



Negotiating like a Diva: Preserving Creative Autonomy in the Music Industry

Dr Mary W Gani*

Abstract

It has been asserted that artists typically encounter difficulties in negotiating for creative autonomy in music industry contracts. However, it may be argued that female artists experience even more difficulties while challenging male-dominated power structures in efforts to preserve their creative autonomy. Furthermore, it has been observed that women are statistically underpaid in relation to their male counterparts and may be hesitant to negotiate for better conditions. This article highlights the hurdles that certain international divas have experienced in relation to their creative autonomy, juxtaposed against negotiating strategies or "power moves" that they have made in order to reclaim creative control. It thus establishes the contributions that they have wittingly or unwittingly made to the legal discourse on creative autonomy. In codifying these practical, lived contributions to the discourse on creative autonomy, the article emphasizes the need for female recording artists to take proactive measures towards negotiating for the preservation of their creative autonomy.

Keywords

Negotiating, creative autonomy, diva, copyright law, music industry.

I. INTRODUCTION

It has been noted in the academic discourse on women in popular music spaces, that there have been historical barriers to entry for women seeking careers in certain popular music genres.¹ While some women have successfully challenged the status-quo, the existence of these barriers may constitute an affront to their creative autonomy. This article addresses the problems that female recording artists may encounter in the course of negotiating and managing contractual relationships in the music industry. More specifically, it highlights avenues through which contract relationships can undermine and obviate the enjoyment of

* Dr Mary W Gani, PhD (London), LL.M (Kent), Barrister and Solicitor (Nigeria). ORCID ID: 0000-0003-0812-8626.

¹ S Whiteley (ed), *Sexing the Groove: popular Music and Gender* (Routledge, 1997) xix.

creative autonomy particularly for female artists. With regard to women negotiating in the work place, it has been asserted that the rather pervasive, prescriptive gender roles in society have the effect of making women generally more reticent to negotiate compensation, as it constituted social risk.² While this argument was made in specific relation to compensation negotiations, it may be argued that negotiations for creative autonomy may be fraught with as much social risk for women, especially in creative industries where there may be as many physical as there are incorporeal barriers to entry.

This article uses multi-jurisdictional and multi-disciplinary approaches to consider problems and lessons for women negotiating music industry contracts in situations where the preservation of their creative autonomy is at stake. The multi-disciplinary nature of this article derives from the legal and sociological arguments that the article will make. On the one hand, the legal arguments on contract negotiation and creative autonomy are rooted in the law of contracts, and copyright law and theory. On the other hand, this article uses a sociological lens to undertake dynamic observation of certain “divas” and the ways in which they have protected their creative autonomy in their music industry dealings.

The term “diva” has been considered as the pop culture equivalent of 19th century “prima donnas,” who were female, opera singing sensations. The 20th and 21st century characterisation of divas consists of traits such as impressive vocal capabilities, innovative performance style and image, and imaginative composing and authorship.³ The main contribution of this article is the deduction of specific principles from certain contemporary yet prolific divas, who have made practical but uncodified contributions to the discourse on creative autonomy through their business dealings. It is important to note that while this article often refers to recording artists (or artists) and authors in the same vein, artists and authors are not necessarily always synonymous. When this article refers to artists, it will refer to artists who are also authors of some element of the music that they perform.

The article makes arguments that are centred on the principle of “creative autonomy,” as an intrinsic concept within copyright law and theory.⁴ “Creative autonomy” for authors has been defined as “authors absence of, or ability to grapple with external pressure to alter their authorial direction.”⁵ This definition will naturally apply to recording artists who double as authors of some element of their performances. In relation to artists who are not necessarily authors, this article will adopt the same definition, but will extend the idea of liberty in “authorial direction” to mean liberty in “creative direction.”

II. CREATIVE AUTONOMY WITHIN COPYRIGHT LAW

Artists who are singer-songwriters enjoy the protection of copyright as well as performers’ rights. Copyright under UK law confers on authors the exclusive economic rights to reproduce, distribute, perform, communicate to the public, adapt, lend and transfer works in which their copyright subsists,⁶ for the duration of the life of the author and an additional 70 years. Performers’ rights under UK law evolved as a result of new developments in copying technology, and these rights empower a performer to prevent their performances from being

² HR Bowles, and KL McGinn, ‘Gender in Job Negotiations: A Two-Level Game’ (2008) 24(4) *Negotiation Journal* 393, 401.

