
A CRITICAL EXAMINATION OF COPYRIGHT LAW AND ITS INFLUENCE ON MUSIC STREAMING SERVICES

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ABSTRACT

The rapid growth of music streaming services has transformed the Indian music industry, shifting consumption patterns from physical sales and broadcasting to on-demand digital platforms such as Spotify, Gaana, JioSaavn, and Wynk. While these services give users unprecedented access to large musical libraries, the digital revolution has created difficult challenges in copyright protection, enforcement, licensing, royalty distribution, and the preservation of artists' rights in the global online marketplace. This article addresses the ambiguity of Section 31D of the Indian Copyright Act, 1957, which pertains to statutory licensing for broadcasting and public performance, and explores the current dispute regarding its relevance to online streaming platforms. The study critically analyses whether digital platforms qualify as “broadcasting organizations” under Section 31D of the Indian Copyright Act, 1957, and the implications of such classification for rights holders, streaming platforms, and consumers. The paper further examines the existing provisions of the Copyright Act, 1957, and the challenges involved in applying copyright laws in the digital age, and efficient tactics that organizations can use to guarantee that these rights are sufficiently protected. It also explores how the courts have interpreted and applied relevant provisions of the Copyright Act, 1957, with a focus on recent cases, in reaction to copyright infringement in the Indian music business. The study concluded that India’s copyright law provides a broad framework but lacks clarity in addressing digital realities. To ensure fairness and balance, the paper recommends legislative clarification of Section 31D, reforms in licensing and royalty distribution systems, and stronger protections for creators. A reformed copyright regime is essential to safeguard the rights of authors and performers while fostering the continued growth and innovation of music streaming platforms in India’s evolving digital ecosystem.

Keywords: Copyright Law, Music Streaming Services, Section 31D, Statutory Licensing, Royalty Distribution

Introduction

The music industry is one of the most vibrant and culturally significant facets of the country's entertainment landscape. Music has played an important role in human life since the beginning of the oldest communities, and it is undeniably a form of universal expression that culturally and emotionally connects both past and present generations. Music has a centuries-long history, evolving from traditional classical and folk forms to contemporary popular genres that appeal to a wide range of people worldwide. The significance of music in society has given rise to an industry encompassing all the concepts related to this theme, such as its organization, distribution, and profitability. This industry, which is mostly made up of many record labels, has had some really good times when people bought physical copies of music, which gave them control over making and selling music. However, the digital revolution has profoundly transformed the music industry landscape, presenting artists, copyright holders, and consumers with both unparalleled potential and significant problems.

Digital music services, such as Spotify, Apple Music, JioSaavan, and YouTube, have altered the way music is generated, disseminated, and consumed, providing unrivaled access to a massive collection of songs from across the world¹. However, the digital shift has resulted in an increase in copyright infringement, posing a serious danger to the music industry's economic viability and artists' livelihoods. The ease with which digital content may be copied, shared, and distributed online has made it more difficult for copyright holders to secure their intellectual property rights and enforce laws governing copyright.

In the music industry, copyright gives creators the exclusive right to reproduce, distribute, perform, and commercialize their musical creations. In India, these rights are principally safeguarded by the Copyright Act of 1957, which has been amended multiple times to reflect the evolving dynamics of the digital environment. Despite these statutory safeguards, the Indian music industry still faces significant challenges in enforcing copyright rules due to technical developments, insufficient awareness, and limits in legal and administrative mechanisms.

One of the primary challenges in safeguarding copyright in the modern era of streaming is how easily musical content can be copied and shared without permission. Unlike physical media,

¹ International Federation of the Phonographic Industry (IFPI), *Music Listening 2022: Engaging with Music* (2022), <https://www.ifpi.org/>

which may be controlled in a tangible way, digital musical content exists in a format that is easily replicated and distributed via the internet. This has resulted in a new type of piracy, in which copyrighted content is unlawfully posted to file-sharing sites, torrent networks, and unlicensed streaming services. These acts harm the economic interests of content creators and copyright holders, resulting in considerable financial losses and reducing the incentive to generate new content.

