# UCL Art Futures

# Creative IP: Monetising creative online content

**On 14 December 2020, UCL Innovation & Enterprise** held an interdisciplinary roundtable discussion on processes of value generation and capture in the creative digital economy. The purpose of the roundtable was to bring together artists, activists, academics, policy makers, and industry representatives to take stock of the current state of play and to consider useful pathways towards further resolution. This high-level briefing note summarises and builds upon the roundtable discussion, and is intended to spur future action, engagement, and collaboration on these vital issues.

**Roundtable participants** were:

* **Sarah Albala**, Policy Fellow, UCL Institute for Innovation and Public Purpose
* **Professor Stella Bruzzi** (chair), Dean of UCL Faculty of Arts and Humanities
* **Cade Diehm**, Founder, New Design Congress
* **Amanda Harcourt**, Lawyer and Consultant, Intellectual Property and Copyright
* **John Howkins**, Global strategist and author on creativity, innovation and work
* **David Humphries MBE**, Head of Research Development and Strategy, Intellectual Property Office
* **Peter Jenner**,Music manager and record producer
* **John Newbigin OBE**, Founder and first Chairman of Creative England (from 2011 to 2018)
* **Paul O’Hagan**, Songwriter/arranger, studio engineer, producer and music educator
* **Oliver Patel**, School Manager and Research Associate, UCL Slade School of Fine Art
* **Dr Anne Preston**, Associate Professor, UCL East
* **Kieren Reed**, Director, UCL Slade School of Fine Art
* **Dr Michael Reynier**, Principal Partnership Manager, UCL Innovation & Enterprise
* **Gilane Tawadros**, Chief Executive of DACS
* **Jo Townshend** – Principal Partnerships Manager, UCL Innovation & Enterprise
* **Dr Helen Tsui** – Partnerships Manager, UCL Innovation & Enterprise

**Explanatory note:** *This briefing note primarily focuses on music and the visual arts, with occasional reference to the wider creative industries. The terms ‘artists’ and ‘creators’ are used interchangeably and in their broadest sense.*

## Key messages

* The COVID-19 crisis has had a hugely detrimental impact on the income of artists and the financial propsects of large segements of the creatives industries.
* In order to advance fairer economic and financial outcomes, there should be a rebalancing of power and resources, away from major institutions and back to artists and creators, to create more mutually beneficial and sustainable relationships and structures.
* An enhanced and robust ‘reputational ecosystem’ must be built and maintained, to ensure proper attribution and fairer monetisation of creative work.
* Targeted education and training of artists and creators is vital, to give young talent the tools to monetise their work and successfully navigate and thrive in their careers.
* Ample technological tools and innovations exist to achieve these ambitious objectives, but there is also an important role for targeted public policy and legislation.

## Background

Artists and creatives invest a huge amount of their time and resources into creating work. It is often their core livelihood and primary source of income. This work is of huge benefit to the economy and society. [According to the Department for Digital, Culture, Media & Sport (DCMS)](https://www.gov.uk/government/news/uks-creative-industries-contributes-almost-13-million-to-the-uk-economy-every-hour), the creative industries contributed more than £111 billion to the UK economy in 2018. However, an [Artists’ Union England survey](https://www.artistsunionengland.org.uk/aue-solidarity-fund-for-members/) of visual artists found that two thirds make less than £5,000 per year from their creative practice. Such figures indicate the precarious economic reality for many in the creative industries.

These trends have been exacerbated by the COVID-19 crisis, which 73% of artists claim has negatively affected their income, according to a [survey of professional artists by creativehub](https://creativehub.io/wp-content/uploads/2020/05/COVID-19-creative-industry-survey.pdf). A [sector-wide survey of visual art workers](https://static1.squarespace.com/static/520e251fe4b098edc0eedeaf/t/5ece81257fb104416485f0da/1590591788835/CVAN%2BCOVID-19%2BSummary%2B-%2Bview.pdf) by Contemporary Visual Arts Network (CVAN) published in May 2020, found that 44% of respondents had permanently lost work since the first lockdown. 58% were worried about their ability to secure future work. Emergency financial support provided by Arts Council England is welcomed, but additional and continued funding is crucial throughout the course of the COVID-19 crisis and economic recovery.

