



# VISION 2022

India's Roadmap to  
the Top 10 Music Markets  
in the World by 2022

# DIALOGUE

## THE INDIAN MUSIC CONVENTION 2018

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# HIGHLIGHTS

Shri Hoshnar Singh

Music person of the year award 2018



MUSIC  
CONVENTION 2018



Shri Sushil Satpute



KT Ang, Eric Baptiste



Aditya Gupta, Balwinder Singh



Mahua Lahiri, Sagarika Das

DIALOGUE  
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CONVENTION 2018



Devraj Sanyal, Mandar Thakur

Kumar Taurani, Sanujeet Bhujabal

Anurag Bedi, GB Aayeer



Ganesh Jain, Devraj Sanyal, Shridhar Subramaniam, Bhushan Kumar

Blaise Fernandes, Rajat Kakar, Kumar Taurani



Ameet Datta

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## FOREWORD

On 22 August 2018, the inaugural Dialogue: The Indian Music Convention 2018 was held in Mumbai, India. The conference theme 'VISION 2022: India's Roadmap to the Top 10 Music markets in the world by 2022' brought all the stakeholders of the Indian recorded music industry, under the same roof.

This was a historic day, since for the first time, all stakeholders came together with a united vision to be among the top 10 ranked music markets globally in the International Federation of the Phonographic Industry (IFPI) rankings by 2022.



The Indian Music Industry (IMI) is grateful to seven members who have supported the corpus of the National Group through the tough times. Now that the worst is behind us and we have seen two consecutive years of an average 25% growth, I urge all the record labels to make financial contributions to the IMI corpus. You have witnessed our outreach programs in Chennai, Chandigarh and Kolkata and now Dialogue 2018 in Mumbai. We have more plans in store to ensure continued engagement for all stakeholders for the development of the record music industry.

The tailwinds are in our favor and technological innovations have created great economics in various sectors. Football is still the same game as it was a 100 years back, but today it's a \$28 billion-dollar industry. Closer home, Kabbadi played in the street corners and paddy fields is now a \$3.3 million industry. There is a digital music explosion underway and the inaugural Dialogue 2018 is only the beginning of the discourse on how can the Indian music industry ride this \$17.3 billion wave, also to identify the headwinds namely Price Regulation & Controls, Fair Value to creators, Value Gap, Digital Piracy a few to name and figure out how to tackle these headwinds. IMI will always, along with its partners like PPL and IPRS and count on their support to pave the path towards Vision 2022.

The sessions were carefully curated to ensure that the voices across sectors and regions are heard. IMI endeavors to make Dialogue: The Indian Music Convention, a yearly event.

***Blaise Fernandes***

*President and CEO*

*The Indian Music Industry (IMI)*



# Keynote Address

## Shridhar Subramaniam

*President, Sony Music India & Middle East and Chairman, The Indian Music Industry*

This is a special day, which has been three years in the making. IMI was founded in 1936 and is the second oldest member of the IFPI. The institution has been around for a long time and is a platform on which many labels have come together. It has had its highs and lows over the years, but has gone into a kind of stasis over the last decade. Now, we are seeing a renaissance and have over 200 members. The new vision for the new IMI is to become an inclusive and open platform for all labels to come together, to address common issues that affect the industry. It is also a platform for dialogue with the government and other key stakeholders. We hope to make this an annual feature.



The last 12 months have probably been the most transformative in the industry. There have been several remarkable achievements. The first has been a landmark agreement between the publisher, the labels and the creative community. Second, we have given each of these associations and societies a clear mandate and a separate set of rights to work on. Third, we have inducted a host of new members on the Boards of each of these societies. Fourth, we have changed the management in most of these societies and organisations, and now, we have world-class management. It has not been easy and has taken a lot of effort from people. But I think, we are standing at the cusp of what will probably be a new era.

