

## NOTICE TO MEMBERS



### THE INDIAN PERFORMING RIGHT SOCIETY LIMITED

#### CALL FOR COMMENTS /SUBMISSIONS ON BACKGROUND MUSIC & IPRS DISTRIBUTION RULES

The Indian Performing Right Society Limited ("**IPRS**") hereby calls on its Music Composer, Lyricist and Music Publisher members to provide comments and suggestions towards the valuation of background music used in television programmes and films.

IPRS is seeking these inputs to formulate a distribution policy for television and film background music vis-à-vis "Featured Music" or Songs". This aspect of the IPRS Distribution Policy which will be framed by IPRS and approved by the IPRS Membership during its next AGM, to be held this year (2020), will benefit from the inputs, comments and views of IPRS members.

**IPRS is conscious that concerns have been expressed by some music composers who create background music and accordingly wants to make every endeavor to ensure that each and every voice or opinion from among its membership is heard and receives consideration as to enable a fair and equitable outcome for every stakeholder in IPRS.**

#### A. BACKGROUND TO THE ISSUE:

- (1) Music is utilised in India in a variety of ways. The manner of use could mean that there are some uses of music where Music is the focal point for audiences (i.e., "Featured Music") and second where Music is not the focal point for audiences (i.e. Background Music").
- (2) Featured Music consists of "Film Songs" which are capable of being exploited separately from the Film and are a focal point for audiences. Featured Music also consists of "Non-Film Songs" straddling various genre including pop/hip-hop/classical (copyrighted)/folk (copyrighted) or devotional (copyrighted).
- (3) Film Music also consists of Background music which may not be a focal point for audiences, but which nevertheless plays an important role in the Film as well. In the same way, generally speaking, Television Serials / programs do have Songs/tracks, Theme Music and Background music
- (4) Background Music also extends beyond television or usage in Films/Series and also generally including production music or music played in the background in commercial establishments areas like hallways, lobbies, lifts or for music on hold etc.
- (5) Generally speaking, in the context of Featured Music, it is argued that the cost of production of Film Songs vastly differs from the cost of production of Film Background music. This same disparity is applicable more so to Background music composed for televisions serials.
- (6) Accordingly, in a survey conducted for IPRS, the following aspects emerged:
  - (a). Buma-Stemra (Netherlands) and STIM (Sweden) follow a 'Music is Music' policy
  - (b). On the other hand, while SACEM (France) applies valuations by type of production meaning that all cues within a production receive the same coefficient; all other societies apply specific coefficients based on the notional relative importance of music use within Audio-Visual productions.
  - (c). APRA (Australia), CASH (Hong Kong) and SOCAN (Canada) all place a higher weighting on Featured/Visual music compared to Background Music on the basis this usage is a focal point for the audience.
  - (d). The takeaway of these observations is that each society has determined their own valuations, from which it can be observed that there is a range across these societies where Feature/Visual Music is valued differently in comparison with Background Music under respective distribution rules with Background Music generally being ascribed a lower coefficient/weightage. However, these valuations do not appear to overly compensate Featured music at the expense of Background music.
  - (e). A Majority of societies surveyed apply weightings consistently to both domestic and foreign productions when performed in their country.
- (7) This confirms that there is no standard practise /rule and that each Copyright Society has its own rules for valuation of music use in productions, differing across jurisdictions across the world.
- (8) India's music industry bears little resemblance to the music industries across the world, particularly given its association with film music and its usage in Television serials / programs and films. The question therefore is whether, IPRS should adopt practices which have been applied in territories which bear little resemblance to the Indian Television / Film & Music Industry.
- (9) The "*Music is Music*" or the "1:1" principle (this is essentially a home grown term) where no distinction is made between featured music and background music does not appear to be acceptable to Music Composers who create featured

music / Songs or to Music Publishers, as according to them this does not reflect the realities and cost of production of featured music vis-à-vis background music. This of course does not mean that Background Music is to be treated unfairly or inequitably but only that the respective forms of music in India must reflect the value of the music type/genre concerned.

- (10) On the other hand, creators of background music hold that the exploitation of their background music is limited to the audio-visual format on television and OTT platforms while featured music can be utilised and monetised separately across various platforms including audio-streaming platforms. Additionally, Composers of Background Music also point out that Background Music is important in the context of Audio-Visual works given the role such music plays in evoking behavioural and emotional responses in audiences and accordingly a reductive approach to valuation will not be correct.
- (11) Additionally, as regards television background music, the television broadcaster who secures assignments to background music, subject to applicable law, may be categorised as the “music publisher”. Since broadcasters are not members of IPRS, this may also have a bearing on the distributions for television background music.
- (12) The aspect of valuation is accordingly seem to be a complex issue with no readily or acceptable available scientific formula.
- (13) Informed by suggestion and comments received and basis its internal deliberations, IPRS will accordingly aim to adopt a distribution regime for royalties collected in the future by IPRS under its regular licensing agreements with television broadcasters duly supported by usage logs. This policy will not cover one-time settlements already made by IPRS in relation to past usage, since no logs of usage are readily available despite IPRS best efforts.

## **B. MAKING SUBMISSIONS:**

### **(1) Who can make a submission?**

- (a). Only Music Composers/Lyricists and Music Publishers who are **members of IPRS** as of the date of this Notice can make submissions under this process.
- (b). Submissions made by non-members will not be entertained by IPRS. This is because IPRS only collects for its own Members.**
- (c). Anonymous submissions or Submissions without IPRS Membership Numbers i.e. CAE numbers will not be entertained by IPRS.**
- (d). Submissions on aspects other than the subject matter of this Notice or submissions containing allegations will not be entertained- to be clear- Submissions on matters other than or including the subject matter of this Notice will be rejected.

### **(2) By when should submissions be made? [Timeline for Submissions]:**

- (a). Submissions may be made within a period of **Four Weeks** (4 Weeks) from date of first publication of this Notice.
- (b). Submissions made after the expiry of 4 weeks from date of publication of this Notice shall not be entertained.
- (c). No extension of time will be granted, or extension requests entertained

### **(3) How to make submissions [Form & Format]**

- (a) Submissions should be made in A-4 size soft copy format by e-mail to : **royalty.feedback@iprsltd.com**
- (b) **Alternatively** - Submissions can also be made by postal mode to IPRS at: 208, Golden Chambers, New Andheri Link Road, Andheri (W), Mumbai 400 053.
- (c) **IMPORTANT: Members should cite their IPRS Membership Number i.e. CAE number. Submissions without Membership number identification will not be recognised or taken into account/considered by IPRS.**
- (d) Submissions should not exceed 5,000 words- this will enable IPRS to process inputs more expeditiously.
- (e) Submissions can be made in *English, Hindi, Marathi, Gujrati, Malayalam, Tamil, Kannada, Telugu or Bangla.*

### **(4) What will happen after the Submissions?**

- (a) IPRS will additionally also meet music composer groups/associations and other stakeholders as required to gather their views.
- (b) Basis these inputs and its deliberations, IPRS will frame a proposed distribution policy for consideration by the IPRS Board and will put the Distribution Policy to the IPRS membership for consideration and approval during its next AGM, this year itself (2020).
- (c) The IPRS Distribution Policy will accordingly be amended to this extent for purposes of distribution.

Sd/-

**Rakesh Nigam**  
**Chief Executive Officer**  
**The Indian Performing Right Society Limited**