Another problem concerns the extent of Section 31D of the Indian Copyright Act, 1957, which provides the legal framework and statutory license for broadcasting musical and literary works and sound recordings². This Section, when read in conjunction with Rules 29 and 30 of the Copyright Rules 2013, allows any broadcasting organization to stream to its customers any previously published music or sound work by obtaining a compulsory license. However, there have been differing opinions regarding the statutory licensing of online streaming services, primarily because the Copyright Rules 2013 do not specifically include the term 'internet streaming'.

While the digital age has provided new potential for music creation and distribution, it has also exposed creators to serious risks of unlawful usage and exploitation. Addressing these issues necessitates a multifaceted strategy that includes legal reform, technological advancement, public awareness, and stakeholder collaboration. By enhancing copyright safeguards and promoting a mindset of respect for intellectual property, India can support the ongoing growth and creativity of its music industry, ensuring it remains a source of inspiration for future generations.

Objectives of the Study

This paper aims to critically examine how Indian copyright law affects music streaming services and the protection of creators' rights in the digital era. It intends to evaluate the provisions of the Copyright Act of 1957 and its changes pertaining to digital music distribution, with a focus on the ambiguity of Section 31D and whether streaming platforms qualify as "broadcasting organizations." The research examines the legal responsibilities of streaming platforms, such as obtaining licenses and managing royalties, and highlights major challenges related to regulation and enforcement. It also analyzes important judicial decisions and suggests

² Section 31D, The Copyright Act, 1957, read with Rules 29 & 30 of the Copyright Rules, 2013

legal and policy changes aimed at ensuring fair compensation and balanced growth.

Methodology of Research

This study's methodology is mostly qualitative, with the goal of gaining a thorough understanding of the difficulties involving copyright infringements in the Indian music industry. The study uses an analytical and descriptive method to investigate how existing legal frameworks work in practice and the obstacles that artists, producers, and stakeholders confront when enforcing copyright protection. This includes a critical examination of relevant statutes, such as the Indian Copyright Act of 1957 and its amendments, as well as case law and judicial interpretations that have established the contemporary legal environment. Data for this study were gathered from a variety of secondary sources, including academic journals, legal commentaries, government publications, industry reports, articles, and expert interviews, as available.

Evolution of Copyright Law and Music Industry in India

Definition of Copyright

Copyright is a type of intellectual property protection granted to creators of original works such as literature, art, music, and drama. It grants the creator the legal right to copy, distribute, perform, display, or license their work while prohibiting others from using it without permission. The concept of copyright is based on the idea that those who devote time, skill, and imagination to creating something unique should be rewarded with exclusive rights to their works. This legal structure ensures that the creators' rights are recognized and respected, allowing them to gain morally and financially from their time and effort.³

Copyright can be defined from both a legal and philosophical perspective. Legally, it is the legislative right granted to authors or creators to control the use of their original works for a set time period. Philosophically, it is founded on the idea of fostering creativity and innovation by ensuring that artists' work is not exploited without legal consent or recompense. Copyrights protect more than just physical items; they also cover intangible expressions that are fixed in a tangible medium. For instance, a musical composition that is recorded in audio form or a written script on paper can both be protected by copyright, provided they are original and show

³ Indian Copyright Rules, 2013, Rule 29

creativity.

Origins and Development of the Indian Copyright Act, 1957

India's copyright legislation began to take shape during British colonial rule, with the first Indian Copyright Act enacted in 1911, which was modeled after the British Copyright Act of 1911. Following independence, India passed its own Copyright Act in 1957, which has been amended multiple times to reflect developments in technology and global copyright norms. Notably, the Copyright Act of 1957 was updated in 1994 to ensure that India met its commitments under the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which was part of the World Trade Organization (WTO) framework. The modifications strengthened safeguards for computer software, sound recordings, and other digital works, bringing India's copyright legislation in line with global standards.