We would like to see IMI as a platform, not just for major and big Mumbai based labels, but something that effectively involves and engages the regional and smaller players and a transparent, open and inclusive body in which people can participate. This will no longer be done, by just a few handful of big labels, or get hijacked by few people. We welcome Zee Music on the Board of IMI.

The single point agenda is to grow the music industry, so that it features in the top 10 markets. For this, a number of things need to happen. First, we need to build a streaming market where consumers pay. That is going to take time, but is something we have to work towards. The second is to create a landscape with multiple players operating in the market, so that there is enough competition and product innovation in the market. There are some battles that the labels and we ourselves, will have to individually fight.

But we have to come together on common issues.

IMI has two big agendas, the first of which is anti-piracy. Despite the increase in consumption, a number of streaming services coming on board and data hand phones getting cheap, revenue leakages have been incurred. This is because of illegal P2P apps or sharing apps, or

even websites based out of India or Pakistan, resulting in losses worth Rs.1200-1500 Cr., or around US\$250 million because of piracy each year.

The legitimate music market is a mere \$130 million, so we lose twice as much to piracy. One of IMI's big agendas is to work closely with the government and its agencies and various institutions, to bring as much of the money leakage into the legitimate market. This is a long process and we have had great support from the Ministry of Commerce so far and we hope to take it to the next level.

The second burning issue is related to entities that pay us. The legitimate music industry, which is about Rs.850 Cr., powers some giant industries. It powers the radio industry of Rs.3000-4000 Cr. and the Rs. 25,000 Cr. television industry, a huge Rs.2000 Cr. live music business, device and equipment sales. We believe that this \$130 million industry powers an outside industry to the extent of nearly \$2 billion. But those industries pay less than 2%-3% towards the use of music. This is a fair value issue and we have to address this.

The latest darlings of the business are the streaming industry and their valuations are staggering. The Jio-Saavn merger, valued at a billion dollars or Rs.7000 Cr. is a four-year-old entity. An entity like Radio Mirchi is valued at Rs.3300 Cr., whereas a company like Saregama, which probably controls the maximum historic value of music, after the turnaround and after the success of Carvaan is valued at Rs.1000 Cr. This is vastly unfair and there is a huge amount of discrepancy in where the value lies. These same large companies lobby with the government and insist on statutory and compulsory license provisions, to further diminish our value. The recent notification about whether statutory licenses are applicable on internet companies, is worrying. My plea to the Ministry, is that their help is needed. We are the creative industry, who invest in talent and artists. We take the risk, keeping the culture of music alive. It is we, who need protection and not so much those high value users. This is to give us some balance so that we can work and compete in a relatively equal manner.

The recent approval of the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) by the Cabinet under the leadership of Joint Secretary, Rajiv Aggarwal is commendable. India signs a number of global treaties, but very few of them get ratified by the Cabinet. We hope everything is followed in letter and spirit, especially when it comes to protection over the internet.

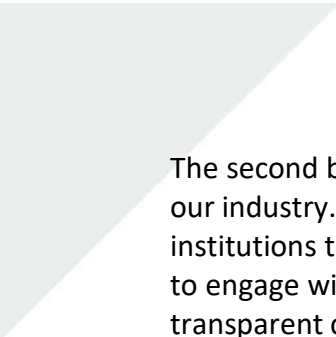
In the last 12 months, we have been able to see changes in the IMI management. We have already made some positive initiatives, on which the Board has spent a lot of time.

We are contemplating a study on the economic impact of the music industry — in terms of employment, the social impact and the soft power that it brings to India as a whole. We expect to have this report ready soon, publish it in Delhi and present it to the government.

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*“My plea to the ministry (MoC&I) is that we (the creative industry) invest in talent and artists. We take the risks, keeping the culture of music alive. It is we, who need protection.”*

- Shridhar Subramaniam  
Chairman, IMI



The second big initiative that Blaise is working on, is an official music chart, which is a first in our industry. It is important that we grow as an industry — we need to have a framework and institutions that work. We need a chart that people follow and think is credible, artists want to engage with and one that platforms and labels want to compete for. It will be a fair and a transparent chart. We hope to launch a weekly music chart in India for the first time, possibly by January, 2019.