A [report by the Creative Industries Federation](https://www.creativeindustriesfederation.com/sites/default/files/inline-images/20200716_OE_Slides_new%20ACE%20data%20-%20Clean%20-%20with%20NEMO%20caveat.pdf) predicted that the likely economic impact of COVID-19 on the creative industries will be a £77 billion fall in turnover (compared with 2019) and 400,000 jobs lost in 2020. Furthermore, the Contemporary Visual Arts Network (CVAN) has highlighted that the expansion of freelance ‘gig’ economies has put countless individuals in the visual arts sector at high risk of financial hardship. Small organisations and independent practitioners, especially disabled and neurodivergent artists, and artists from BAME backgrounds, face a complete loss of livelihood and are most vulnerable to employment precariousness.

It is not an exaggeration to claim that this period is an existential threat to many artists, as well as segments of the wider creative industries. Different sectors have faced differential types and levels of impact. For example, virtually all venue and event operators have been adversely impacted, with some exploring online programming and experiences. However, this is not always economically fruitful. For example, the Royal Opera House had been screening many of its performances for free during the lockdowns. They have only recently started introducing a small charge to watch performances.

## Redistributing power back to creators and artists

There is a strong consensus that the balance of power is increasingly tilted away from creators, artists, and grassroots collectives, in favour of major institutions such as large online platforms, record labels, and flagship art galleries. The rise and dominance of Spotify, and its immense power vis-à-vis musicians, who are left with little choice but to upload their music to the streaming platform despite the typically poor financial compensation, illustrates this trend. Across the creative industries, such power imbalances and power asymmetries have strengthened in recent years and have become deeply embedded in our systems of artistic creation and monetisation.

It is now imperative for power and resources to be redistributed back to those who create artistic work, as well as those who support the creation of artistic work. From a moral perspective, the current situation is untenable, as artists are often disenfranchised from their own work, for example through receiving insufficient payment or inadequate attribution. Furthermore, from an economic perspective, redistributing and rebalancing power and resources would strengthen the creative industries in the long-term, to the benefit of the UK’s economy, associated sectors, and wider society. This is because it would enable and encourage existing and future artists, in greater numbers, to pursue successful, sustainable and financially rewarding careers, thereby enhancing the richness of talent, innovation and diversity in the UK’s creative industries. Put simply, it would enable artists to thrive, to the benefit of us all.

This is not to say that powerful institutions are inherently bad or should be penalised or dismantled. We should not pit creators and artists against institutions; this is certainly not good versus evil. Indeed, institutions such as record labels, online platforms, and art galleries are vital enablers for artists when it comes to activities linked to creating, refining, disseminating, and ultimately monetising their work. It has been proven that the ‘DIY’ model, whereby artists go it alone without the support of well-resourced institutions (and the economies of scale they provide), is unsustainable, inefficient, and does not work much of the time.

Instead, our goal should be to create mutually beneficial relationships for all participants in the creative industries ecosystem, from solo artists to the biggest online platforms. We want to create symbiotic and sustainable relationships between artists and their enabling institutions, in acknowledgement that although institutions provide vital services and functions, artists deserve a better economic deal than what is currently on offer.

The Label Services model, a relatively modern system pioneered in the music industry, is an example of a more collaborative and fairer approach. With a Label Services deal, artists retain the economic and moral rights to their material, but still benefit from the support and services that an established record label provides. Under such an arrangement, artists pay the label for specific services, such as marketing and analytics, instead of signing a full record label contract. This model is in stark contrast to traditional record label deals, where an advance is paid to the artist, but the economic rights to the music are then signed away. Under such traditional arrangements, artists no longer own the copyright to their work and have thus divested their economic rights to it. This can lead to unfair outcomes and imbalances of power in the long-term.