Transition of the Indian Music Industry

The Indian music industry has seen a tremendous revolution, driven by technical advancements and altering customer preferences. During the physical era, which lasted from the 1950s to the 1980s, music was primarily distributed through vinyl records, cassette tapes, and later compact disks. The reproduction and sale of physical copies were the primary focus of rights management, with retail purchases driving revenue. The broadcasting age began in the late 1980s and 1990s, with the rapid development of FM radio and satellite television. Public performance rights and broadcasting licenses became crucial, generating new revenue streams while also sparking disputes over fair royalties. The digital streaming era, which began in the 2010s, brought on-demand platforms like Spotify, Gaana, JioSaavn, and Wynk, allowing for quick global access to massive collections. Unlike traditional broadcasting, streaming blends interactive reproduction with public communication, blurring legal boundaries and threatening current licensing regimes. This shift from physical distribution to digital access emphasizes the industry's need for revised copyright regimes that assure fair pay for creators while also promoting technical innovation and customer convenience.

International Obligations and Influence

India's copyright framework for music is heavily influenced by its commitments to key international treaties, which ensure worldwide compatibility while safeguarding domestic

authors.

The Berne Convention for the Protection of Literary and Artistic Works (1886), which India signed in 1928, establishes the idea of national treatment and a minimum period of protection for musical works. It also necessitates the recognition of authors' moral rights, which influenced provisions in the Copyright Act of 1957 and its following amendments.

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which became effective for India in 1995, mandates members of the World Trade Organization to maintain copyright protection commensurate with Berne standards and to provide adequate enforcement methods. TRIPS emphasized India's need to upgrade its laws for digital technology and provide deterrent consequences for infringement.

India is also a member of the World Intellectual Property Organization (WIPO) and has signed the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). These accords explicitly address the issues of digital transmission and online exchange of works, promoting rights for artists and producers in the digital era.

These international agreements led to major changes within the country, especially through the 1994 amendment, which established rights for performers, and the 2012 amendment, which enhanced royalty rights for authors and songwriters and introduced statutory licensing rules for broadcasting under Section 31D.

The Development of Copyright Laws in Relation to Digital Music Streaming in India

In the year 2012, Section 31D was added to the Copyright Act, 1957 in line with Article 11(2) of the Berne Convention, Article 9(1) of the TRIPS Agreement, and Article 15(2) of the Rome Convention, which deals with sound recordings. This section introduced a statutory license for broadcasting copyrighted works, such as literary or musical recordings, requiring the broadcaster to notify the rights holder and pay royalties as determined by the Intellectual Property Appellate Board (IPAB).

The Section was added to the Copyright Act by the legislature to allow broadcasting services to play musical works via radio and television. The purpose was to balance the public's interest in freely enjoying music without limits, and the rights of copyright owners to receive fair royalties, which were to be determined by the IPAB. Section 31D has become a key topic

whenever conversations about digital streaming arise, as streaming platforms depend on this section to get statutory licenses for the songs they offer on their services. Statutory licenses are favored by streaming services because they are easier to manage compared to negotiating separate agreements with record labels to set royalty rates for song reproduction.

Key Amendments Impacting Music Rights

The 1994 amendment to the Indian Copyright Act of 1957 greatly improved protection for sound recordings and performers. It clarified producers' exclusive rights and included provisions for performers' rights (Section 38), which gave them authority over the fixation and communication of their performances. The 2012 amendment was even more significant for music rights. It ensured that authors of literary and musical works retain an inalienable right to royalties when their works are used in sound recordings or communicated to the public, even after rights have been assigned to producers (sections 18 and 19). It also acknowledged the moral rights of performers, mandated statutory licensing for broadcasting under Section 31D, and enhanced measures to combat digital piracy. These changes collectively updated India's copyright framework, guaranteeing appropriate remuneration and improved safeguards for composers, lyricists, and performers in the context of digital distribution and music streaming.

Legal Framework Governing Music Streaming in India

Legal Framework Governing Intellectual Property Rights in the Digital Music Streaming Industry

In response to the need for updating copyright laws to keep up with the digital era, various amendments and legal structures have been developed to deal with the issues created by music streaming services.

Copyright (Amendment) Act, 2012

The Copyright (Amendment) Act, 2012, marked a major development in dealing with the issues brought about by digital platforms. This amendment added rules for statutory licensing of content for broadcasting and public performances, which has greatly influenced the music streaming sector. According to these rules, streaming services must get permission to use copyrighted material, and the conditions of this permission are set by the Copyright Board⁴.

⁴ Copyright (Amendment) Act, 2012, Government of India

The goal of this change was to make the licensing process easier and to make sure that creators are properly paid for their work.