The third initiative is regarding technology. There are a number of smaller labels in the regions. Are their works registered, as we increasingly digitise content? We have poor quality of metadata. Along with other countries in the region and the support of IFPI and KT Ang, we have commissioned a Singapore based company to create a repository for all our records for all the labels. It is a huge exercise that is underway, it will hopefully lead to better monetization, transparency and better forms of distribution.

A lot of the work over the last few years has been done by seven labels — it has not yet been an industry wide participation. These companies are Saregama, Tips, Aditya, Times, Universal, Venus and ourselves (Sony Music). I think it is time for the larger industry to come together. A joint effort would prevent the narrative from being hijacked, if more people join, participate and contribute. Each one of you at the regional and state levels have relationships with the government and agencies. We need help to combat piracy and increase our value.

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# Keynote Address

**Javed Akhtar**

*Chairman, IPRS*

As IPRS chairman, and as a writer for almost 40 years or more, I would like to sensitise people to some extent. For a very long time, the music industry was sitting on an obsolete horse. Suddenly, during the last two years, some major changes have happened for the better. Some people are a little shocked and others are still trying to adjust. But the fact is that it is a total win-win situation. We have lost a lot of time because of a civil war within our industry, between the labels and the artists and so on; we wasted energy, time and resources. Better sense has prevailed on both sides and we have come together. Thanks is due to the governments. Whether it was the previous or the present government, both have been extremely understanding. Even when the present government was in the opposition, this Bill (the 2012 Amendment to the Copyright Act) that has changed the scenario, could not have been passed without their help and total patronage. After this, we have started working together in a different way and that is the right way.

“We (music industry) have lost a lot of time because of a civil war within our industry; we wasted energy, time and resources. Better sense has prevailed on both sides and we have come together”


- Javed Akhtar  
Chairman, IPRS

In politics, there are many fights, opposition and bitterness. However, as far as this issue was concerned, the worst opponents came together. The industry has got similar help from the previous and the current government. People talk much about the bureaucracy of this country, red tape-ism and their cynical attitudes. But every time we have met a bureaucrat, he or she has gone out of the way to help.



It is because the moment we include the artist and bring in the creative, we bring a human face to the problem. They contact the better human hidden in every human being. This cannot be substituted. This soft power is too precious to be lost. And today, we need it, more than ever. Technology is moving ahead by leaps and bounds. Before we get familiar with one, it becomes obsolete and is replaced by something new. Doors are opening, but since there is no watchman, people are taking advantage of the vulnerabilities of the music industry. As an industry, we are losing billions of dollars because there are no checks. Every time, the law becomes slightly outdated, it has to be changed again,





updated with changing technology. There are companies and international bodies, which are as big, rich and powerful as some countries. The music industry is on one side and they are on the other. How do we compete with them and make them listen to our point of view? There should not be any dissent among us. We need all the power and resources available to us.

To a great extent, we have been able to achieve this with IPRS. The people who sit on the other side, opposing each other, now sit together and solve problems. There are still some people who are outside, for reasons which are valid and justified. They had their ways of working and certain business traditions, that cannot be disturbed. How does IPRS adjust to their problems and its conditions? There are positive conversations, and I am sure that soon, we will all be together.

There are others who live in a time bubble. Their problem is not with IPRS, but with the law of this country. If one does not like the law, one can go to the court. India is a democratic country. The law can be challenged and changed. But as long as this law exists, one has to adhere to it. Not adhering to the law is criminal. So, IPRS hopes that better sense prevails on them and they understand. IPRS have met them a couple of times and hope to meet them again and make them understand. Otherwise, IPRS will have to inform the court or the government. Nobody in this country or other countries can defy the law and live with impunity.