³ L Lister, ‘Divafication: the Deification of Modern Female Pop Stars’ (2001) 25 (3-4) *Popular Music and Society* 1, 1-2.

⁴ M Gani-Ikilama, ‘Copyright Theory and a Justificatory Framework for Creative Autonomy in Cultural Industries’ (2016) 6(2) *QMJP* 154, 173.

⁵ *Ibid*, 157.

⁶ Section 17-21 and section 90 Copyright, Designs and Patents Act, 1988; hereinafter referred to as CDPA 1988 (UK).

recorded, reproduced, distributed, or made available to the public without the performer's consent.⁷ Performers rights are also exclusive property rights which the law confers on performers for the duration of 50 years from the year of performance or from the year when the recording of the performance was released,⁸ and the right may be transferred.⁹ The distinction between authorial copyrights and performers' rights is important for discussions on creative autonomy, because of the ways in which affronts to creative autonomy may involve both classes of rights. Creative autonomy has been defined as "authors' absence of, or ability to grapple with, external pressure to alter their authorial direction."¹⁰ This definition reflects the notion that the exercise of creative autonomy may necessitate grappling effectively with conflicting ideals or external resistance. The importance of creative autonomy for artists is underscored by the assertion that artists, who may also be authors, usually have their individual stylistic intentions, values, inclinations and ideals that they may wish to express in their music.¹¹

Accordingly, it may be argued that when artists are prevented from exercising their creative autonomy, the results can have far-reaching effects on the volume and variety of creative works available in a world that currently operates on creativity-driven economies.¹² The question may then be asked as to whether copyright law caters for the economic importance of creative autonomy. In relation to copyright theory, support for creative autonomy may be argued using both deontological and consequentialist theories propounded as justification for copyright, and traces of creative autonomy are visible in aspects of substantive copyright law.

In terms of copyright theory, common law traditions have usually been bifurcated as deontological or consequentialist. However, despite their apparent polemic nature,¹³ it has been asserted that critical considerations of both schools of thought reveal creative autonomy as an underlying theme, or allude to its importance.¹⁴ In deontological reasoning, Locke, Kant and Hegel are often cited as canonical texts, and each of their arguments convey a presupposition of the intrinsic importance of creative autonomy.¹⁵ With regard to consequentialist reasoning, it has been argued that the traditional formulaic approach to copyright as a balance between ensuring access to cultural goods and providing incentives for creative endeavour, should be revised to include creative autonomy for authors (and artists).¹⁶

Allusions to creative autonomy may also be observed in certain aspects of substantive copyright law, such as the judicial definitions for the requirement of originality, the vesting of copyrights as exclusive author's rights, and the legal distinctions between authorship and

⁷ Section 182-184 CDPA 1988 (UK).

⁸ Section 191A CPDA 1988 (UK).

⁹ Section 191B CPDA 1988 (UK).

¹⁰ *Ibid*, 157.

¹¹ K Negus, 'Authorship and the Popular Song' (2011) 92(4) *Music and Letters* 607, 629.

¹² R Towse, 'Creativity, Copyright and the Creative Industries Paradigm' (2010) 63(3) *Kyklos* 461, 462; I Hargreaves, 'Digital Opportunity; a Review of Intellectual Property and Growth' (2011) an Independent Report available: <http://www.ipo.gov.uk/ipreview-finalreport.pdf> (accessed 20 November 2019) 3.

¹³ Deontological theories on copyright (and other forms of intellectual property) address their justification of rights as intrinsic elements of nature, and their arguments often devolve from the centrality of God and the inherent freedom of man, S Veitch *et al*, *Jurisprudence: Themes and Concepts* (Routledge-Cavendish, 2007) 27; whereas, consequentialist arguments have been made on the basis of economic considerations and have been distilled into the dual consideration for a balance between access to public goods on the one hand, and incentives for creatives on the other, WM Landes and RA Posner, *The Economic Structure of Intellectual Property Law* (The Belknap Press of Harvard University Press, 2003) 11.

¹⁴ M Gani-Ikilama (n4) 173.

¹⁵ *Ibid*, 161; A Rahmatian, *Copyright and Creativity: the Making of Property Rights in Creative Works* (Edward Elgar, 2011) 69.

