value chain and their roles and functions not well understood outside the sector.

Our industry is made up of both a small number of large players, and a large number of smaller enterprises. Despite the presence of the major group music businesses, British Music Rights' member organisations have a membership comprising either of SMEs or micro business and freelance and self-employed music creators. Only 3.5% of music businesses employ 20 people or more with just 11.4% of music businesses having a turnover of £1m or above[2].

It is important to note that often people entering the sector as entrepreneurs are typically music enthusiasts, primarily motivated by their passion for music, rather than by business objectives. As such, they may be less well-equipped to manage the business imperatives of their enterprise. Such issues are considered further in our more detailed response below.

### Music's economic contribution is significant

Our creative economy already constitutes 8% of the UK's GVA (Gross Valued Added) and is growing at twice the rate of the rest of the economy. There is a substantial and growing contribution from the music industry to the UK's economy, as well a collateral impact on other sectors.

The total value of the UK music industry is £6billion – which represents 0.95% of total UK GVA, with the total employment covered by the Creative & Cultural Skills Music sub-sector being just short of 100,000 people.[3]

Furthermore, the UK music industry has a strong position in the global export market with the UK being the third largest market in the world for sales of recorded music, accounting for 10.4% of the global market in 2004.[4] Moreover, the UK music market has continued to grow despite an overall global downturn.

### Music's role in driving other sectors

Music has traditionally played an integral and significant role in driving other creative sectors' growth, especially film and television. Beyond this it's important to reflect on the impact that the music industry has on other creative sectors, from the games industry to advertising, amongst others.

Furthermore, live music encourages healthy hospitality and tourism sectors. The DCMS Live Music Forum highlighted in its report[5] that an estimated 1.7 million gigs

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[2] Creative and Cultural Skills (July 2006)
[3] Creative and Cultural Skills report (July 2006)
[4] BPI statistical handbook
[5] Live Music Forum August 2004

were staged in bars, clubs, restaurants and other venues whose main business isn't putting on live music. Moreover, festivals drive significant revenues across local areas[6].

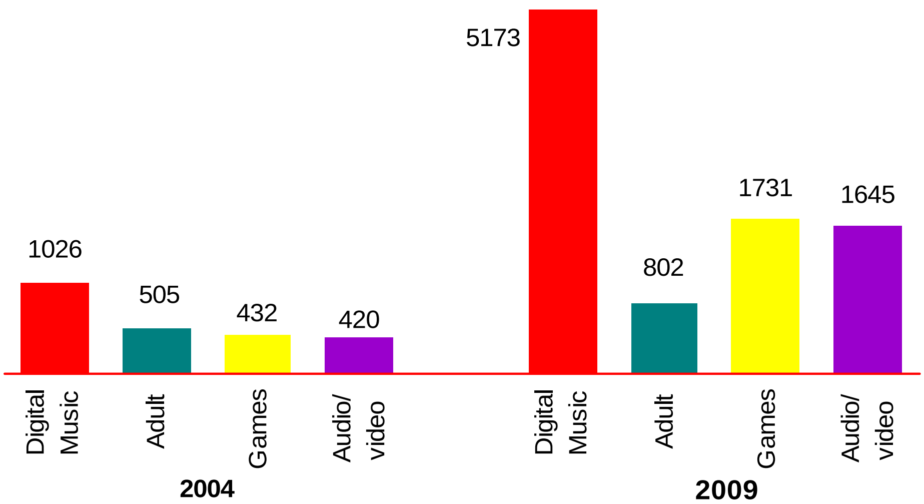
## Music is driving digital Britain

Music plays an integral role as an engine driving the digital economy. The strong emotional qualities of music enable third parties to build brands and experiences and attract subscribers by association. Music contributes significantly to the take up and profitability of digital operators' products and services - as borne out by the emphasis on access to music in adverts for broadband, mobile handsets, and hardware.

Furthermore, mobile networks are increasingly investing into music in the form of sponsorship. Despite this recognition of the power of music to drive their sales, most companies in these sectors appear indifferent as to whether consumers' access to music is legitimate or not. In the long term, this could threaten the music industry's ability to grow to its full potential value.

Notwithstanding this indifference, music has the greatest reach of all rich media content types on digital platforms and the number of people using online music services in the UK will increasingly dwarf other content forms. As highlighted in the graph below, over 5 million UK consumers are expected to be paying for digital music online by 2009, whether via an iTunes style pay-per-download model or through subscription services such as Napster and HMV Digital – a five fold increase on 2004 numbers.