While none of the major stakeholders are those who provide the raw material, the real thing is ultimately what is sold, publicised and distributed. Music and those who create it, are not just minions who do the job and go out. If this is what people believe, it will not help in expanding this industry and/or make it more powerful and effective. This is only possible if all the stakeholders, including artists, are given their due position and right share.

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# Keynote Address

**Mandar Thakur**

*Chief Operating Officer, Times Music and Chairman, PPL*

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The Indian music industry is slowly growing again, after many years of decline, having been plundered by piracy and the inability to establish fair value. Adaptability has been the name of the game, and in the last couple of years, has fueled the growth. It has not been easy to work when every single user wants to challenge the industry's rights. The IMI is poised to further fuel that growth if the right circumstances are created and managed. Infrastructural support from the government, aggressive collective licensing, fair valuation of content and importantly, a clear and transparent business process will go a long way in overcoming some of our common hurdles.



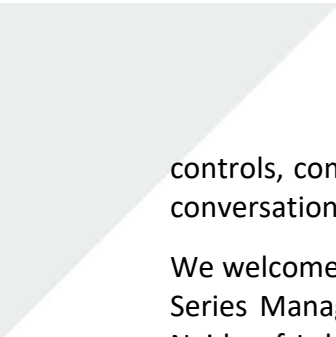
The purpose of this gathering is to bring about dialogue, not only between various stakeholders, but importantly, with each and every single member company present. With these factors in mind, the new PPL has begun the great task of restructuring itself, relieving itself of the past baggage and with a new professional management team in place. The new PPL mantra is business first and there is now significant clarity about the purpose of rights that PPL represents. As an organization that deals in public performance and radio rights of its members, as was its original mandate, we have further mandated PPL with five key parameters.

*“The fact that I, as the chairman of PPL, am talking to you all today, shows that independent labels are now playing an important role in restructuring the industry.”*

*- Mandar Thakur  
Chairman, PPL*

The first is to engage all users and clients. The second is membership expansion to make PPL an inclusive body. The third parameter is technology upgrades and future readiness. The fourth is global integration, while the fifth parameter is healthy governance, compliance and transparency.

The new Board that is in place, includes an independent director, which is a first. The fact that I, as the chairman of PPL's board, am talking to you all today, is also a big first. It shows that independent labels are now playing an important role in restructuring the industry. Keeping up with requirements, we have appointed Ernst & Young, as the new internal auditors who are conducting a complete overhaul of PPL's tariffs, processes, financial



controls, compliance, human resources and general operations. For an industry to industry conversation, PPL is engaging EEMA and the other hotel associations.

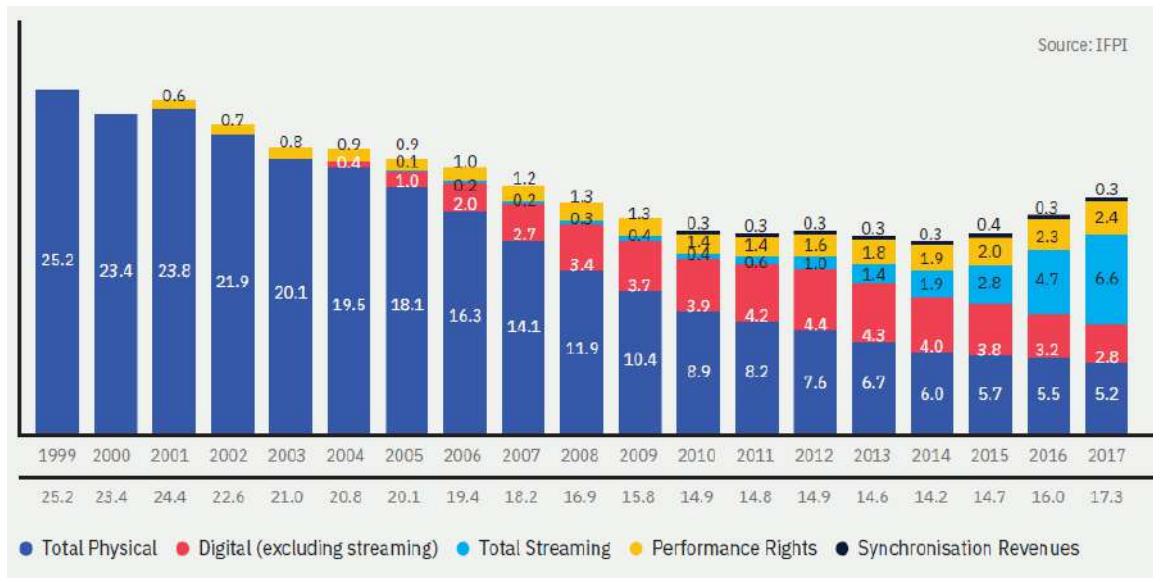
We welcome T-Series, who have reaffirmed their faith in PPL and recently joined PPL, and T-Series Managing Director, Bhushan Kumar on the PPL Board. We also welcome Manohar Naidu of Lahari music to PPL. Further, PPL is the only IFPI recognised public performance collective management organisation (CMO) in India. We are counting on IFPI for global best practices and integration of Indian culture and music. We also look forward to a closer working relationship with the DIPP and the Registrar of Companies (RoC).