¹⁶ Gani-Ikilama (n4) 173.

ownership. These legal concepts place the author as the focal point. With regard to the requirement for originality, copyright law in the UK and in other common law countries provide copyright protection only for original copyrightable works.¹⁷ In practical terms, the requirement of originality may be interpreted by different standards depending on jurisdiction, as the Nigerian standard requires the exercise of an author's "effort, skill and judgment,"¹⁸ and the UK standard requires a work to be the exercise of an "author's own intellectual creation."¹⁹

Copyright law's focus on authors' effort and intellectual creation may be considered as tacit acknowledgement of creative autonomy. However, it may be argued that clear and express provisions for creative autonomy within the law is essential. In the absence of legal protection, it may therefore be important for artists to adopt protective measures in the course of their business deals. This article will identify and discuss some practical methods that certain divas have used in managing affronts to their creative autonomy.

III. BARRIERS TO CREATIVE AUTONOMY FOR FEMALE RECORDING ARTISTS

Business interactions in the music industry typically feature the licensing, assignment and re-assignment of copyrights. With licensing, copyright owners may grant a person or company the exclusive or non-exclusive rights to exploit the whole or a part of their copyright works, whereas with assignments, copyright owners transfer the whole or a part of their copyright to a person or a company.²⁰ In the process of conducting such business, the creative autonomy of artistes of all genders may be jeopardised.²¹ In cases where the recording company has the ultimate right to approve what the artist releases to the public, recording companies may restrain artists from expressing their autonomy in the choice of songs to release, thus constituting an "unfair restraint of trade."²²

While such problems are not peculiar to female artists, there are certain societal and industry pressures that apply mostly to women in the music industry. The next sections identify the apparent endemic difficulty for women to negotiate higher remuneration and consider whether the hesitation to negotiate also extends to hesitation to negotiate for creative autonomy. It will consider the effects of male-dominated power structures on women's creative autonomy, especially in the age that preceded the "Me-too" movement. It will then discuss specific divas and their unique problems.

a. *Barriers against Women in Negotiations*

People of every gender may encounter situations in the workplace that may require negotiation on issues such as business terms, unfair work terms, the need for reasonable workplace adjustments, and remuneration. While the need to negotiate is not peculiar to

¹⁷ Section 1(1)(a) CPDA 1988 (UK).

¹⁸ *Feist Publications, Inc v Rural Telephone Service Company*, 499 US 340 (1991), para. 11 (USA); Section 1 (2) (a) Copyright Act C28, LFN 2004 (Nigeria) and *Ladan v Sha Kallo Publication Co Ltd* (1972) NCLR 428.

¹⁹ Art 1(3), Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs; art 6, Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights; art 3(1), Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the Legal Protection of Databases; C-5/08 *Infopaq International A/S v Danske Dagblades Forening* (2009) ECLI:EU:C:2009:465 (EU and the UK).

²⁰ Section 90 CDPA 1988.

²¹ *Macaulay v Schroeder Music Publishing Co Ltd* [1974] 3 All ER 616, [1974] 1 WLR, 1308 (HL).

²² *Zang Tumb Tuum Records Ltd v Johnson* [1993] EMLR 61; *Silvertone Records Ltd and Zomba Music Publishers Ltd v Mountfield* [1993] EMLR 152.

women, it has been observed that women typically encounter difficulties negotiating work-related issues,²³ perhaps stemming from hesitation, reticence or social discomfort. With regard to individual job negotiations, which may be analogous to recording contracts, it has been observed that men tend to negotiate higher starting salaries than women do.²⁴ In an interview on CBS This Morning, Oprah Winfrey recounted the difficulty she encountered while trying to negotiate a salary that was commensurate with her male colleagues in 1980.²⁵ In her narration, her bosses rejected her requests as preposterous, claiming that she did not have the same social responsibilities as her male counterparts and did not need to earn equal remuneration with them. She went on to narrate a similar experience in 1985 when attempting to negotiate a raise for her female subordinates and noted that the negotiation landscape for women in the 21st century has not changed much since then.