*Number of UK buyers of online content (000's)*[7]

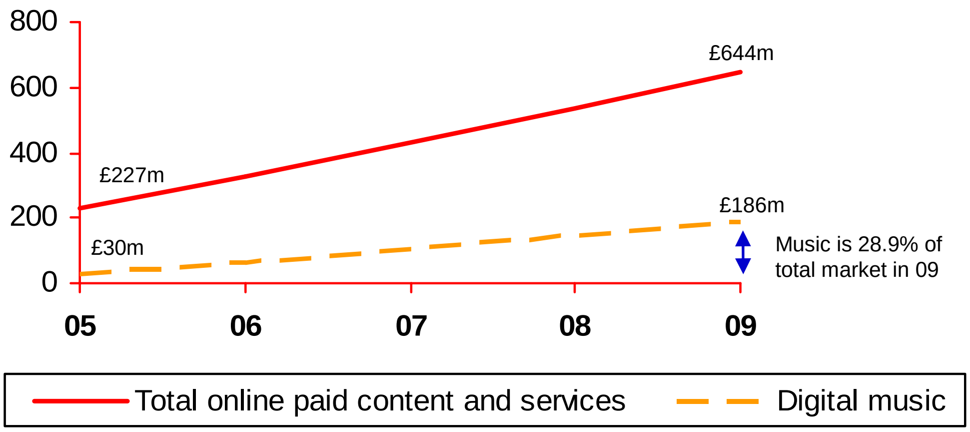



In terms of paid online content, music is projected to account for over 25% of **total** spend on online content and services by 2009 - well beyond other online content services.

[6] By way of example, Scotland's largest music festival, T in the Park, is purported to be worth £18m to the country's economy. A recent report suggested that it brings in £7.5m to the local economy in Perth and Kinross and another £10.5m to tourism through worldwide media coverage, despite the event never receiving a public subsidy. Article from BBC news, 5 June http://news.bbc.co.uk/1/hi/scotland/tayside_and_central/5046514.stm

[7] Jupiter, European Paid Internet Content and Service Revenues report February '05, Spectrum analysis

*Growth in UK paid online content and services £m (2005 – 2009)* [8]




## Strategic importance of the UK music industry

Given the strategic importance of the UK music industry to both other industries and the wider digital ecology is crucial that Government recognises the wider value of our sector and acts upon our recommendations for action.

[8] Jupiter, European Paid Internet Content and Service Revenues to 2009 Feb 2005, Screen Digest Sept 2005, Spectrum analysis

## Access to Finance and business support

The UK's music industry is vibrant and successful despite the fact that the music industry is short on business and financial management skills, as revealed by a recent DCMS survey[9].

We recognise concerns raised in the various working group reports about management capacity. Clearly the "development of business and entrepreneurial skills are a priority" and there is a "clear case for public intervention" to help plug the skills gap.

### Strengthening the reach and relevance of business support

It is acknowledged that those involved in a creative process do not naturally and necessarily engage with publicly funded programmes. But they *are* plugged into the informal networks related to their core functions. Musicians know managers who know publishers and labels who know promoters who know the live music circuit who know musicians. These are the entrepreneurs who would most benefit from the business support services on offer, yet they are often the hardest to **reach** and least likely to self-present. However, they do often join music trade bodies. As a result, professional trade associations are often best placed to work with publicly funded business support provision in a collaborative and coordinated way.

But if reach is one part of the problem, the other part of the problem is the content and delivery of business support services. Perceived **relevance** of the advice and support on offer, and the credibility of those delivering it, is a major factor. Where business support services are personalised and targeted to the specific needs of creative individuals, they are heavily over-subscribed.

If the CEP is going to recommend improvements to business support services, it must take these factors into account or it risks wasting public funds on programmes that have poor take-up and do not reach the intended audience.

Here again, trade associations should be considered to be part of the solution in terms of working closer with the existing service providers. Trade associations currently provide a wide range of services[10] to music enterprises but are restricted in what they can provide by limited resources and by the balance they must strike between the needs of existing members with those of potential members, i.e. start up companies.

Our vision is for a seamless and integrated national infrastructure of business support for the sector, so that at every stage help is on hand that is personalised, relevant, and easy to access.

**Recommendation**: The resources and expertise available through trade associations, publicly funded business support services, and training providers must be strategically integrated so that regardless of the point of contact of the individual or enterprise, they are channelled through the infrastructure to the most appropriate type of support, and hooked into a network through which contact can be maintained as the business grows.

**Recommendation**: In order to enable the vision of strategically integrated services, we propose Government employs a specific business advisor to work with music

[9] DCMS: SME Music Businesses: Business Growth and Access to Finance, April 2006
[10] For more information, see the Music Publishers Association and British Academy of Composers & Songwriters websites.

industry trade associations. The role of the business advisor would be regional liaison, coordination and signposting of business support services to ensure that entrepreneurs can progress from the generic, pre-start up advice to more sector-specific advice available through trade associations when it would benefit them to do so. Progression is key in order to address the growth and capacity issues identified by the working groups' reports.