The Digital Millennium Copyright Act (DMCA) and Its Influence

Although the DMCA is a U.S. law, its principles have impacted Indian legislation and the operations of Indian streaming platforms. The DMCA introduced the idea of "safe harbor," which protects online platforms from being held responsible for copyright violations, as long as they remove illegal content when notified by the rights holder. Indian platforms have followed similar approaches, but there is still debate in Indian courts about how much responsibility these platforms actually bear.

Performers' Rights Amendment (2012)

The Performers' Rights Amendment of 2012 made changes to the Copyright Act that gave performers more control over their work. This amendment provided performers with economic rights related to their performances⁵. It was especially important for the music industry, as it allowed singers and musicians to earn royalties when their performances were used on streaming services. As a result, there has been an increase in disputes over royalties, as performers try to make sure they are properly compensated for their work.

Copyright Act Provisions Relevant to Digital Music Streaming Services

Music streaming services in India, like Spotify, Gaana, JioSaavn, and Wynk, are required to follow various provisions under the Indian Copyright Act, 1957. These rules cover how music is made, shared, and protected in the digital world. Those provisions include -

Section 13 - Works in Which Copyright Subsists

Section 13 lays the groundwork for copyright protection in India by defining the categories of protected works. Three categories are essential for music streaming: (a) musical works (score or melody), (b) literary works (lyrics), and (c) sound recordings (fixed performance). Each is a separate copyright. As a result, a platform must obtain separate permits for composition, lyrics, and sound recording before making a song available online. Simply licensing a sound recording

⁵ The Performers' Rights under the Copyright Act, 1957, amended in 2012

from a record label does not necessarily cover the underlying musical or literary works.⁶

Section 14 - Exclusive Rights of Copyright Owners

Section 14 lists copyright holders' economic rights, such as reproduction, distribution, and communication to the public. Digital streaming often includes both reproduction (by server caching or temporary copies) and real-time broadcast to consumers, which is considered public communication. As a result, online services must get licenses that clearly cover these activities. The provision also safeguards adaptations and remixes, requiring platforms to clear rights for any derivative or remastered versions uploaded on their services.⁷

Sections 18 and 19 - Assignment of Rights and Author Royalties

Sections 18 and 19 govern how rights are transferred and protect the authors' continuing interests. The 2012 amendment made a significant change: composers and lyricists retain an inalienable right to royalties anytime their compositions are commercially exploited, even if their rights are assigned to producers or music labels. Any contract that attempts to waive this entitlement is void. For streaming sites, this means that royalty payments must eventually reach authors, generally through collecting societies like the Indian Performing Rights Society (IPRS), as well as record labels.⁸

Section 31 and Section 31D - Compulsory and Statutory Licensing

Section 31 authorizes the Copyright Board to issue compulsory licenses when rights holders deny permission unreasonably. More important for streaming is Section 31D, which was enacted in 2012 and provides for statutory licensing for the broadcasting of literary and musical works, as well as sound recordings, at rates determined by the Copyright Board.⁹

Sections 38 and 38A - Performers' Rights

Sections 38 and 38A recognize performers' neighboring rights, such as singers and instrumentalists, by granting them control over the recording and communication of their live performances, as well as the right to equitable remuneration whenever their performances are

⁶ Copyright Act, No. 14 of 1957, § 13

⁷ Copyright Act, No. 14 of 1957, § 14

⁸ Copyright Act, No. 14 of 1957, §§ 18–19

⁹ Copyright Act, No. 14 of 1957, §§ 31, 31D

commercially exploited including through streaming. Performers have moral rights to be credited and to object to unfavorable alterations. Platforms must consequently ensure that payments are delivered to singers, often via the Indian Singers' Rights Association (ISRA), and that performer credit is followed.¹⁰

Licensing Mechanisms

In India, the process of licensing musical works for online and digital streaming platforms like Spotify, Gaana, JioSaavn, and Wynk is mainly regulated by the Copyright Act, 1957. This law sets out a clear system for getting permission to use copyrighted material. A musical work includes two different parts: the musical composition and the lyrics, which are treated as a literary work. Each of these parts is protected by separate copyright laws, so a platform needs separate licenses to legally stream the music.