Although the current scholarship on women's difficulty negotiating appears to relate to work environments and financial remuneration,²⁶ it can be imagined that women may encounter the same or similar challenges when negotiating for the exercise of their creative autonomy in the context of recording contracts. In situations where they have domineering managers or agents who can exert controlling influence over an artist's music, style and creative choices, women may be hesitant to push back and resist affronts to their creative autonomy. It has been argued that,

"[I]n the absence of clear standards for agreement, parties search mental schema, past experience, and the negotiating context for cues for how to enact the negotiation. If negotiators carry gendered associations (eg, sex stereotypes) to the table or if the context of the negotiation is gendered (eg, a male dominated organization), then greater ambiguity allows more potential for those gendered associations or the gendered context to influence negotiation performance."²⁷

In light of the fact that creative autonomy is not expressly codified in copyright law,²⁸ negotiations around this issue, especially for women, leave room for ambiguity that can cripple women's ability to exercise or protect their creative autonomy.

b. Male-Dominated Power Structures

The preceding section argues that negotiating to preserve creative autonomy may be challenging for female artists in any context and shows that this difficulty for women may be exacerbated in male-dominated settings. However, in addition to difficulties with negotiation, male-dominated power structures in the music industry may present further challenges to female artists who seek to exercise their creative autonomy. In this regard, male-dominated power structures may, in themselves, constitute a threat to female artists' exercise of creative autonomy. This assertion may not currently be explicitly supported by available literature

²³ HR Bowles and KL McGinn, 'Gender in Job Negotiations: a Two-Level Game' (2008) 24(4) *Negotiation Journal* 393, 395.

²⁴ *Ibid*, 398.

²⁵ "Oprah: Hollywood Gender Pay Gap Conversation has hit Critical Moment" (14 October 2015) YouTube, available: <https://www.youtube.com/watch?v=yrujmyX0DZ0> (accessed 20 November 2019).

²⁶ HR Bowles and KL McGinn, (2008) (n23) 400; M Leonard, 'Putting Gender in the Mix: Employment, Participation, and Role Expectations in the Music Industries', in C Carter, L Steiner, and L McLaughlin (eds), *The Routledge Companion to Media & Gender* (Routledge, 2013).

²⁷ HR Bowles and KL McGinn (n23) 400.

²⁸ *Supra*, chapter 2.

however, the argument may be made on the basis of difficulties negotiating,²⁹ the pressure from unspoken societal hierarchies that emphasize the primacy of the male gender, under-representation of women in the industry³⁰ and issues related to sexual harassment.

With regard to under-representation, when it is not the norm for women to successfully negotiate the preservation of their creative autonomy in the music industry, it may be deduced that new female entrants in the industry may not contemplate the preservation of their creative autonomy as a possibility. This could create a vicious circle that can serve to restrain female artists from exploring their full creative potential and would keep them tied to the creative direction of male record label executives.

Sexual assault and harassment may have an untraceable anthropological history among humans, and it may therefore be surmised that the occurrence of sexual misconduct in the music industry could be as old as the industry itself. More recently, the “Me-Too Movement” sprang into popular consciousness,³¹ as several executives and highly placed decision makers in creative industries (mostly men) were exposed for sexual misconduct.

In the outpour of complaints and accusations that the “Me-Too Movement” generated throughout social and conventional media, the underlying current was a pervasive culture where some men in positions of power had taken sexual advantage of vulnerable people in their spheres of influence, who were mostly women. It has been noted that despite the public outcry against sexual harassment, it is a crime that many women are hesitant to report, and for which there is insufficient data.³² In relation to the music industry, cases of sexual harassment could effectively traumatise female artists to the extent that they are creatively stifled, or unable to express themselves. This is especially so when artists are financially incapable of maintaining independent careers and need the financial support that a recording contract can provide.

c. *Specific International Divas and their Hurdles*

The arguments made in this article may not be conclusive without concrete examples of female recording artists and challenges they have experienced in relation to their creative autonomy. The following sections narrate the experience of a few divas from different countries, whose stories portray their struggles to maintain creative autonomy in the music industry.

i. *Ciara – Ambiguous Contract Terms*

In US pop star Ciara’s dispute with Jive Records became known when she publicised her complaints about her recording contract, asserting that her label had ignored her creative choices, denied her their financial backing on recording projects, and had blocked radio stations from releasing songs she independently financed.³³ Unable to satisfy the label’s arbitrary demands or to comply with the creative direction of the label, she is quoted as saying, “I’ve

²⁹ *Supra*, chapter 3.1.