**Recommendation:** Public funds for business support services should be channelled directly through trade associations, where trade associations are best placed to deliver them – normally once enterprises are already trading and looking to grow. The Cultural Leadership Programme sets a precedent for a public-private partnership where public funds are channelled through trade associations to meet shared strategic priorities.

**Recommendation:** There is a need for providers of business support and training, including trade associations, to receive endorsement with regard to their provision. The vision is for individuals and enterprises who access endorsed management training and business advice to appear more investment ready to potential financiers, and for the providers of that advice and training to be positioned as the trusted brokers helping to bridge the gap between the financial community and the creative community that was so clearly identified in the DCMS's recent Productivity Study as being a particularly acute problem in the music industry. The Music Publishers Association, for example, already provides highly-respected, professional and relevant training to its members and an external endorsement of that provision, widely recognised and understood by those both inside and outside of the sector, as the 'gold standard' would further benefit the recipients of that provision. Creative & Cultural Skills sector skills council should take the lead role in the endorsement procedure.

**Recommendation:** Explore the viability of tax incentives to support the work of professional trade associations in delivering training and educational services to their members and others. Trade associations that do provide educational and training services should be eligible for educational concessions.

## Additional comments on working group report and priorities for action

### Creative Business Review

We support this recommendation in principle with the only caveat being that the suggested target of 5 per cent may be too low.

### Creative Business Catalysts:

We support the suggestion of provision of dedicated business development services for high growth potential creative businesses providing these are developed strategically with industry.

### Pool of experienced non-executive directors

Versions and variations of these already exist in the services provided by trade associations; this recommendation should therefore be developed in close partnership with trade associations, taking into account concerns relating to commercial confidentiality.

## Competition and Intellectual Property

We note that in this context, the use of the term "competition" should refer to the creative industries' 'competitiveness', as competition issues are a matter for the Office of Fair Trading.

We note that the issue of IP legislation is being examined separately by the Gowers Team. We therefore propose that the CEP should not look at substantive IP issues but rather concentrate on initiatives designed to broker better partnerships between the content and technology sectors regarding IP as well as providing IP training for SMEs.

Please also note our concerns below regarding some elements of the working group draft report. The lack of industry involvement in the CEP so far is particularly glaring in this strand of the CEP work and has led to the draft report containing a number of confused and misguided recommendations.

### Respecting the value of copyright in the digital value chain

The value of copyright needs to be better understood and respected. British Music Rights has been working for some time to highlight the importance of understanding and respecting the value of copyright as a requirement for Britain's success in a knowledge-driven economy.

If the Government is to realise its ambition of making the UK the world's creative hub, it needs to instil a greater understanding of copyright as the currency of our creative economy and the means by which creators are remunerated. This is essential not just for those working in and with the creative sectors but more generally throughout society, in consumer behaviour and in everyday working life. It is precisely the regime of IP rights that serves as the basis of trade in the knowledge economy.

Solutions to the challenges facing the music industry in the digital value chain are founded upon promoting greater cooperation between rights owners and the network operators controlling the means of distribution. The music industry is actively seeking to broker such trading relationships with digital intermediaries and bring the gatekeepers of P2P channels to the negotiating table. However, despite greater commercial cooperation beginning to emerge between the music sector and network operators, there are few incentives to bring reluctant – and often illegal – third parties to the table. The legal framework fails to put the duty of responsibility on those who provide the means for large scale file-sharing and piracy to take place.

**Recommendation**: We believe that Government should continue to play a leading role in terms of brokering relationships in this arena, initially through the Creative Industries Stakeholders Group, but also working with trade associations where necessary[15]. The international dimension also needs to be fully considered and Government (DCMS/DTI)

[15] Intellect's Digital Convergence Council was a good example of trade associations across industry sectors working together to help develop responses to the public policy objectives of Government and regulators.

need to feed into the European Commission work in this area regarding Content Online.

## Enable businesses to access good IP advice

Evidence confirms that currently too few businesses and enterprises adequately understand IP and its potential to unleash value as a potential catalyst for new products and services[16]. Copyright and IP services are playing an important role at a local and regional level by providing seminars and individual advice surgeries through specialised legal firms. Trade associations also provide complementary services to their members in this area. The Patent Office has recently consulted on an Innovation Support Strategy, highlighting a number of mechanisms that might provide for a better service provision in this area.

**Recommendation:** Provision of existing IP information and advice by public and commercial sectors should be better coordinated.

**Recommendation:** The Patent Office's Innovation Support Strategy needs immediate prioritisation and implementation across Government.

**Recommendation:** There is a need for a more proactive and visible approach with respect to copyright and IP across government policy, in recognition of the importance of IP to all knowledge-driven industries.

## Support businesses competing internationally

There is need to continue to support trade associations with their export and international advice services. UKTI has played an important role in recent years and we very much welcome this support to our sector.