In India, there are two main ways to obtain a license: voluntary licensing and statutory licensing.

Voluntary Licensing

Voluntary licensing is the main way that interactive streaming services handle music rights. Streaming platforms make agreements with rights holders, including record labels, music publishers, and collecting societies. These agreements cover important details like how much money is paid in royalties, how long the rights last, and which regions the music can be played in. Usually, platforms get three separate licenses: one for the sound recording, which comes from the producers or through a society like Phonographic Performance Ltd. [PPL]; another for the music and lyrics, which is obtained from the composers, lyricists, or through the Indian Performing Right Society [IPRS]; and a third for the performers' rights, which comes from the Indian Singers' Rights Association [ISRA]. These broad licenses make it easier to manage rights and allow platforms to offer large music collections without having to negotiate for each individual track.

Statutory Licensing

Statutory licensing under Section 31D enables broadcasters to play musical works and sound

¹⁰ Copyright Act, No. 14 of 1957, §§ 38–38A

recordings to the public at rates set by the government. Although traditional radio and television services depend on this provision, it is still debated whether it applies to interactive digital streaming services.

Royalties: How Artists Get Paid from Digital Music Streaming Platforms

In India, artists and rights holders receive royalties from digital music streaming platforms through a structured system outlined in the Copyright Act, 1957 and its 2012 amendments. Each song has separate copyright rights for the musical composition, lyrics, sound recording, and performance, which means the income is divided based on these different rights. Services like Spotify, Gaana, JioSaavn, and Wynk pay licensing fees to the copyright owners or to the groups that represent them.

For musical and literary works, royalties are sent to composers and lyricists through the Indian Performing Right Society (IPRS). This organization gathers money from various platforms and shares it with the creators based on how their work is used. Record labels and producers get royalties for the sound recordings through the Phonographic Performance Limited (PPL). Performers, including vocalists and instrumentalists, are also given an equal share of royalties as outlined in Section 38A, and these are collected by the Indian Singers' Rights Association (ISRA).

The payment an artist gets is determined by the licensing deals, the platform's subscription and advertising income, and the number of times their work is streamed. This system makes sure that creators are continuously compensated whenever their content is shared with the public online, matching India's approach with international standards and protecting the financial rights of artists in the age of streaming.

Section 31D and Its Ambiguity in the Digital Age

Original Purpose of Section 31D

Section 31D of the Indian Copyright Act, 1957, was amended in 2012 to establish a statutory licensing process that ensures public access to copyrighted musical and literary works while providing equitable remuneration to rights holders. The provision was largely designed to address long-standing issues between music owners and conventional broadcasters like radio and television stations, in which exorbitant licensing prices or refusals to license sometimes

hampered public music distribution. Section 31D attempted to strike a balance between creators' rights and the need for broad public access by allowing "any broadcasting organization desirous of communicating to the public" to use copyrighted works in exchange for payment of royalties at rates set by the Copyright Board.

The term "broadcasting organization" was initially considered to include terrestrial, satellite, and cable radio and television broadcasters, such as All India Radio (AIR), Doordarshan, and private FM and TV channels. These organizations were able to apply for a license under Section 31D without needing the copyright holder's permission, as long as they followed the required legal conditions and paid the set royalty fees. This provision did not include interactive or on-demand digital streaming services, a point that was confirmed by courts in later legal cases involving platforms like Wynk and Spotify.

Legal Ambiguity Around Section 31D

Since the introduction of Section 31D in the Act, different opinions have arisen regarding whether this section applies to statutory licensing in relation to internet broadcasting and streaming services. This is because the provisions of Section 31D, along with Rules 29 and 30 of the Copyright Rules 2013, do not clearly mention the term "internet broadcasting" in the context of statutory licensing.

Section 31D of the Copyright Act, 1957, states that "Any broadcasting organization that wishes to communicate to the public through a broadcast or performance of an already published literary or musical work or sound recording may do so, provided it complies with the provisions of this section..." and grants statutory licenses for communicating copyrighted works. The Section also establishes the conditions and procedures for obtaining such a statutory license, such as giving the interested broadcasting organization advance notice and determining the rates at which royalties must be paid to the copyright holders.