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# Global Overview

**Kwee Tiang Ang**

*Regional Director, Asia-Pacific, IFPI (International Federation of the Phonographic Industry)*



**GLOBAL RECORDED MUSIC INDUSTRY REVENUES 1999-2017 (US\$ BILLIONS)**

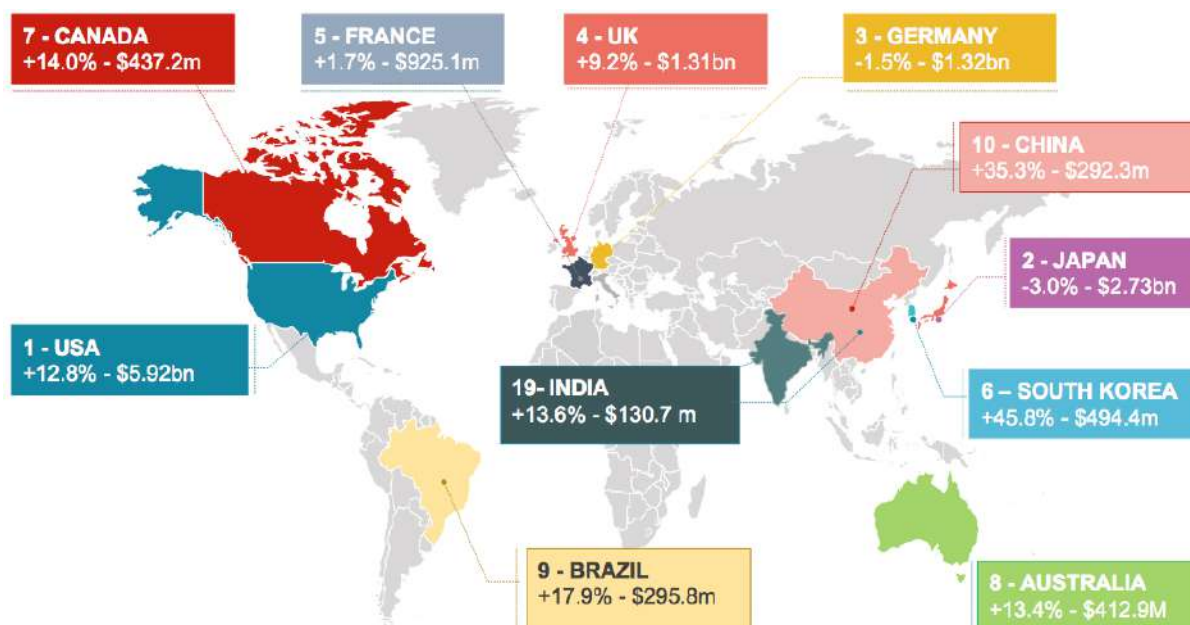
Starting with a global overview of the recorded music industry, the global recorded revenues were \$17.3 billion last year, an 8.1% growth over 2016. This also represents the third consecutive year in which the industry has grown. The industry, during the last 20 years, fell from over \$25 billion a year to slightly more than \$14 billion in around 2014. Around 2015, the first growth was recorded in nearly 20 years, with 3%-3.2%. This was followed by approximately 6% growth in 2016 and then 8.1% last year. For the first half of 2018, all Asian territories showed positive growth, with the exception of Singapore, which has a very small market and mature subscription. IFPI (International Federation of the Phonographic Industry) expects that global growth will be around 5%, but it is also being conservative.