New, innovative schemes are being pioneered such as the "British Music Abroad" scheme recently launched by the PRS Foundation. Funded by Arts Council England's "Grants for the arts" programme, this scheme offers financial support to emerging UK acts that have been selected for key overseas showcase opportunities. Such a public private partnerships is an excellent example of how public sector provision can be both effective and accountable.

**Recommendation:** We draw the working group's attention to the work of the Creative Exports Group (CEG) leading to the establishment of a specialist group to provide coordinated briefing on IPR issues when ministers and UK dignitaries embark on overseas visits or receive visits from overseas. We strongly support this initiative.

## Additional comments on working group report and priorities for action

**Business education**
We welcome the emphasis put on improving business education and aligning it to the needs of creative businesses. Trade associations are a critical part of the business education infrastructure and must be strategic partners in the development of better provision. We support the recommendation that fiscal incentive be introduced for investment in management development.

[16] A British Gas time survey of small businesses revealed that UK small businesses are potentially wasting time developing new products and ideas - because they don't protect them. The survey found that 79% of respondents did not know how copyright and patent protection works, with 74% operating without any form of patent or copyright protection.

**Overseas advocacy**
We support the recommendation for the planned promotion of UK creative SMEs by key embassies, allied with a programme of Creative Ambassadors.

**Review of qualifying trades for EIS scheme**
We believe that the time is ripe for a fresh look at fiscal incentives to the sector to encourage investment in innovation in the UK's music industry. Government fiscal measures to encourage investment in the economy through R&D tax credits do not apply to investment in new artistic talent; and its incentives to encourage innovation in the economy through EIS do not apply to music publishing.

The music sector is currently developing its evidence base demonstrating that the music industry is capable of achieving even higher levels of productivity and growth, and contributing more substantially to Britain's economy. We intend to show that our growth as a sector could be stimulated further with certain incentives; which are likely to focus on stimulating investment.

We strongly support the technology working group recommendation that it is essential for the creative industries that there should be a review of the qualifying trades -- and would add take-up and effectiveness – for Enterprise Investment Schemes (EIS), Small Firms Loan Guarantee (SFLG) and Venture Capital Trusts (VCT) so that intellectual property royalty-based businesses are eligible.

**We question and dispute a number of statements and assumptions made in the working group's report:**

**The IP regime being "confusing and restrictive":**
With respect to the specific working group supposition that the IP regime is "confusing and restrictive" and the additional observation that the creative industries "desperately need IP clarity", we strongly refute that the copyright regime is a barrier to growth in our sector. Obtaining copyright protection for musical works could not be simpler. The automatic nature of copyright is a powerful and necessary safeguard for creators against the misappropriation of their creative output by those who might wish to exploit it without remunerating them.

The challenges facing the creative community do not arise from copyright itself, but from the transition from the offline to online market, which threatens the ownership of rights because control of distribution is passing from rights-holders to a new generation of network providers, hardware manufacturers and mobile operators. The solution is to oil the wheels of the new digital environment, not overhaul the copyright system itself[17].

**"Liquid markets for digital IP require trusted third parties":**
We are extremely concerned about the wording of the Recommendation that liquid markets for digital IP require trusted third parties.[18] Trusted third parties can only be involved in ownership, trading and access of copyright if the owner of the right chooses the party to carry out specific acts on his or her behalf. Everything else would constitute unconstitutional expropriation.

We also do not understand what the reference to *copyright libraries* as trusted third party stands for. In the music industry, composers and music publishers have chosen to use *collecting societies* to manage some of their rights efficiently; the term copyright libraries is hence not appropriate. If reference to collecting societies is meant the Recommendation needs to state this expressly. Traditional libraries have no inherent

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[17] For a fuller analysis, please see British Music Rights' submission to the Gowers Inquiry.
[18] Penultimate paragraph of page 18

role in ownership, trading and access of the copyright of other right holders as seemingly implied on page 18.

Moreover, as we express in our comments on the Technology Working Group's recommendation to digitally link public archives and collections, clarity on what constitutes "publicly owned" material is of utmost importance. Publicly owned must be defined as either public sector information (Crown and Parliamentary copyright) or public domain material (out of copyright works). Distribution of collections or archive material that is still in copyright would require a licence from the rights owner. The European Commission recently acknowledged the importance of respect for copyright in their recent Recommendation on the digitisation and online accessibility of cultural material and digital preservation. We strongly recommend that the CEP follow this lead. We also recommend that the CEP should involve representatives from the creative constituency in any further development of this proposal.

However, we would welcome discussions with libraries regarding their potential role as a legitimate interface with the copyright world for fully licensed distribution of both copyright and non-copyright works, charged accordingly.