Nevertheless, the provision makes no mention of online broadcasting or communication, even though it specifically addresses radio and television transmission. Consequently, there has been a great deal of discussion and misunderstanding regarding whether online streaming services fall under the purview of Section 31D and if they qualify for statutory licenses under this clause.

While legal and industry experts had differing views on the matter, on September 5, 2016, the

Department of Industrial Policy and Promotion (DIPP) published an office memorandum (OM) in which it stated that Section 31D covers internet broadcasting within its ambit. The rationale behind this was explained by the DIPP on two grounds:

1. Section 31D begins with the wording, “Any broadcasting organization that wishes to communicate to the public...” which can be considered to include internet broadcasting because there are no specified restrictions on its coverage within the scope of the Act.
2. Section 2(ff) describes “communication to the public” as the act of making a work or performance accessible for viewing, listening, or enjoyment by the public, either directly or through any form of display or transmission...” which can be interpreted broadly to cover internet, radio, and television broadcasting.

Similarly, in 2017, the Punjab and Haryana High Court¹¹ asked the Copyright Registrar to consider the matter of Kuku and Koyal internet, a company based in Ludhiana, Punjab, that had applied for a statutory license under Section 31D for online broadcasting. As a result, the Registrar granted the corporation a license, which Saregama¹² successfully challenged in the Delhi High Court. The Court issued an interim stay on the license obtained under Section 31D; hence no clarification has been established from these events regarding the applicability of internet broadcasting under the section.

Later this uncertainty has been partly resolved through court decisions. The Bombay High Court specifically said in *Tips Industries Ltd. v. Wynk Music Ltd. & Ors*¹³, that interactive streaming and download services are not "broadcasting organizations" under Section 31D. The Court reasoned that download and purchase services are "commercial rental" under Section 2(fa), and hence fell outside the statutory license system. While online streaming was recognized as public communication, the Court noted that Section 31D does not automatically apply to internet broadcasting, requiring platforms to negotiate voluntary licenses with rights holders.

Similarly, in *Warner/Chappell Music Ltd. v. Spotify AB*, the Court reinforced Section 31D's limited scope by refusing to allow Spotify to use statutory licensing for streaming in the

¹¹ *Inderjit Singh v. Union of India*, COCP No. 622/ 2017 (O&M)

¹² *Saregama v. Union of India*, W.P.(C) 1155/2018

¹³ *Tips Indus. Ltd. v. Wynk Music Ltd. & Ors.*, Notice of Motion (L) Nos. 197 & 198 of 2018 in Commercial Suit IP (L) Nos. 114 & 113 of 2018

absence of a voluntary license. The Court concluded that the legislature's objective in 2012 was largely directed at traditional broadcast media, and the absence of clear language addressing internet streaming was a deliberate legislative decision. These verdicts show that, while Section 31D clarifies things for traditional broadcasters, it fails to account for the difficulties of digital streaming, such as on-demand services, server-side replicas, and geographically unlimited access.

Adding to the complexity of the matter is the understanding of associated definitions within the Act. Section 2(ff) describes “communication to the public” as the act of providing works for public enjoyment, either directly or through various methods of presentation or distribution. Section 2(dd) defines the term “broadcast,” yet neither provision specifically includes interactive or internet-based transmissions. This creates a discrepancy between the legal language and the current technological landscape. Courts have recognized this gap but are limited by the principle that the interpretation of statutes cannot broaden the meaning of a law beyond its explicit terms, as highlighted in *Super Cassettes Industries Ltd. v. Music Broadcast Private Limited. Ltd*¹⁴, in which the Supreme Court ruled that powers cannot be implied where not granted by statute.

Interpretation of the Scope of Section 31D

When interpreting Section 31D, it is critical to determine whether the meaning of the terms in the provision should be construed strictly or liberally and broadly, in order to include terms pertaining to technological advancements that may have occurred after the statute was drafted.

