



Music License Update – 14 Aug 2018

Dear Member,

1. On the above captioned subject, please refer our brief of May 2018 ([read here](#)) and update of 04 June 2018 ([read here](#)). Further to these briefs, placed below please find an update related to licenses issued by Indian Performing Right Society (IPRS).

2. As informed earlier, IPRS had been registered as a copyright society vide certificate dated 28-11-2017 to commence and carry on the copyright business in **Musical Work as defined in Section 2 (p) of the Copyright Act, 1957 and Literary Work Associated with Musical Work**. The said permission had been granted subject to certain conditions, one of which being that IPRS would take appropriate remedial action with regard to the observations as detailed in letter No.F.NO.07-01/2017-CO dated 28.11.2017 in the time bound manner and submit a report within 60 days. However, this condition has since been removed by the Government vide the fresh certificate issued to IPRS dated 08-06-2018.

3. It is understood that IPRS in addition to license fee / royalty in respect of musical or literary works associated with musical work is also asserting its right in respect of sound recording. In this regard, the following provisions of Copyright Act 1957 are relevant:

2(o). *“literary work” includes computer programmes, table and compilations including computer [databases];*

2 (p) *“musical work” means work consisting of music and includes any graphical notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music;*

2 (xx) *“sound recording” means a recording of sound from which such sounds may be produced regardless of the medium on which such recording is the method by which the sound are produced;*

2 (y) *“work” means any of the following works, namely :-*

- (i) a literary, dramatic, musical or artistic work;*
- (ii) a cinematograph film ;*
- (iii) a [sound recording];*

13. *Works in which copyright subsists – (1) subject to the provisions of this second and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,-*

- a) original literary, dramatic, musical and artistic works;*
- b) cinematograph films; and*
- c) [sound recording]*

33. *Registration of copyright society – (1) No person or association of persons shall, after coming into force of the Copyright (Amendment) Act, 1994 commence or, carry on the business of issuing or granting licenses in respect of any work in which copyright subsists or in respect of any other rights conferred by this Act except under or in accordance with the registration granted under sub-section (3):...*

4. Section 13 (1) of the Copyright Act envisages existence of copyright in various works including sound recordings. As per Section 2 (y) sound recording is a separate and distinct work. Section 33 further mandates that any person or association engaged in the business of granting licenses in respect of the work in which the copyright subsists shall be registered as copyright society. The certificate of registration granted to IPRS by the Government of India under Section 33 (3) of the Copyright Act is in respect of musical work and literary work associated with musical work only **and does not include the registration in respect of “sound recording”**.

5. It is therefore informed that in the absence of registration in favour of IPRS in respect of sound recording, IPRS cannot assert any right by seeking licenses in respect of sound recording. As mentioned in our previous update also, it is reiterated that license from IPRS will be applicable in case of live performance and not for sound recording.

6. For information / further necessary action as required.



Prakul Kumar
Secretary General