In order to achieve a factually adequate report we strongly suggest replacing reference to copyright libraries with a reference to collecting societies and delete the last part of the last sentence of the penultimate paragraph on page 18 because it is misleading and inaccurate (i.e. *- or fund existing trusted third parties, such as the British Library, to do the job*)

**The relationships between small product and large media businesses are technically inevitable and economically unhealthy. 'Asymmetric competition' issues are worthy of further separate inquiry by the competition authorities, focusing particularly on contractual rights of small producers to a share of the value-added in the long-term exploitation of their IP:**
The success of small businesses within the creative economy depends on ensuring that there continues to be the availability of creative work, and a rights and business infrastructure which ensures adequate income from that work. Many of these small businesses are individual creators, undertaking commissions to produce creative work for larger producers of television and other audiovisual programming in the creative economy. As sole operators, they seek a sustainable career over their working lifetime. Notwithstanding the role of market forces in determining cost and price more generally, there needs to be a framework for protecting income and rights through their contracts, and oversight of standard industry practices and developments by an appropriate forum. Currently inequality of bargaining power makes this very difficult. In a similar fashion to OFCOM's obligation to formulate a 'Code of Conduct' between broadcasters and independent producers there needs to be a shift of landscape to make fair contracting processes the norm. The resulting sustainability of opportunities for individuals to monetise their talents will translate for the economy as a thriving sector of creative companies with potential for growth.

Collecting societies who manage the rights of small product business such as creators are a significant factor in addressing the inherent economic unhealthiness of the relationship between small product (including composers and most music publishers) and large media businesses referred to in this paragraph. It is important that competition authorities take into account the significant role of collecting societies when developing their policy; without the protection of collecting societies in particular smaller business will be rendered vulnerable since only bigger business will be able to survive without the solidarity ensured by collecting societies.

## Technology

Music is at the vanguard of new technology; and always has been. With digitalisation and broadband technology, the music industry is now operating in a global marketplace at the cutting edge of technological development.

### Make the DTI Technology Strategy relevant for creative industries

Digital distribution is opening up new markets for creators of musical works. It is fuelling an enormous increase in the number of individual transactions, whilst the value of each transaction reduces. The "long tail" effect means that more creators are participating in digital revenues. These developments, if they are to be of benefit to creators, demand that collecting societies invest in new infrastructure, systems and identification standards to increase their processing capacity and level of automation. Standards for the identification of creative works are needed in the interests of automating the processing of large numbers of small value transactions. Music users need an efficient mechanism by which they can identify a licensor and obtain licences in a clear, simple and economical manner. Investment in the technology used by collecting societies will benefit music users and creators and is therefore an ideal area for future funding to assist the growth of these sectors

However, the DTI Technology Strategy is not supporting the UK creative industries, despite vast funding resources being made available[20]. We are not aware of the creative industries taking any advantage of this publicly funded support mechanism. The medium term strategy issued recently recognises Information Communication Technology (ICT) as a priority area, but it's far from clear how the creative industries might capitalise from a narrow public R & D fund.

**Recommendation:** In the first instance we believe that there is a clear need to improve the marketing and communication of the Technology Strategy. We welcome the forthcoming DTI seminar in relation to the Technology Strategy as a first step at creating a better understanding of the practicalities of the programme. Given trade associations often act as conduits for businesses, they should not be excluded from attending this event. We also believe that given the composition of the creative industries so far as being very small and fragmented there will need to be a proper assessment of how to make the Technology Fund as applicable and relevant as possible.

### Capitalise e-commerce capacity

Evidence suggests that many music enterprises fall short of their potential to capitalise on opportunities for e-commerce, and we would agree with the technology working group observations that "the small scale and limited resources of the majority of creative industries means that they often do not have an adequate technology strategy in place."

The DCMS 'access to finance' survey highlighted that 85% of music businesses have a website and 53% of those with a website are engaged in e-commerce, compared with 60% and 13% respectively for all SMEs. There may also be a role for business support related specifically to e-commerce, given its present and future importance for the

[20] The Innovation Strategy, launched in December 2003 proposed that, over the period 2005-2008, £320 million would be made available to businesses in the form of grants to support research and development in the technology areas identified by the Technology Strategy Board.

industry, and the difficulties some music firms have expressed related to the capacity, skills and costs involved in both starting and expanding e-commerce capacity.

**Recommendation**: Government undertakes further investigation into e-commerce skills / take up / in conjunction with the appropriate sector skills councils.

## Additional comments on working group report and priorities for action

### Creative Technology Programme

There is a need for DCMS and DTI to work together to develop a coherent policy approach towards facilitating and supporting the creative industries. We welcome with caution the concept of the Creative Technology Programme, which clearly chimes with the recommendation emanating from the Infrastructure working group that the "key challenge is to build effective links between different parts of the creative value chain and across traditional sectoral, institutional and locational boundaries" and to "build effective global creative partnerships and trading relationships". However any such idea sharing model would naturally need to balance information gathering with ensuring users have the appropriate commercial confidentiality.

