



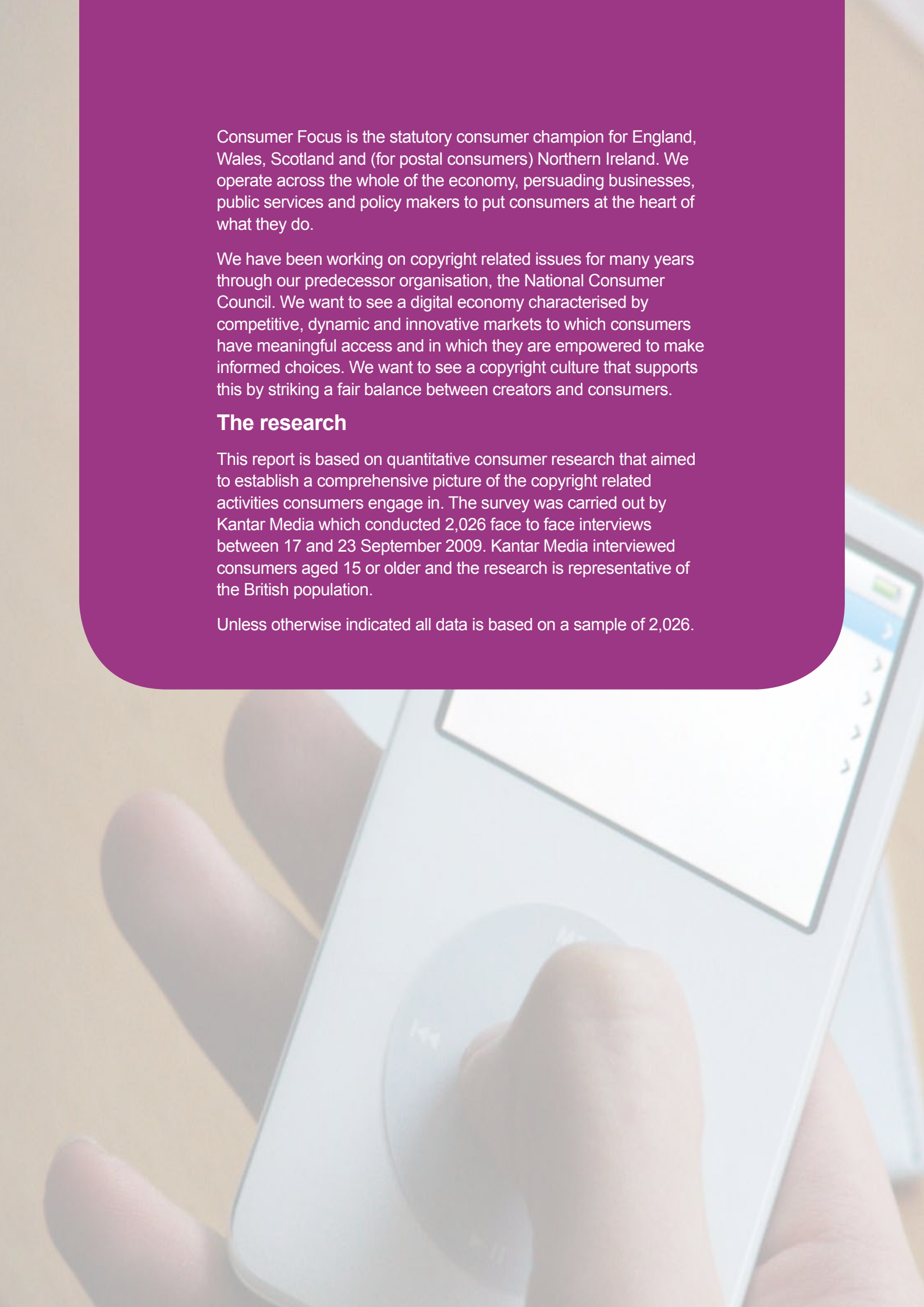
**Consumer  
Focus**  
Campaigning for a fair deal

# Time to change the tune

Consumer research briefing on copyright

February 2010





Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland. We operate across the whole of the economy, persuading businesses, public services and policy makers to put consumers at the heart of what they do.

We have been working on copyright related issues for many years through our predecessor organisation, the National Consumer Council. We want to see a digital economy characterised by competitive, dynamic and innovative markets to which consumers have meaningful access and in which they are empowered to make informed choices. We want to see a copyright culture that supports this by striking a fair balance between creators and consumers.

### **The research**

This report is based on quantitative consumer research that aimed to establish a comprehensive picture of the copyright related activities consumers engage in. The survey was carried out by Kantar Media which conducted 2,026 face to face interviews between 17 and 23 September 2009. Kantar Media interviewed consumers aged 15 or older and the research is representative of the British population.