During the first half 2018, the global industry recorded 8% growth. This year, we expect to see another positive growth story and that comes on the back of a lot of work that the industry has put in, including fighting piracy over the last two decades. If we keep aside the rise in the share of public performance, 65% of total global revenue is digital music sales. Therefore, digital is extremely important to the industry and by digital, implying streaming, downloads, mobile and other kind of interactive revenue streams.





In terms of breakdown of the digital revenues, streaming accounts for about 70% of global revenue. So, streaming is crucial. The number of paid subscribers in the Indian market is still extremely low.

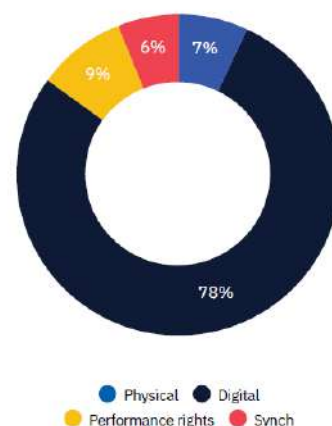


**Top 10 ranked markets and India (IFPI)**

There are four Asia Pacific territories in the top 10. India ranked 19<sup>th</sup>, with total revenues last year being slightly more than \$130 million. There is obviously some way to go.

In terms of rankings, India is ranked 19<sup>th</sup> in terms of the total market, in physical terms it's ranking is 31<sup>st</sup> and it is 14<sup>th</sup> in terms of digital, which is not too bad. Performance rights are not so good since India is ranked 32<sup>nd</sup>. Sync rights, representing the strength of the music industry in India, is higher than normal. But compared to the sync market in the United States, India is grossly underperforming in terms of the amount of royalties the music industry can extract for the use of music in movies. The digital is growing and has doubled since 2014, and now represents 78% of total Indian music revenues. In physical terms, India has fallen by a third, from USD 30 million to USD 9 million. Public performance rights collections have also dropped substantially, from over USD 20 million down to just slightly over USD 10 million. Speakers before me have spoken about several measures that have been put in place to try to improve the situation. The sync revenues are at USD 7.7 million.

**RECORDED MUSIC REVENUES BY SECTOR 2017 (% , TRADE VALUE)**



With regard to the digital market, 33% of revenues are from paid subscribers, 27% from free but legitimate services and then the rest from video streaming and other kinds of digital services. As said before, the Indian market is under performing compared to China, for example. At IFPI, the main Board has identified three or four developing markets - China and India are ranked number one and two, the other two markets should be Russia and Brazil. In China, the per capita revenue is at 21 cents per head, while in India, it is at 10 cents per head.

But in the United Kingdom, it is \$20 a head. India will have taken major steps, if it first catches up with China at 21 cents, then climb to \$2, and then aims for \$20.

If we work together as an industry and put the right measures in place, together with government assistance, India will be a tremendous market for growth in the next 10-20 years. But if the industry adopts wrong measures and fights with each other, we will just be limping along.