³⁰ M Leonard, ‘Putting Gender in the Mix: Employment, Participation, and Role Expectations in the Music Industries’, in C Carter, L Steiner, and L McLaughlin (eds), *The Routledge Companion to Media & Gender* (Routledge, 2013).

³¹ EC Tippett, ‘The Legal Implications of the Me Too Movement’ (2018) 103 *Minnesota Law Review* 229, 231.

³² Gash, A and Harding, R, “#MeToo? Legal Discourse and Everyday Responses to Sexual Violence” (2018) 7(2) *Laws* 1, 21, available at <https://www.mdpi.com/2075-471X/7/2/21#cite> (accessed 20 November 2019).

³³ E Ramirez, ‘Ciara Pleas to be Released from Jive’ (2011) available: http://rapfix.mtv.com/?p=8880feed/flux_content (accessed 20 November 2019).

tried to be a team player with the label only to have compromised what I truly believed.”³⁴ She thus publicly pleaded to be released from her recording contract, as had her label mate rapper Big Boi, who left Jive Records because the label criticised his album as being “a piece of art.”³⁵

ii. *Waje – Financial Constraints*

Waje, a Nigerian diva, recorded and publicised her emotional conversation with some of her friends about the financial difficulties of independently pushing a music career. Releasing the conversation in documentary format, she articulated the challenges that several other female artists may experience,

“I’m frustrated, I am really tired. I no longer believe that this thing is working. I am respected in this business, but there is also something to be said for bowing out when the applause is loudest. I do not have faith in it anymore. Nobody will say that I have failed or anything. The point is that I am not willing to do this thing anymore. Do you know how much I have invested in this career thing?”³⁶

In the current digital age, it is not unusual for artists to attempt to build independent careers in the music industry in order to avoid the stifling bureaucracy that could accompany working with recording companies, and in order to preserve their creative autonomy. However, Waje’s emotional outbursts indicate that there are financial barriers to success for independent (female) artists. This shows that financial constraints and being under-resourced, can in itself, constitute a hindrance to the exercise of creative autonomy for female artists.

iii. *Leona Lewis – Record Label Control*

Leona Lewis, from the UK, shot to the limelight when she won the British television competition, X Factor, in 2006, and earned a £1million recording contract with the record label “Syco Music.”³⁷ However, this relationship fell apart in 2014, with the report that, “it all came to a head when she was asked to make a covers album rather than writing and singing her own material.”³⁸ The singer is reported to have stated her concerns about the Label’s influence on her creative autonomy,

“Simon Cowell has been incredible but at the end of a day it’s a huge label now. I felt like at that stage all they were doing was holding me back from fulfilling my potential, to ask me to do a covers album was... there was no love in it. They weren’t giving me

³⁴ *Ibid.*

³⁵ ‘Jive Records Cockblocking Andre3000 from Big Boi Debut’, available: <http://www.imposemagazine.com/bytes/jive-records-cockblocking-andre3000-from-big-boi-debut> (accessed 20 November 2019); T Breihan, ‘Big Boi Beefs with Jive Records over Andre 3000 Collaborations’ (2010) available: <http://pitchfork.com/news/39069-big-boi-beefs-with-jive-records-over-andre-3000-collaborations/> (accessed 20 November 2019).

³⁶ ‘Waje - Music is not for me’, (20 March 2019) available: <https://www.youtube.com/watch?v=O8UcMoTcWe0> (accessed 20 November 2019).

³⁷ I Groome, I and N Ojumu, ‘A Moment like this; What is Leona Lewis up to Now, is She Doing X Factor: All Stars and is She Married?’ (4 October 2019) The Sun, available: <https://www.thesun.co.uk/tvandshowbiz/5837064/leona-lewis-x-factor-husband-age/> (accessed 20 November 2019).