The Label Services model is at the centre of a spectrum. On one extreme is the DIY model, whereby artists independently create, produce, and release their own music. On the other extreme is the traditional model, whereby labels completely buyout all economic rights to artists’ work, and may profit disproportionately in the long-term. Prominent artists such as Taylor Swift and Billy Bragg have opted for the Label Services model (with Universal Music and Cooking Vinyls respectively), and therefore retain the economic rights to their work.

Label Services is a collaborative model, fit for the digital age, which could potentially inspire more equitable approaches in other creative sectors. Some have argued that it is a model which could be extrapolated to, and adopted in, the visual arts. However, further research is required to demonstrate how and why this could work. Label Services is just one such example of how power can be rebalanced to facilitate more equitable outcomes for artists and creators. Innovative policy and legislation can also play a key role in driving forward this agenda, with further examples provided below.

However, there is no one size fits all answer to these problems. The Label Services approach, for example, works very well for established artists but is not as useful for talented artists at the beginning of their careers.  This highlights the need for a variety of solutions to redistribute power, acknowledging that what might work for established artists is different to what is required for new and emerging artists. On this point, there are a growing number of co-operative and collective organisations helping artists, especially in the music business (and especially in the US), to manage their affairs on a more just and equitable basis.

## Building and maintaining the reputational ecosystem

An important issue across the visual art and music sectors is that those involved in the creation of work often do not receive adequate (or sometimes any) attribution or credit for their work. This has negative knock-on effects for the ability of creatives and industry workers to monetise work.

Building and maintaining a robust reputational ecosystem, in which all individuals who contribute to the creation of artistic work are properly acknowledged, is vital in order for creatives to monetise their work, advance to new opportunities, and thrive in their careers. It is a crucial step on the road to redistributing power and resources in the creative industries.

There are several examples which highlight the weaknesses of the current reputational ecosystem. On music streaming platforms like Spotify, for example, the majority of people who worked to create or support the creation of the music are typically not featured in song credits. It was only in 2018 that Spotify introduced song credits, twelve years after the company was founded. These credits remain quite limited, listing the artists, songwriters, and producers. The many other individuals working in the background are sidelined and their contributions are not prominently credited. These ‘background’ workers, who perform vital roles from sound engineering to composition, are more likely to be gig economy workers from less advantaged or marginalised backgrounds, at least compared with those who are prominently credited.

This is not just a Spotify problem. There is a structural disincentive for record labels to maintain and publish robust attribution data for each song. This is because artists, including performers and songwriters, are usually not paid unless the revenue is “*directly and identifiably attributable to the work”.* This means that the more accurate and robust record label data for each song is, the more third parties record labels would have to pay (and in consequence the less non-attributable income record labels would receive). Record labels are therefore motivated–by highly profitable non-attributable income structures–to maintain ‘bad’ data. A lack of globally accepted data standards and labeling for works and exploitation exacerbates the problem.

Similarly, in the visual arts, many artists do not work independently to produce their work. This is especially true for large commercial artists, whose pieces command high fees and who are often part of bigger businesses. Such artists are often supported by session artists, including early career artists and students who work in their studio, providing a wide range of support functions and making important contributions to the final pieces. These session artists are usually not attributed in gallery exhibitions and other important forums. This can be particularly detrimental to artists at the beginning of their careers, especially if they have played a key role in the production of highly successful work and then seek further professional opportunities. Because of the lack of a robust reputational ecosystem, it is difficult to track who has contributed to what throughout their career, and this can perpetuate inequalities in the art world.