Unless otherwise indicated all data is based on a sample of 2,026.

# Digital technologies and copyright

It is practically impossible for consumers to infringe copyright law as part of their daily lives if they do not use digital technology. Only 29 per cent of British consumers did not engage in any of the copyright related activities we surveyed. This falls further to 19 per cent for consumers aged between 15 and 24, but rises to 47 per cent among consumers aged 65+.

## Use of digital technologies among consumers

The use of digital technology by British consumers varies significantly depending on age.

While some digital technologies are used by a high proportion of consumers across all ages, such as mobile phones and DVD players others, such as games consoles, are predominantly used by young consumers.

Overall young consumers are most likely to have used a wide range of digital technologies which is consistent with the idea of young consumers as 'early adopters'. This is evident with regards to smart phones – 20 per cent of 15 to 25 year olds say they have used a smart phone in the past 12 months, compared to 11 per cent average among British consumers and two per cent for consumers aged 65+.

## Digital technologies used in the past 12 months, per cent

	GB total	15-24	65+
Mobile phone	83	90	63
DVD player	72	79	59
CD Player	67	62	65
Computer (PC, Mac or laptop)	65	81	32
Internet from any location	56	65	63
Digital camera or camcorder (either standalone or as part of your mobile or smartphone)	55	60	33
Sky+, V+ or any other personal video recorder (PVR)	34	44	14
iPod or any other MP3 or MP4 player	34	63	4
Games console (eg Wii, Playstation, Xbox)	33	61	2
Smart phone (eg iPhone or Blackberry)	11	20	2



# Copyright related activity

The survey commissioned by Consumer Focus asked British consumers about a wide range of copyright related activities – including those that are legal and illegal under current copyright law. Copyright law recognises consumer fair use rights by providing exceptions to, and limitations on, copyright owners' exclusive rights. Two of the most common copyright related activities undertaken by consumers are time-shifting and format-shifting, which are legal and illegal respectively under UK copyright law.

## Time-shifting

Recording a TV or radio broadcast for private use, solely for the purpose of viewing or listening to it at a more convenient time is legal under UK copyright law<sup>1</sup>. This exception to copyright owners' rights for the benefit of consumers was introduced in 1988 in response to videocassette recorders (VCRs) and cassette recorders becoming common household items. Today consumers more often time-shift using digital video recorders (DVRs)<sup>2</sup> which store digital TV programmes on hard disk so that they can be replayed at a later time. They are available as standalone hardware or as part of a 'plus box' subscription package such as BSkyB's Sky+ and Virgin Media's V+.

First introduced to the UK market in October 2000, DVRs spread with BSkyB launching the Sky+ service in 2001. Nearly nine million DVRs have been sold since 2000 and more than a quarter of UK households now own a DVR<sup>3</sup>. BSkyB estimated that there were 4.4 billion instances of time-shifting in 2008<sup>4</sup> and DVRs have had a profound effect on consumers TV viewing habits<sup>5</sup>. According to Ofcom 42 per cent of consumers said that they watched a greater variety of programmes since owning a DVR<sup>6</sup>.

DVRs are one the few digital technologies that are used by consumers across all age groups. A TV programme has been recorded at home to watch at a later date by 40 per cent of British consumers in the past 12 months. While the majority of the copyright related activities we asked consumers about are undertaken mostly by young consumers, consumers across all ages time-shift. Of those consumers who have used the relevant technology 70 per cent have time-shifted in the past 12 months.

### Activity undertaken in past 12 months, per cent

	GB total	15-24
Recorded a TV programme at home to watch at a later time	40	37

### Activity undertaken in the past 12 months – time-shifting amongst consumers who have used the relevant technology (ie DVRs such as Sky+ and video recorders), per cent (sample of 682)

	GB total	15-24
Recorded a TV programme at home to watch at a later time	70	65

<sup>1</sup> Section 70 'Recording for purposes of time-shifting' of the Copyright, Designs and Patent Act 1988 (<http://www.ipo.gov.uk/cdpact1988.pdf>)

<sup>2</sup> Digital video recorders (DVRs) are also known as digital television recorder (DTRs) or personal video recorders (PVR)

<sup>3</sup> The Communications Market 2009, Ofcom, August 2009, pg.39-41 (<http://www.ofcom.org.uk/research/cm/cmr09/cmr09.pdf>)

<sup>4</sup> British Sky Broadcasting Group plc Annual report 2008, BSkyB, July 2008, pg.3

([http://corporate.sky.com/documents/pdf/1ffb247d89b690c9cd3dc7a4f24f4eb/annual\\_report\\_2008.pdf](http://corporate.sky.com/documents/pdf/1ffb247d89b690c9cd3dc7a4f24f4eb/annual_report_2008.pdf))