³⁸ E Jupp, ‘Leona Lewis: The singer on her traumatic – but empowering – split from Simon Cowell’s label’ (13 September 2015) The Independent, available: <https://www.independent.co.uk/arts-entertainment/music/features/leona-lewis-the-singer-on-her-traumatic-but-empowering-split-from-simon-cowells-label-10499019.html> (accessed 20 November 2019).

any choice. So no, I said, we're done now. It's all good, I've still got so much love but we're done."³⁹

IV. DIVAS AND POWER MOVES: NEGOTIATING STRATEGIES FOR THE PROTECTION OF CREATIVE AUTONOMY

Despite the affronts to creative autonomy that female recording artists have experienced and may continue to experience, certain divas have made noteworthy efforts to secure or regain their creative autonomy in the course of their careers. This section considers divas from various parts of the world and analyses the resolute steps they took, in order to identify lessons and policy tools for the preservation of creative autonomy.

a. *Ciara*

After years of negotiating with her former label, and what appeared to be a career lull,⁴⁰ Ciara appears to have made steady gains in the last few years. She is reported to have launched her own record label,⁴¹ "Beauty Marks Entertainment," in an industry dominated by male-owned record labels. Upon leaving Jive Records, her career seemed to go quiet for a while before she picked up momentum. When she discussed her ownership of her masters, she is reported as having emphasized the importance of ownership, and the joys of exercising creative autonomy,

"When you feel like you have something that's creatively distinctive, you want to be able to get it out there at the right time. So being able to have that freedom and flexibility is so special."⁴²

The lesson from Ciara's experience is that in order to secure creative autonomy, artists may need to be determined and dedicated to the goal of creative autonomy. This would mean negotiating for it, and where possible, seeking independence from recording contracts. Although it may be difficult to seek to end a recording contract with a record label, persistence, a negotiation strategy, the support of fans, and a failing career are factors that may enable artists to sever ties with record labels.

b. *Waje*

In Waje's case,⁴³ this diva found a way to recover from the despondency for which she had come close to abandoning a music career. With regard to creative autonomy, it should be considered daring that she has continued to maintain an independent career in the music

³⁹ *Ibid.*

⁴⁰ *Supra*, chapter 3.3.1.

⁴¹ ToyaSharee, "Write it Down and then Follow Up! Ciara Talks Being her own Boss with Launch of Beauty Marks Entertainment" (9 February 2019) MadameNoire, available: <https://madamenoire.com/1059839/ciara-launches-beauty-marks-entertainment/> (accessed 20 November 2019).

⁴² N Pajer, 'Ciara Talks New Label, 'Levelling Up' to Be Her Own Boss: 'Tough Moments Build Your Character' (9 February 2019) Billboard, available: <https://www.billboard.com/articles/columns/pop/8497439/ciara-interview-leveling-up-beauty-marks-entertainment> (accessed 20 November 2019).

⁴³ *Supra*, chapter 3.3.2.

industry, despite the monumental difficulties she had decried.⁴⁴ It is noteworthy that, in maintaining her independent push of her career in the music industry, she turned the negative moment she had earlier experienced into a positive platform for opportunities. In this way, she rode on the wave of the rumoured end of her career and flipped her constraints into a publicity tool for her latest project, for which she earned worldwide famous Bono's acknowledgment and respect.⁴⁵

With regard to creative autonomy, Waje's experience shows that the enjoyment of creative autonomy may be costly, but that artists who are willing to find opportunities in negative situations, may still have a fighting chance at protecting their creative autonomy. Indeed, with the benefits of modern technology, there appears to be many artists around the world, currently exploring independent careers in the music industry.

c. *Beyoncé*

A cursory analysis of Beyoncé's career suggests that she considers her creative autonomy to be of immense importance. This view of the diva may be drawn from incidents in her career where she has taken decisive steps in this regard.

In a bold move, Beyoncé fired her father, Matthew Knowles, from his job as her manager - a position he had held since her childhood foray into the music industry, her years in Destiny's Child, and well into the early years of her solo career. She argued that she needed a real relationship with her father as opposed to a business one and asserted that father had begun to exert managerial control of her career in ways that restricted her autonomy. She is quoted as saying,

"When I turned 18 and started handling my business more, he went into shock. And we had our issues. I'd say "No" to something, and he'd book it anyway. Then I'd have to do it because I'd look bad [if I didn't]."⁴⁶

Although it may be considered a drastic move because of the family ties she had with her manager, Beyoncé's actions show the premium she placed on creative autonomy and emphasizes the need for artists to safeguard their autonomy even when the stakes are high. In another report that highlights the importance of creative autonomy as well as Beyoncé's negotiating prowess, she is reported to have negotiated an innovative deal with Uber. While the details of this deal may be difficult to verify, it has been reported thus,

"Four years ago, Beyoncé was offered \$6 (£4.65) million to perform for a corporate Uber event in Las Vegas. Instead of cold hard cash, Queen Bey asked for payment in equity – and now that \$6 million has turned into as much as \$300 (£232.4) million."⁴⁷

⁴⁴ 'Waje - Music is not for me' (n36).