In *The Senior Electric Inspector and Ors v. Laxmi Narayan Chopra and Ors*¹⁵, the Supreme Court had held that –

“...in a modern, evolving society, it would be impractical to limit the Legislature’s intent to the meaning of a word carried when the law was enacted. A contemporary Legislature is presumed to recognize that a concept’s meaning can expand over time with significant advancements in human activity. Therefore, unless the statute clearly indicates otherwise, the language used should be interpreted broadly enough to encompass new developments and

¹⁴ *Super Cassettes Indus. Ltd. v. Music Broad. Pvt. Ltd.*, A.I.R. 2012 S.C. 2144

¹⁵ *The Senior Elec. Inspector v. Laxmi Narayan Chopra*, A.I.R. 1962 S.C. 159

circumstances, provided the wording can reasonably include them.”

Conversely, in interpreting Section 31D, the Supreme Court in *Super Cassettes Industries Ltd. v. Music Broadcast Pvt. Ltd.*¹⁶, adopted a cautious approach to avoid broadening the provision’s scope. The Court specifically held that the Appellate Board lacked authority to issue a temporary compulsory license without an explicit statutory mandate granting such power. It was held that –

" If the legislature intended for the Copyright Board to be able to grant mandatory injunctions in the interim, it would have given it the appropriate authority. The position that there is no bar to granting such temporary relief in Section 31D is rejected since the presence of a power cannot be inferred from its absence in the Statute itself."

In *Tips Industries*, the defendants argued that Section 31D should be widely read to cover online broadcasting. The Plaintiff argued that because Section 31D was added by the Copyright (Amendment) Act, a recent and modern statute, the legislators were aware of online streaming/broadcasting and purposefully chose not to include it in the Section.

The Bombay High Court agreed with the Plaintiff and took a strict view of the provision, stating that –

"Based on a review of the Statement of Objects and Reasons of the Copyright Amendment Act, 2012, it appears that the Legislature was aware of and conscious of digital technologies and music downloading/streaming when the bill was discussed in Parliament.

...The lack of explicit language in Section 31D granting a statutory license for internet streaming or downloading reflects a deliberate decision by the legislature. Consequently, without a specific provision bringing internet broadcasting within Section 31D, its scope cannot be interpreted to cover such activities.”

As a result, it was determined that online broadcasters cannot seek a statutory license under Section 31D of the Copyright Act. The *Tips Industries* decision clarified the issue regarding the availability of statutory licenses under Section 31D to internet broadcasters.

¹⁶ *Super Cassettes Indus. Ltd. v. Music Broad. Pvt. Ltd.*, A.I.R. 2012 S.C. 2144

Interestingly, in the Draft Copyright (Amendment) Rules, 2019, all references to radio and television transmission in Rules 29 and 31 are suggested to be changed to "each mode of broadcast". If passed, this would enable statutory licensing for online broadcasting.

Challenges

The rapid expansion of digital music streaming in India has revealed substantial legal and structural problems that impede a healthy ecosystem for creators, platforms, and consumers.

Lack of Legal Clarity & Outdated Statutory Language

Despite changes made in 2012, the Indian Copyright Act of 1957 still has clauses that are meant for a time before the digital revolution. This gap is illustrated by the vagueness surrounding Section 31D, which establishes statutory licensing for "broadcasting organizations." The Bombay High Court in *Tips Industries Ltd. v. Wynk Music Ltd.* and other courts have made it clear that interactive streaming is not "broadcasting," but contradictory government announcements continue to raise doubt. Due to this ambiguity, platforms and rights holders are compelled to engage in legal action regularly, which delays market efficiency and discourages investment.

Royalty Disputes and Artist Compensation

Even though the 2012 amendments require equal pay for authors, composers, and artists, there are still disagreements about how royalties should be calculated and distributed. Indian performing right society (IPRS), phonographic performance limited (PPL), and the Indian singers' rights association (ISRA) are a few of the collecting societies that face challenges with transparency and prompt reporting. The fairness of revenue-sharing models is frequently questioned by artists, who claim that the value they bring via advertising and subscriptions is significantly greater than the amount they make each stream.

Piracy and Unlicensed Use of Works

Digital piracy continues to be a significant issue. Significant revenue losses are caused by illegal uploads to social media, unauthorized MP3 websites, and user-generated content sites. Due to the fact that piracy sources frequently reappear under new domains or utilize encryption, it is challenging to enforce the dynamic injunctions that Indian courts have issued to ban

infringing websites, which undermine the rights of creators and the legitimate streaming marketplace.