<sup>5</sup> The Communications Market 2009, Ofcom, August 2009, pg.39 (<http://www.ofcom.org.uk/research/cm/cmr09/cmr09.pdf>)

<sup>6</sup> The Communications Market 2009, Ofcom, August 2009, pg.40 (<http://www.ofcom.org.uk/research/cm/cmr09/cmr09.pdf>)

## Format-shifting

Copying a file into another format is known as format-shifting. Despite format-shifting being illegal under UK copyright law, hardware and software companies sell a range of digital products designed for exactly this purpose. Format-shifting is especially common with music, as consumers seek to play their music on different hardware, ranging from stereos, laptops, mobile phones and other mobile devices. Consumers are also converting their existing vinyl and CD music collections into MP3. Converting a vinyl or tape collection into digital requires an analog-to-digital converter, which are now readily available. A computer or laptop with suitable disk drive allows consumers to format-shift CDs into MP3s, or any files from or to optical disks such as CDs, DVDs, HD DVDs and Blue-ray.

Ownership of MP3 players has grown steadily since 2000 and increased with the launch of Apple's iPod at the end of 2003<sup>7</sup>. Ownership of MP3/MP4 players<sup>8</sup> peaked in 2008 and then declined to 41 per cent in 2009. At the same time ownership of 3G mobile phone handsets, which provide high-speed data transmission and support multimedia applications, has increased. Smartphones, such as the iPhone, include an integrated music player and mass storage, removing the need for consumers to carry both a phone and an MP3/MP4 player<sup>9</sup>.

Overall 16 per cent of British consumers have copied a CD or DVD they have bought to an MP3/MP4 player, mobile phone or any other mobile device. This figure rises to 28 per cent for consumers aged 15 to 24. Naturally consumers who use digital technologies are significantly more likely to engage in copyright related activities. 38 per cent of consumers who have used MP3/MP4 players, or smart phones, in the past 12 months have format-shifted. This increases up to 42 per cent for 15 to 24 year olds, who have used smart phones.

### Activities undertaken in the past 12 months, per cent

	GB total	15-24
Copied a CD or DVD you have bought to an MP3/MP4 player such as an iPod, a mobile phone or any other mobile device for your own use	16	28
Copied a CD or DVD you have bought to a computer for your own use	14	23

### Activities undertaken in the past 12 months – format-shifting among consumers who have used the relevant technology, per cent (sample of 225 for smart phones, 682 for MP3/MP4 players, and 1,671 for mobile phones)

	GB total	15-24
Smart phone (Blackberry or iPhone)	38	42
iPod or any other MP3 or MP4 player	38	38
Mobile phone	18	29

<sup>7</sup> The Communications Market 2004, Ofcom, August 2004, pg.10 ([http://www.ofcom.org.uk/research/cm/cmpdf/cmr04\\_print/cmo.pdf](http://www.ofcom.org.uk/research/cm/cmpdf/cmr04_print/cmo.pdf)) & The Communications Market 2005, Ofcom, August 2005, pg.20 ([http://www.ofcom.org.uk/research/cm/cm05/cmr05\\_print/comms\\_mkt\\_report05.pdf](http://www.ofcom.org.uk/research/cm/cm05/cmr05_print/comms_mkt_report05.pdf))

<sup>8</sup> Digital music and movies come in a range of formats, most commonly MP3 and MP4, as well as others. Many portable media players, such as iPods support a range of formats. When we refer to 'MP3/MP4 players' we mean all portable digital media players.

<sup>9</sup> The Communications Market 2009, Ofcom, August 2009, pg.304 (<http://www.ofcom.org.uk/research/cm/cmr09/cmr09.pdf>)

# Consumer perception of copyright law

We asked consumers which activities they thought were illegal under current copyright law. The results show that, particularly with regards to format-shifting, UK copyright law is not in line with consumer expectations. Only between 15 and 26 per cent of British consumers thought that format-shifting was illegal. This means that three quarters of British consumers believe that it is legal, while in fact it is not. We also asked consumers what they thought should be illegal under current copyright law and only between nine and 14 per cent of British consumers thought that format-shifting should be illegal.

## Expectations and opinions about format-shifting and time-shifting, per cent

	GB total		Actual legal status
	Is illegal under current law	Should be illegal	
Copying a CD or DVD you have bought to another format so that you have a copy in more than one location	26	14	Illegal
Copying a CD or DVD you have bought to a computer for your own use	17	10	Illegal
Copied a CD or DVD you have bought to an iPod, mobile phone or any other mobile device for your own use	15	9	Illegal
Recorded a TV programme at home to watch at a later time (on a video recorder or Sky+ for example)	5	3	Legal

## Opinions on copyright

After providing consumers with a brief explanation of UK copyright law we surveyed them on their opinions of the law.

