

THE INDIAN MUSIC INDUSTRY

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Date: August 16th, 2018

To,

Shri Rajiv Aggarwal, IAS
Joint Secretary, Department of Industrial Policy and Promotion
Ministry of Commerce and Industry
Udyog Bhawan, New Delhi

Sub: The negative impact of Section 49 (a) of the Import Policy 2012-2015 of Bangladesh, Ministry of Commerce on Indian content in Bangladesh

Dear Shri Aggarwal,

We, the Indian Music Industry aka IMI represents the business and trade interest of Record Labels on a Pan – India basis. We are an IFPI affiliate. On behalf of our members who have invested in Bangla content we seek your support and direction.

Sir, Section 49 (a) of the Import Policy 2012-2015 of Bangladesh, Ministry of Commerce has imposed an embargo on Indian content in Bangladesh. This has put the investments plans of Indian content owners in jeopardy, who have invested heavily in the Bangladesh market. To elaborate, we would like to submit the following before you.

The Case:

Bangladesh has banned the commercial exploitation of Music produced in India and therefore, all our music productions are blatantly pirated in Bangladesh causing a loss of revenues to the Indian Music Industry.

The Market in Bangladesh:

Mobile penetration levels are relatively high, even in rural areas, which is an uncommon trend in most other emerging markets. As per Bangladesh Telecommunication Regulatory Commission (BTRC), the country has over 117 million mobile phone subscribers and in February, more than 73% of internet users accessed internet through their mobile phones. The creative industry in Bangladesh is vibrant and growing, according to the last conducted Federation of Chambers of Commerce & Industry (FICCI) study



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on the subject, Bangladeshi creative industry grew at 13% from INR 65,200 Cr to 73,800 Cr. in 2011, which is a substantial growth for an emerging market.

The Ban on Indian Music:

As per Section 49 (a) of the Import Policy 2012-2015 of Bangladesh, Ministry of Commerce (Appendix A), "*Cinematograph films, whether or not incorporating sound track in English and other languages, except sub-continental language is importable into Bangladesh*". Thus, clearly content in any sub-continental language (including Bengali) cannot be imported into Bangladesh. This has put investments of several Indian companies at risk because their content aggregated for the Bangladeshi market is deemed illegal and despite the fact that Section 49 (a) was evidently drafted for Cinematographic works, unfortunately, the music industry too has suffered the consequences.

However, a **Writ Petition No. 7041 of 2015** was filed before the Hon'ble High Court Division of the Supreme Court of Bangladesh. Hon'ble High Court Division has issued a Rule Nisi in the said Writ Petition calling upon the Respondents to show cause as to why the use of Hindi film songs and Hindi songs and Indian Bengali songs or Sub-Continental Film Songs as ringtones or welcome tunes or any other value-added services for mobile phones should not be declared as violative of Section 49 (a) of the Import Policy Order 2012 -2014.

Court has also called upon the various government ministries to show cause as to why they should not restrain the mobile service providers in Bangladesh from using Hindi Film Songs and Hindi Songs, or Indian Bengali Film Songs or Sub Continental Film songs as ringtones or welcome tunes or any other value-added services to their mobile subscribers. Both, the government ministries and mobile service providers are named as respondents in the Writ Petition.

Consequences of the Order

By virtue of this order, the mobile service providers are constrained to take down Indian entertainment content from distribution in the territory of Bangladesh. The petition was filed on the ground that Indian entertainment content adversely affects the local culture in Bangladesh and it harms financial prospects of the local music industry in Bangladesh. It is pertinent to point out that only music and content from India has been prohibited from distribution in the territory of Bangladesh whereas content from other countries is freely available in Bangladesh through the digital medium and mobile service providers.

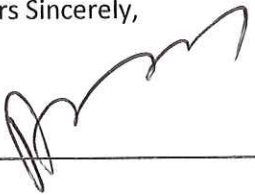
Bangladesh and India have a joint film production agreement ^[1] in place under which, films are produced every year and music from those films (produced in India) is exploited in Bangladesh on different platforms including Youtube. The two nations also agreed to organising Film Festivals in both India and Bangladesh and showcase films from the other nation, which would effectively mean that Indian content in Indian languages will be consumed in Bangladesh despite the embargo.

^[1] Joint Production Agreement between India and Bangladesh: http://mib.gov.in/sites/default/files/Audio%20Visual%20Co-production%20Agreement%20between%20India%20and%20Bangladesh%20%282017%29_0.pdf

The Benefits Are Mutual:

Sir, the aforementioned embargo on Indian content has not only put the investments of Indian companies at risk, but has also taken away opportunities from Bangladeshi companies. The President of the Bangladesh Cinema Halls Owners Association has suggested that this demand for Indian content in Bangladesh will push users to other sources despite the ban on screening, and one might argue that this embargo may also promote piracy of Indian content in Bangladesh as well. In our view, this embargo on Indian content in Bangladesh needs a serious relook. Should you require any further clarity on this subject, please feel free to reach out to me.

Yours Sincerely,



Blaise Fernandes
President & CEO
The Indian Music Industry

CC:

Shri Sushil Satpute
Director, Department of Industrial Policy and Promotion
Ministry of Commerce and Industry

Appendix A

(49) **Cinematograph film, whether or not incorporating sound track----**: Cinematograph film exposed & developed whether or not incorporating sound track is importable on the following conditions:

(a) Cinematograph film (exposed) in English language without sub-title and in other languages except sub-continental language with sub-title in Bangla or in English shall be permissible for import.

(b) Import or export permit when considered necessary, may be issued on the basis of specific recommendation of the Film Development Corporation for import or export of the print/negative of such Cinematographic film produced as a joint venture.

(c) Import of cinematograph films from SAFTA countries shall be equal in number against export of films produced in Bangladesh.

(d) Import of all cinematograph films shall be subject to censorship rule codes.