With regard to the official music chart, there was originally an aggressive timetable to launch as quickly as possible. Unfortunately, it has been pushed back slightly. But, it is part of the plan and we strongly recommend charts for India. It is a way of celebrating successes by recorded artists and also complement IFPI's annual global charts. If one looks at the top 10 songs at the moment, non-Asian artists dominate all these. It is a goal to push Asian artists, whether Indian or Chinese, up the global charts as well. I think of India because of its variety. We can start with the international and move to the domestic. We can also look specifically at regional charts to launch, before looking at a combined chart.

With regard to global revenue in 2017, IFPI member collection societies grew \$2.4 billion in terms of royalties. The International Confederation of Societies of Authors and Composers (CISAC) is about five times more than that. IFPI's target is to catch up with the publishing side. Revenues from collection societies count for anything between 20%-35% of a recording label's income. This may come as a surprise, but if you look at India, it is short by 9%. This is another piece of the revenue pie, which we can develop if we work together.

IFPI has worked closely with PPL for a number of years, with no visibility. The changes mentioned earlier by IMI chairman, Shridhar have ensured that IFPI works very close with PPL. We work closely on constitutional changes, clearing certain historical issues and putting in place global documentation and distribution systems, required for clear and transparent distribution of royalties collected. We hope the Indian government can approve the registration of PPL as soon as possible. With regard to Section 31D; it was introduced to give license to the broadcasters without needing to secure a permission, they just need to pay royalties. An interpretation of Section 31D came out in 2016, which extends the license to include all forms of digital usage. We are pleased to hear about India's accession to the WCT and WPPT. Under these treaties, an exclusive making available right is required. If India continues to apply the Section 31D interpretation, it would run foul of obligations under international treaties. IFPI is happy to work with the Indian Government to iron out this issue and ensure that particular online interactive transmissions are not subject to a compulsory license.

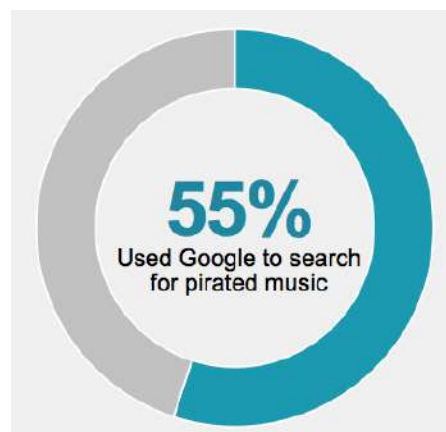


IFPI conducts an annual study and India is being included in the study, for the last few years. Indians spend 21-and-a-half hours a week listening to music. This is higher than the global average of 17.8 hours. India is clearly a music loving country. Secondly, 95% of internet users in India, consume music through on-demand streaming. Audio-streaming is used by 86% of Internet users in India. Thirdly, YouTube is responsible for 14% of all music listening time and

36% of all on-demand music streaming time. The importance of YouTube is very high. I mention this because it has released an issue called the value-gap issue. Radio continues and remains the most used method for listening to music with 91% of Indian consumers indicating that they obtain music from radio, but took up just 9% of total listening time. Piracy remains a major problem in India with 72% of the respondents downloading music through stream-ripping. 76% of Indian internet users aged 16-64 engage in some form of music piracy. This is much higher in India than in China where figures were about 64%. The figure for China may not be accurate, and may be much lower, because of the wide availability of legal and free music services.

Most Indian internet users convert music content from videos to MP3. The IFPI German national group has started legal action against MP3 conversions, and we expect quick results. Those, who may have heard of or used it, stream-ripping side youtube-mp3 no longer exists. That site is now controlled by IFPI. Our American national group took action last year. It was shut down and the control of the site was transferred to IFPI. We intend to take action globally against other stream-ripping sites that allow consumers to download apps, enabling them to go to YouTube and rip off music, which they are not permitted to do.