There are no major technical restrictions or obstacles which prevent many individuals from being simultaneously acknowledged in the ‘credits’ of work, whether it is a song or a painting. Indeed, this is standard practice for films and TV shows. Furthermore, there are innovative examples where a robust reputational ecosystem is maintained and deeply embedded in creative work. The video game Armello, created by the studio League of Geeks, contains a vast array of ‘Furry’ media artwork, produced by a network of artists from the Furry fandom. The entirety of the game’s artwork is prominently credited within the gameplay, with signatures and links to each artist’s website.

It is important to note that the Furry world is just one example of a growing number of alternative ecosystems, economies, and even currencies, of relevance to our enquiry. Although more mainstream, the US labor unions in TV and film are also worth highlighting, as they are outstanding examples of how collective organisation and action can effectively protect reputations and ensure fair pay in the creative industries.

## The importance of education, training and raising awareness

Education and training are vital in ensuring that artists can be economically empowered in their careers. From a young age, it is imperative for students in the arts to be taught about their (economic and moral) rights, the legal and economic context in which they will soon be operating, and the steps they can take to protect and monetise their work. Artists must also be supported to understand the power and value of their data, as well as the risks stemming from incomplete, inaccurate, or inconsistent information.

Although basic information on relevant topics like intellectual property is part of the art / music school curriculum, and this is also taught in other relevant creative sector educational settings, there should be an enhanced and more holistic focus on these broader aspects of relevance to pursuing successful and empowering careers. For example, agency theory, which explains and resolves disputes over priorities between principals (e.g. musicians) and their agents (e.g. record labels), could be taught to all creative artists. This would help many to successfully navigate the business relationships which will define their careers.

Whether it is negotiating contracts or understanding the nuances of copyright regulations across multiple jurisdictions, artists need more support from their educational institutions. Above all else, they need to be made aware of their rights, and be given the necessary tools to retain economic and moral control over their work.

## The technology exists to solve these problems

Whether we seek to redistribute power and financial resources back to artists and creators, or to create more robust reputational ecosystems, we are fortunate to have the technology and tools to build systems which can fulfill these ambitious objectives. The major challenges which artists face in monetising their work and pursuing sustainable careers relate to uneven and unbalanced distributions of power and resources, not technology (or lack thereof).

This is aptly demonstrated by the empowering ‘community of economic solidarity’ forged by the Furry fandom, and the system of commissioning art from a network of creatives and then prominently crediting those individuals within videogames. Despite the highly challenging economic climate of the past year, sales and commissions in the Furry fandom have somewhat held up, in part due to the prevalence of repeat commissions and the successful virtual Furry conventions.

One promising proposal for the visual arts is to create an authoritative registry which certifies artwork (e.g. for authenticity), tracks provenance, attributes creators, records worldwide sales, and automatically distributes revenues and payment when the artwork is bought and sold. The vision is for the equivalent of a land registry for art, with no single entity or institution in control.

Such a registry would be based on distributed ledger technology (i.e. blockchain) and would therefore be a decentralised, public database, which could have smart contract technology built in. Smart contracts could automatically execute payments to artists, without the need for intermediaries taking a large cut. This has the potential to greatly increase transparency and accountability in the art world, and could lead to fairer compensation for artists.

Further research is required to establish how the system would be developed and who would develop it – not least because blockchains can be both private (i.e. permissioned) and public (i.e. permissionless. A private blockchain might be susceptible to centralisation of power with a specific institution. For example, if the registry was developed by a major auction house, this may exacerbate some of the problems the registry seeks to solve. However, if properly developed and permissionless, the proposal for a blockchain-based ‘land registry for art’ could solve many problems, including fakes, forgeries, and inaccurate attribution of artworks. It could also rebalance power away from major auction houses and toward to solo artists.