### Digitally linking publicly owned archives and collections

Deriving public value from, and enabling better access to, publicly 'owned' assets and data and collections is a laudable ambition. However, as we stress elsewhere in this submission, clarity on what constitutes "publicly owned" material is of utmost importance. Publicly owned must be defined as either public sector information (Crown and Parliamentary copyright) or public domain material (out of copyright works). Distribution of collections or archive material that is still in copyright would require a licence from the rights owner. The European Commission recently acknowledged the importance of respect for copyright in their recent Recommendation on the digitisation and online accessibility of cultural material and digital preservation. We strongly recommend that the CEP follow this lead. We also recommend that the CEP should involve representatives from the creative constituency in any further development of this proposal.

The publicly owned audio and audiovisual archives, databases and collections are one segment of a market. Traditionally, these archives have been just that – archives where a single or limited number of copies are retained as a record of our society's heritage. Once these archives are distributed and made available, they enter the creative industries' market. If they undercut that market (for example by providing free product), they will reduce supply from other sources and, in some cases, foreclose a market entirely. Furthermore, as private supply reduces and the public sector assumes a greater role, the costs to the public sector increase as the economic and tax benefits from the private sector diminish.

Solutions have been found. For example, the Ordnance Survey is a public body with a valuable and unique body of assets. There is public demand for their information as well as opportunities for economic activity based on their core data. To address this, the Ordnance Survey has been given a commercial objective. They offer the general public specific pieces of information free to download (eg a map of their area), similar to the way many commercial companies offer limited product free to consumers. Businesses can access more data and use that to add value and develop their own products on payment of a licence fee. This facility has spawned a myriad of business opportunities which have added value to the Ordnance Survey's core data. As a final benefit, the Ordnance Survey costs the taxpayer nothing. In fact, it returns a surplus to the Exchequer which reduces the overall tax burden.

We suggest that if the market is charging for a particular service or online product, then public sector bodies should adopt a similar charging policy. That would facilitate retaining overall plurality of supply, citizen access and business opportunities. It would also reduce the cost of providing these public services and, in the case of valuable assets (such as the BBC archive), would generate a surplus for the public good.

## Education and Skills

### Importance of IP awareness and copyright education

Every young person should leave formal education with a mature understanding of intellectual property, what it is, how it drives innovation, how it creates wealth, and how it is traded, protected, licensed and exploited. British Music Rights has for some time played a leading role in **championing IP education and awareness**. The Government must take the mantle and push this out through DfES – there is a need for better commitment and leadership in this area. The Patent Office Innovation Support Strategy highlights a number of ways in which IP education and awareness can develop in schools, universities and research bodies, in partnership with industry.

The music industry stands willing to engage with the Creative & Cultural Skills sector skills council in ensuring the industry-relevance of education and training provision, in particular, the 14-19 creative and media diploma and the GCSE and GCE AS/A level subject criteria. We support Creative & Cultural Skills in their effort to influence FE and HE, where students are at their closest point of contact with industry and working lives, and we applaud their efforts in improving the industry relevance of music related courses.

However, many people who currently work in the sector did not take any particular course related to working in the creative industries; and the likelihood is that in the future, young people will continue to enter our industry from a variety of different routes. Therefore, our recommendations focus on embedding copyright awareness and enterprise education into the broader curriculum.

**Recommendation:** IP education, awareness and understanding should be embedded in the National Curriculum, starting in primary school, across curriculum areas such as music, citizenship, business and enterprise, science and technology

### Importance of enterprise education

In a global knowledge economy, we will increasingly compete on our ideas yet the Cox review found that "with a few honourable exceptions, the UK has not been good at carrying its creative capabilities through into consistently world-beating products and services. Indeed, others have often made far more use of these ideas and capabilities."

Too many people leave education without adequate training to make the most of their entrepreneurial and creative capabilities. Our education system should seek to normalise an entrepreneurial outlook at the earliest possible opportunity. The **connectivity between creativity and commerce must be strengthened** if we are to reverse the current situation where poor business skills are holding individuals and businesses back and if the UK is to remain competitive in the global economy.

**Recommendation:** British Music Rights is bringing together both the enterprise education and IP awareness imperative in an exciting and innovative new resource for secondary schools.[21] We are working in partnership with Young Enterprise and Numu[22] to create "Quickstart Music" – a new resource for secondary schools. The programme is designed to harness young people's natural passion for music and direct

[21] See appendix for more information on the Young Enterprise Quickstart Music project.

[22] Young Enterprise is the leading education charity that specialises in 'learning by doing' projects that foster entrepreneurial skills. Numu is like "My Space" for schools, giving young musicians a public platform for their music, and producing weekly music charts.

it towards the practical application of running a mini music enterprise within their school. Through the programme, students will gain real business experience and enterprise skills, along with an understanding of IP, the value of copyright, and how it can be positively exploited to generate income and sustain viable careers in the music industry in the future. We recommend that this initiative is supported by Government to enable all schools who wish to participate in the programme to be able to do so; and that the Government explore its potential to be expanded to other creative sectors.