Copyright law applies to artistic works such as books, films and music. Copyright has also been expanded to cover software and databases.

In UK copyright law the copyright owner has the exclusive right to copy the work, to perform or show the work in public, to distribute copies to the public and to make adaptations of the work.

Current UK copyright law only provides few exceptions to these exclusive rights, such as, for example, recording a TV programme to watch it at a later time.

This means that even after consumers have purchased a copyrighted work they do not have the automatic right to copy the work onto another device, such as an iPod, or adapt the work, regardless of whether it is for personal use or non-commercial purposes.

Overall the majority of consumers are confused about copyright law, with 73 per cent agreeing that they are never quite sure what is legal and illegal under current copyright law.

## Opinion on copyright, per cent

	Agree	Neither agree nor disagree	Disagree
I'm never quite sure what is legal and illegal under current copyright law	73	16	10

57 per cent of consumers agree that they should be able to copy copyrighted works for their own use. But most of the copying undertaken by consumers for their own personal use, such as format-shifting, remains illegal.

### Opinions on copyright, per cent

	Agree	Neither agree nor disagree	Disagree
I should be able to copy copyrighted works for my own use	57	19	23
It's impossible to enforce current copyright law now that we have digital technologies	61	20	16

Copyright law has a 300 year history and has evolved over time to adapt to new and emerging technologies. However the bulk of UK copyright law has been established before digital technologies became common consumer items, and there is an urgent need to adapt copyright law further so that it remains relevant in the digital age. According to 80 per cent of consumers copyright law should be updated now that we have digital technologies. It was also agreed by 82 per cent of consumers that copyright law should achieve a fair balance between the interests of artists and consumers.

### Opinion on copyright, per cent

	Agree	Neither agree nor disagree	Disagree
UK copyright law should be updated now that we have digital technologies	80	13	5
Copyright law should achieve a fair balance between the interests of artists and consumers	82	12	4



**We asked consumers:**

‘Do you think consumers need more information about copyright law? Or do you think that copyright law should be updated to better suit current consumer trends?’

# How consumers obtain content online

Our research shows that consumers who have used the internet in the past 12 months obtain copyrighted content through a variety of means. Among consumers that have used the internet in the last 12 months take-up of legal content services for music and TV is high. Overall the use of filesharing networks, on which copyrighted content may be shared in violation of copyright, is reserved to a minority.

The filesharing of music and movies is predominantly undertaken by consumers aged 15 to 34. This age group is also most likely to have streamed music or movies online, and to have bought music or movies online. Overall significantly more consumers, across all ages, have streamed or purchased music and movies online, as opposed to filesharing movies and music. This is despite filesharing being around for more than 10 years, while legal services have only proliferated in the UK during the past four years.

Activity undertaken in past 12 months by consumers using the internet, per cent (sample of 1,129)	GB Total	15-24	25-34
To use the BBC iPlayer or 4OD	39	52	38
To stream videos (eg on YouTube)	34	56	43
To purchase music CDs	33	37	33
To purchase movie DVDs	30	31	31
To stream music (eg digital radio via the internet, Spotify)	22	40	25
To purchase music in MP3 or MP4 format (eg on iTunes or AmazonMP3)	21	36	24
To purchase movies in digital format (eg on iTunes)	7	13	10
To file share music (eg Limewire, Bittorrent, etc)	8	20	14
File share movies (eg Limewire, Bittorrent, etc)	4	8	8





**We asked consumers:**

'Have you ever copied a CD you have purchased to your MP3 player or tape?'

Our research also suggests that a significant proportion of consumers, around 50 per cent, who fileshared music and movies in the past 12 months have also used legal online services. The fact that use of legal services among filesharers is greater for music than film most likely reflects the fact that an increasing number of legal music services have gone online in the past 12 months.

**Use of legal online music services by consumers who have fileshared music in the past 12 months, per cent (sample of 95)**

	GB Total	15-24	25-34
To purchase music CDs	46	41	52
To stream music (eg digital radio via the internet, Spotify)	57	56	61
To purchase music in MP3 or MP4 format (eg on iTunes or AmazonMP3)	46	50	55

**Use of legal online movie services by consumers who have fileshared movies in the past 12 months, per cent (sample of 44)**

	GB Total	15-24	25-34
To stream videos (eg on YouTube)	67	77	59
To use the BBC iPlayer or 4OD	58	71	41
To purchase movie DVDs	46	47	35
To purchase movies in digital format (eg on iTunes)	18	12	18

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