⁴⁵ 'I'm not quitting music' - Waje rescinds decision' (10 April 2019) Jive Naija, available: <https://www.jivenaija.com/entertainment/music/im-not-quitting-music-waje-rescinds-decision> (accessed 20 November 2019).

⁴⁶ 'Talk about Letting your Father go: Beyoncé Opens up about Severing Professional Ties with Dad Mathew Knowles in Candid New Interview with Oprah Winfrey' (14 February 2013) The Mail Online, available: <https://www.dailymail.co.uk/tvshowbiz/article-2278742/Beyonce-opens-Oprah-Winfrey-severing-professional-ties-father-Mathew-Knowles.html> (accessed 20 November 2019).

⁴⁷ Refinery 29, available: <https://www.refinery29.com/en-gb/2019/05/232780/beyonce-uber-stock-investment-worth> (accessed 20 November 2019).

The elements of the deal that are public, if true, are reflective of the latitude that artists with creative autonomy may exercise. Exercising the option to receive payment in shares may be difficult for artists who are signed to 360 deals, and whose labels may be unwilling to bear the risk involved in accepting payment in shares. In this instance, Beyoncé shows that in relation to creative autonomy, artists must negotiate in ways that allow them to explore unconventional options.

Beyoncé again demonstrated the importance of maintaining creative autonomy in music industry contracts in the way she orchestrated her contract to perform at Coachella, the annual music and arts festival held in California with over half a million attendees.⁴⁸ In this regard, it may be presumed that in the details of this contract, she maintained her performers' rights to, or secured the licenses to the recording and distribution of her Coachella performances. She eventually released her performance as a documentary, which was featured as a Netflix Special, and received critical acclaim.⁴⁹ In this instance, what may be surmised as the exercise of creative autonomy, may have enabled the diva to earn significantly more money than just the performance fees for the festival. It is therefore apparent that the exercise of creative autonomy does not only satisfy an artist's creative vision but may also contribute to their financial profile.

V. CONCLUSION: DIVAS AND THEIR CONTRIBUTIONS TO THE DISCOURSE ON CREATIVE AUTONOMY

This article set out to show the contributions that certain divas have made to the discourse on creative autonomy. It described the legal landscape for creative autonomy and argued that although copyright theory and substantive law both allude to its importance, the law does not appear to make express provision for, or take recognition of, creative autonomy. The article then identified and discussed challenges that divas in various countries have experienced in relation to their creative autonomy. The article also showed that for the most part, these divas have taken responsibility for the narrative of their careers and have taken proactive steps to secure or recover their creative autonomy, in ways that may serve as reference points for policy discussions on creative autonomy.

In the absence of express legal protection for creative autonomy, certain divas, through their actions, have proffered practical tools for other artists to emulate in furtherance of the goal to preserve their creative autonomy. While this is the case, it is important to note that the actions of these divas have not necessarily re-shaped the landscape for female recording artist struggling to preserve their creative autonomy in music industry deals. Until copyright laws expressly recognise and provide for the preservation of creative autonomy, it appears that creative autonomy will remain a phenomenon that requires the deliberate negotiation and protection of individual artists who value it.

In the end, it is worth noting that the ability to negotiate for the preservation of creative autonomy is not the exclusive preserve of divas. New female entrants into the music industry are at liberty to negotiate deals that respect and represent their creative autonomy. This re-

⁴⁸ A O'Leary, 'What is Coachella? A Full Run-Down on the Star-Studded Festival, How it all Began and How You Could Get Tickets' (12 April 2019) Mirror, available: <https://www.mirror.co.uk/3am/celebrity-news/what-coachella-full-run-down-7785765> (accessed 20 November 2019).

⁴⁹ D Krepes, 'Beyoncé, Netflix Team for Coachella 2018 Concert Film 'Homecoming'' (7 April 2019) Rolling Stone, available: <https://www.rollingstone.com/music/music-news/beyonce-netflix-coachella-homecoming-818786/> (accessed 20 November 2019).

emphasizes the importance of acquiring knowledge on music industry practices, securing adequate legal representation, and utilising negotiating tools such as those highlighted in this article.