

## iCe Hotline

April 26, 2006

### FM BROADCASTERS OBJECT TO IPRS'S ACTIONS

FM radio channels are being threatened with action by the Indian Performing Rights Society (IPRS), for non-payment of license fees to IPRS. The FM channel owners have on the other hand been making the necessary payment to Phonographic Performance Limited (PPL), which is another collecting society.

In India, collecting societies are registered under Section 33 of the Copyright Act, 1957 to administer rights that copyright owners have in their works. Also, as per Section 33(3) of the Copyright Act, the Central Government will not ordinarily register more than one copyright society to do business in respect of the same class of works.

In respect of the Indian music industry, there are currently two established collecting societies, PPL and IPRS. PPL is known to represent music companies/record companies who hold rights in sound recordings while IPRS is recognized as representing authors of lyrics and composers of music. Further, PPL represents the class of copyright works that are "sound recordings" while IPRS claims that it represents the class of works, which are "musical works." The aforesaid information is provided on the websites of PPL and IPRS, which are <http://www.pplindia.org/aboutus.html> and <http://www.indiavibes.com/iprs/> respectively.

In spite of the above distinctions, there still remain some grey areas as to the requirements to pay license fee to both PPL and IPRS in relation to certain modes of exploitation of rights. As a result, there have been instances of deadlock between users of music and collecting societies.

There appears to be some merit in the stand taken by FM radio since it could be argued that FM radio is merely using the rights in the sound recording and therefore has secured the necessary license from PPL. However, the ambiguity that remains is whether by merely obtaining a license from PPL to use the sound recording the FM companies have comprehensively covered all the rights and licenses that they are required to take for the broadcast of the music from the sound recordings. Also, due to lack of clarity on the aforesaid issues, if license fee is paid to both PPL and IPRS there is a possibility that the same the authors and composers are being paid twice, i.e. by the sound recording producers and by the music users.

While the government is the licensor of the FM radio channels it has not provided clarity to the radio channel owners as to the entity from which the channel owners should obtain copyright licenses. In the context of the above situation, the radio channel owners intend to approach the Copyright Board for a hearing on these issues. However, as the Copyright Board does not often convene there is unlikely to be a speedy resolution of this matter.

This confusion and overlap could have been avoided by back-to-back arrangement between PPL and IPRS. It may also be helpful to look into the practices and arrangements of collecting societies in other jurisdictions who may have devised ways to avoid overlap in scope of functions of collecting societies.

- Sushma George & Gowree Gokhale

Source: *The Times of India* article dated April 23, 2006

### DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

## Research Papers

### Little International Guide (India) 2024

November 08, 2024

### Unmasking Deepfakes

October 25, 2024

### Are we ready for Designer Babies

October 24, 2024

## Research Articles

### The Bitcoin Effect

November 14, 2024

### Acquirers Beware: Indian Merger Control Regime Revamped!

September 15, 2024

### Navigating the Boom: Rise of M&A in Healthcare

August 23, 2024

## Audio

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

### Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

### Renewable Roadmap: Budget 2024 and Beyond - Part II

August 26, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

[Click here to view Hotline archives.](#)

## Video

### "Investment return is not enough" Nishith Desai with Nikunj Dalmia (ET Now) at FI8 event in Riyadh

October 31, 2024

### Analysing SEBI's Consultation Paper on Simplification of registration for FPIs

September 26, 2024