## Additional comments on working group report and priorities for action

**Advice and guidance provision and services to the creative industries workforce**
We welcome the recommendation that advice and guidance provision to the creative industries workforce should be informed by the industry and incorporate industry input, and refer to our comments under the access to finance and business support section, particularly relating to strengthening the role of trade associations in order to encourage and support the growth of music enterprises.

## Infrastructure

### Better institutional arrangements within Government

Structural mechanisms are required to encourage closer links between Government departments when developing policy for the creative industries and for better institutional arrangements for intellectual property. Wider departmental oversight than DCMS and DTI is required - HM Treasury, Patent Office, and Ofcom also need to be appropriately engaged.

**Recommendation:** Compose a Cabinet Committee for the creative industries to improve joined up policy making for creative industries within Government

**Recommendation:** As we note earlier in our submission, there is a need for a more proactive and visible approach with respect to copyright and IP across government policy, in recognition of the importance of IP to all knowledge-driven industries.

### Joined up commercial sector and publicly funded initiatives

There is presently a disjoint between the commercial sector and publicly funded initiatives designed to stimulate the growth of the sector or region: where these sectors do meet, only a small fraction of the commercial sector meets a small fraction of the public sector.

There is a need to better align the public spend designed to stimulate higher growth and productivity in the creative industries with the actual commercial sector. Whilst there are regional development agencies, cultural development agencies, and a plethora of strategic arts bodies, there is a lack of clarity in how this is translating into strategies for growing the commercial music sector in the regions and how precisely it comes to bear on those actually working in the music industry in the regions and nations. In terms of the Arts Council there is a general lack of information about how spend on innovation in music leads to successful and commercially viable projects[23].

**Recommendation:** Alongside the Treasury's forthcoming comprehensive spending review, we propose that the Government commission a comprehensive review of public funding earmarked for supporting innovation and encouraging the development of the creative industries in UK nationally and regionally with the aim of more closely aligning this public investment with the industries it is intended to support.

Such a review should entail a close examination and clear articulation of the role and purpose of public investment and how it relates to the creative sector. Clarity and transparency is urgently needed. Funding bodies must be explicit about whether their investment is intended to promote cultural objectives, such as support for non-commercially viable but culturally valuable expression; to promote social objectives such as furthering the inclusiveness agenda and widening opportunities; or to stimulate economic growth to create wealth, such as investing in support for the creative industries. Where public investment is intended to further this latter objective, it is critical that industry be involved at every stage if the Government is to achieve its objective.

**Recommendation:** Rationalise bodies and initiatives, and channel some of the investment through trade bodies where trade bodies are best placed to deliver, to build better links between commercial sector in each region and with the regional strategic bodies.

[23] However, the PRS Foundation does actually link investment to a commercial base.

## Government support for a Music Sector Representative Body

The commercial music sector recognises it is very fragmented but is undertaking a feasibility study into a music sector representative body to see how it can operate more coherently and most effectively.

**Recommendation:** The DCMS has this far worked in partnership with the music sector in commissioning an independent feasibility study into a music sector representative body. We applaud this support from the DCMS and look to them for continued support in taking the recommendations further.

## Supporting grass-roots development

We recognise the crucial importance of reaching the non formal learning sector and developing collaborations with grass roots and underground communities which accounts for a hotbed of creative talent. Music can play a role in facilitating wider public policy objectives so far as it acts as a key vehicle for enhancing social inclusion.

**Recommendation:** There should be a continuing emphasis on improving facilities and access (such as studio space) for aspiring musicians and music creators, both in communities and in educational establishments.

## Specific comments on working group report / priorities for action

### Creative Grid

We note the recommendation for a Creative Grid including a "web based intelligence service" to provide "new data and intelligence". We draw attention to a similar recommendation from the Technology working group for a "Creative Technology Programme". We recognise the value of an online resource and infrastructure map for the creative industries but question the feasibility of creating and maintaining an up to date grid.

### Creativity Working Group

We note the recommendation of the working group for a cross departmental "Creativity Working Group" as the primary policy connector. We draw attention to recommendations in other working groups calling for new cross-cutting bodies (and indeed our own recommendation for a Cabinet Committee). We emphasise that any new body should have a strong economic focus with an objective to help grow the UK's creative industries and position the UK as a leader in the global creative economy. Creative industries themselves must be strategic partners.

### Creative Connector Projects

We broadly support the aim of the proposed creative connector projects. However, we re-emphasise the points made elsewhere in this submission that:

- trade associations are a critical part of the creative economy infrastructure and must be strategic partners in the development of connector projects
- connector projects should be developed with an eye for how they help stimulate sector growth; the goal should be to maximise the commercial potential of the UK's creative capabilities.