Regulatory Hurdles vs. Innovation

In the realm of musical works, sound recordings, and performances, streaming services must contend with intricate licensing discussions and overlapping rights. Statutory filings and adherence to several societies raise operational expenditures, particularly for independent labels and start-ups. The potential for excessive regulation or inconsistent enforcement to stifle technological development is real, but insufficient regulation may result in creators being exploited.

Recommendations

Clarify Statutory Definitions - Especially Section 31D

In the Copyright Act of 1957, Parliament should clearly define the terms "broadcasting organization" and "communication to the public." A clear separation between regular broadcasting and interactive/on-demand streaming would eliminate the common ambiguity used in lawsuits. Amending Section 31D to specify whether it applies or does not apply to online streaming will give assurance for both rights holders and platforms, eliminating costly conflicts.

Reform Licensing and Royalty Distribution

Licensing could be simplified using a single-window or collective licensing process that allows platforms to secure rights to sound recordings, musical works, and performances through a single agreement. Royalty structures need to be updated to match current digital use. Mandating transparent usage data and minimum per-stream rates, as well as periodic government-backed reviews of royalty calculations, would assist creators in receiving fair pay.

Strengthen Copyright Societies

Collective management groups, including the Indian Performing Right Society (IPRS), Phonographic Performance Limited (PPL), and the Indian Singers' Rights Association (ISRA), must embrace stricter governance norms. Regular independent audits, mandated public

disclosure of royalty collections and disbursements, and stream tracking through digital means can all help to improve accountability. Societies should also work together to decrease overlap and streamline the licensing procedure for digital platforms.

Policy Measures to Balance Creator Rights and Digital Innovation

The government might encourage innovation by providing incentives for legal streaming, such as tax breaks or grants for start-ups that follow fair-royalty agreements. At the same time, anti-piracy enforcement should be stepped up through dynamic injunctions, faster takedown procedures, and collaboration with internet service providers to prevent repeat infringers. Consumer education programs emphasizing the need of paying for music might help to prevent unauthorized consumption.

Conclusion

The analysis of Section 31D of the Indian Copyright Act, 1957, demonstrates a recurring and significant disparity between statutory language and the realities of the digital music market. Introduced to enable inexpensive access to music via traditional broadcasting, the provision has not kept up with the emergence of on-demand and interactive streaming services like Spotify, Gaana, JioSaavn, and Wynk. Despite occasional contrary interpretations by administrative bodies, judicial pronouncements such as *Tips Industries Ltd. v. Wynk Music Ltd.*¹⁷ and *Warner/Chappell Music Ltd. v. Spotify AB*¹⁸ have consistently confirmed that Section 31D was designed for radio and television and does not apply to internet-based streaming. Courts have underlined that any increase of its reach must be achieved by legislative action rather than judicial creativity.

This ambiguity has practical and economic implications. Streaming platforms must negotiate several voluntary licenses to protect various levels of rights, whilst composers, lyricists, and singers confront varying royalty systems and enforcement issues. In the absence of defined standards for public digital communication, all stakeholders, creators, platforms, and consumers operate in uncertainty, increasing transaction costs and limiting innovation.

¹⁷ *Tips Indus. Ltd. v. Wynk Music Ltd. & Ors.*, Notice of Motion (L) Nos. 197 & 198 of 2018 in Commercial Suit IP (L) Nos. 114 & 113 of 2018

¹⁸ *Warner/Chappell Music Ltd. v. Spotify AB*, Notice of Motion (L) No. 514 of 2019 in COMIP (L) No. 256 of 2019

To address these inadequacies, legislative reform is required. Parliament should define the definitions of "broadcasting organization" and "communication to the public" and indicate explicitly if Section 31D applies to online streaming. Complementary reforms to licensing and royalty arrangements, as well as greater governance of collecting societies, would ensure equal pay for creators while allowing digital platforms to thrive.

In summary, while the Indian copyright framework is robust, it must be modernized. Clear regulatory guidance and transparent royalty regimes will strike a balance between creative rights and technical innovation opportunities, ensuring both fair remuneration and the sustained growth of India's dynamic digital music ecosystem.

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