Another technological solution, founded by musician Imogen Heap, is the [Creative Passport](https://www.creativepassport.net/). The Creative Passport is a ‘verified digital ID for music makers’, which enables users to update and manage verified information about themselves and their works, which can be shared with others. It is a free and decentralised web application, currently in beta mode, which works worldwide and across all major online platforms. According to the Creative Passport, which is a non-profit organisation, “*the global music industry currently generates billions in revenue each year with up to 50% of payments not making it to their rightful owners due to ageing and stretched systems, missing information and incorrect data. This means that each year, millions of artists are losing out.*”

[Auddly](https://auddly.com/), a mobile app for music makers, enables the registration of individual contributions to song recordings at the moment they are created (e.g. in the studio). When musicians play their part, their app logs that they have done so, and this is integrated with the recording software. This metadata can then be incorporated into online streaming platforms. Auddly, a self described ‘song data hub’ which aims to become “*the entire industry’s transparent reference point of what happens in studios worldwide, and make it accessible to those who need it to register, pay and credit the right people*”, is backed by Abba’s Bjorn Ulvaeus

Technological initiatives and applications like the Creative Passport and Auddly, which improve data accuracy and identity standards in the music industry, will ensure that artists receive more payments which are rightfully theirs. This is crucial, given that the proportion of revenue from rights is growing, in contrast to declining revenues from digital and physical sales of music.

More broadly, communities of ‘economic solidarity’ like the Furry fandom, demonstrate how technological tools can be developed and deployed to create new infrastructures, modes of collaboration, and ultimately, more sustainable and fruitful economic models for artists.

## Concluding remarks: the role of public policy and legislation

The complex problems and issues raised in this briefing note are not easy to solve, and will require multi-faceted responses across several domains. For example, there is a key role for education, training, and support at every stage in the careers of creators. The development and deployment of new technological tools, and the building of new, democratic infrastructure and platforms, is also required. Crucially, we also need further research into various promising avenues, including the blockchain based ‘land registry for art’ proposal, as well as the viability of the Label Services model being adopted in the visual arts.

There is also a significant role for public policy and legislation. Indeed, it is not feasible to rebalance power, to redistribute resources, and to enhance opportunity, all of which which are fundamentally political issues, without meaningful public policy interventions. Although these problems cannot be solved by government alone, policy makers nonetheless have a key role to play.

We are not able to suggest concrete and viable policy recommendations after just one roundtable discussion. However, the discussion and this briefing note serve to highlight the importance and value of continuing with in depth projects and enquiries on this important theme. These future initiaitves should be conducted with a view to developing a suite of policy proposals and recommendations. In the meantime, it is useful to identify promising policy areas which may present us with opportunities to tackle some of the complex issues this briefing note has raised.

Equipment levies, for example, can be deployed to bolster existing copyright regimes. They are additional taxes on the purchase and/or sale of equipment and electronic devices which can be used to store or copy text, picture, audio or video, such as memory sticks and audio recording devices. At present, there are 44 countries worldwide which have equipment levies in place. Although each country pursues a slightly different approach, the core purpose of these levies is to redstribute money to creatives and artists, who often lose out in other ways (e.g. from illegal file sharing and piracy).

Participants in our roundtable were optimistic that an equipment levy in the UK has the potential to positively transform the lives of creatives. It was noted that such lavies have a proven track record in a range of different countries, and they have garnered an estimated global revenue of £930 million in 2018 (including £332 million in Germany, £246 million in France, £11 million in Algeria, and £1 million in Malawi, which is the most recent country to adop an equipment levy).

Participants in our roundtable also emphasied the importance of the Artsit’s Resale Right, which does continue to be in place in the UK even after Brexit, despite being an EU law instrument. The Artist’s Resale Right means that artists can be entitled to a royalty when their work is resold in the EEA (or UK) for €1,000 or more, with the involvement of an auction house, gallery or dealer. In 2019, this mechanism redistributed £9.8 million to artists, although it has been criticised for [disproportionately benefiting successful artsits](https://www.theartnewspaper.com/comment/artist-resale-right-comment). Nonetheless, there were calls for an international treaty to expand and strengthen the Artsit’s Resale Right.