## Diversity

The music industry has been encouraging and investing in diversity – in its widest definition – for some time. Yet there are still significant challenges for the sector. According to recent research, the demographics are as follows:

- **Gender**: There is a significant majority of male workers in the music industry (69%)

- **Ethnicity:** 93% of the music workforce is white. 2.3% of the workforce is Black or Black-British with the remainder being made up of people from Asian/Asian British and other ethnic groups

- **Age**: Just over half (54%) of the workforce is 39 or under. The most represented age band is 35-39, with around 14,400 of the workforce (15%). 1 in 4 are under 30

The repertoire and consumer base of the UK's music industry is arguably the most diverse of any sector and music is often the first arena to give expression to diverse voices and genres. This is clearly fundamental to long term health of the music industry.

We share the diversity working group's aims to provide all potential creative talent with some of the opportunities that are currently provided only to some and recognise the strong business case for removing any barriers that prevent those with creative talent from being able to realise their potential and build viable careers in the industry.

We recognise that more could be done to foster greater diversity throughout the industry itself. To that end, we are consulting with Creative and Cultural Skills sector skills council on the best ways to address these issues. We are actively engaging with the Cultural Leadership Programme which aims to strengthen leadership in the sector by recognising and nurturing leadership potential across a diverse range of talent, and in recognising the strength of the sector lies in opportunity and diversity.

## Evidence and Analysis

A lack of reliable intelligence and analysis of the sector inhibits strategic planning and decision-making. Accurate data about the sector is a pre-requisite to inform the development of a sound legislative, legal and commercial framework for the sector.

### Provide reliable intelligence and analysis

The recently commissioned research by Creative and Cultural Skills begins to overcome the problems inherent with standard industrial classifications (SIC) and standard occupational classifications (SOC), and as a result, demonstrates a much higher value of the music industry in comparison to previous estimates. But concerns still remain over the collection of official data that is consistent and allows for comparable analysis, but that is also accurate and reflects the changing dynamics of the sector.

**Recommendations:**

- The Government, working with the sector skills councils and industry, must agree a methodology for the collection of statistics that enables consistent and comparable analysis of our sector and that captures the changing dynamics of the sector. We note that the DCMS and ONS have begun a process of updating SIC and SOC codes using detailed survey data and that the relevant changes will be made to the CI economic estimates bulletin.

- Better coordination between the research functions of Government, publicly funded agencies, the cultural and the commercial sector could maximise the impact of research projects and minimise duplication of work.

- A unified Music Sector Representative Body could take on the responsibility of producing an annual report of the music sector and commissioning research on issues of strategic importance to the sector, in partnership with government and other relevant bodies.

- The Government should prioritise research that examines the growth potential of the creative industries and the impact and effectiveness of interventions and incentives designed to remove barriers and stimulate higher levels of growth and productivity.

- The DMCS should update the Creative Mapping Document from 2001, taking account of the comments above.

### Additional comments on working group report and priorities for action

We question and dispute a number of statements and assumptions made in the working group's report.

"**the majority of creative industries have similar industry structure"** leading to the recommendation that the Government "**adopt a framework that allows cross-cutting creative industries policy to be developed. The framework should be based on the similarities between sectors, including structure, key issues and trends, and consider policy aims."**

Whilst we acknowledge that our sector shares attributes of other creative industries, the music industry is also very different from other sectors that come under the umbrella of the "creative industries". For instance:

- the complexity of the value chain;
- the commercial strength of the music sector in itself and the value it adds to other sectors;
- the importance of copyright and royalties system, particularly in view of the long tail of copyright exploitation;
- the fact that music's small file sizes have placed it at the forefront of the challenges that the digital age presents in terms of distribution; and
- consumer behaviour and expectations in relation to digital content.

There is a pressing need for sector specific data; leading to sector specific policy initiatives which is reflected in the recommendations across the other working groups.

**"it seems likely that it is efficient for firms at the top of the supply chain to remain small and growth of individual SMEs not being a practical policy aim"**
Public policy should support all sectors reaching their full capacity for growth, as recognised by HM Treasury: *"Where there are good economic reasons for doing so, the Government has, and will continue to, build on this foundation by making microeconomic reforms to improve further the environment for productive and successful firms to flourish and grow*[24]*."* We warn against a creative industries policy focused primarily on multinationals in an industry made up of both a small number of large players and a large number of small enterprises.

**"The creative industries…could be of strategic importance to the UK…individually the sectors are unlikely to be as important and therefore understanding how to make cross-cutting policy is vital."**
We disagree. Creative industries are of strategic importance both collectively and individually. For example, the music sector alone is clearly of strategic importance to the UK's global position both economically and culturally. It also has clear collateral impact on other business sectors which should be taken into consideration. [Please refer to "characteristics of the music sector" in the introduction of this report.]

[24] *Productivity in the UK*, HM Treasury, 2000