Finally, Google is being used to search for free music with 55% of search engine users explicitly looking for piracy methods. I raise this because we are running a very strong anti-piracy campaign against search engines like Google, trying to impose liability on them, to ensure that they either filter or take down and have stay down facilities. 95.7% of takedown notices issued by IFPI are for repeat content i.e., when we issue a notice, it is taken down and pops up again. Record companies and recording industries continue to invest heavily in new music. We have spent about 27% of our revenues globally, on new music for consumers. This is much higher than the chemical or airline industries. Please support your industry. IFPI is more than happy to work closely with all Indian record companies and the Indian Government to place the Indian music industry in the top 10 markets, in the next four years.



# Overview of CISAC

**Eric Baptiste**

*Chair of the Board, CISAC and CEO, SOCAN*

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As CEO of SOCAN (The Society of Composers, Authors and Music Publishers of Canada), I am in charge of the world's 7th biggest collective management organisation. In a country of only 38 million people, we are able to collect about 350 million Canadian dollars a year. CISAC (The International Confederation of Societies of Authors and Composers) based in Paris manages the rights of music publishers and creators of not only music, but also of movies, literature, theatre and the visual arts. 85% of collections are from music. CISAC, an organization not unlike IFPI, is tasked with organizing the work of 240

societies in 121 countries that have membership. These societies collect a significant amount of money. The numbers have grown annually to reach 9.2 billion euros in 2016. In terms of USD, we collected a little more than \$10.5 billion dollars in 2016. The 2017 numbers are being finalised. The trends are the same and indicate a good deal of growth. The numbers have doubled over 20 years. In 1999, CISAC member collections were about \$5 billion. And now, it is approximately \$10.5 billion. For the past four years, in the period between 2012-2016, CISAC members collections grew by about 20%.

In the last 20 years, growth dipped in 2002 because of economic turbulence after 9/11. A more significant dip happened around 2010, after the global financial crisis, but the numbers recovered quickly. Simultaneously, the recorded music industry faced a terrible crisis that it is emerging from. But the revenues that our members collected, around the world, have provided some kind of cushion for creators and music publishers who depend on those revenues to invest in music, and to also reward creators and those who invest in talent. The collection of \$10.5 billion was mostly in Europe, North America, Asia-Pacific and Latin America.

Despite Asia-Pacific being home to half of humanity and vibrant economies, it accounted annually for only 15% of the collections. This is mostly thanks to Japan, Australia, New Zealand, South Korea and Hong Kong. In terms of the world average of collections per head, CISAC and IFPI use similar metrics. The world average of collections per capita is 1.48 euro per year, which is a little less than \$2 annually. Asia-Pacific is well under — at 4 cents a year, which is less than 20% of the world average. India is not even included here, since its figure is miniscule. I mention this because there is potential for rapid growth in Asia-Pacific, in general, but especially in India. India should play a bigger role on the world stage and India has the potential to feature in the top 10 markets and also in the rights management area. With some ambition, if India can get close to the world average — not the North American or European average — but the world average, millions of US dollars could be collected on behalf of Indian



creators and music publishers and on behalf of world creators, whose music is being performed and reproduced in India. Even a world average might be unrealistic, but why not? This would amount to about \$2 billion and India would be ranked second or first in world average of collections per head.

This is a call to action to the industry. Through conversations with IPRS and PPL leaders as well as leaders of major music businesses in this country, I know that India has the potential to grow and claim its rightful place in the music ecosystem, if it plays its cards right. The IPRS under Javed Akhtar's wise leadership is being reborn and will soon be re-admitted as a full member in CISAC. IPRS has pledged to comply with a series of rules that CISAC has put in place and is monitoring. Called the professional rules, CISAC not only compiles numbers that help societies around the world advocate on behalf of composers, creators and publishers, but is also an organization that maintains stringent rules and standards that societies have to comply with. There are conditions for becoming and remaining a CISAC member. These conditions provide for transparency, accountability, good governance and for efficient, quick, accurate collection and distribution of royalties. IPRS, which is the collective management organisation for copyrights and authors rights has pledged to comply with those rules. We look forward to welcoming IPRS back into the confederation in October and desire that Indian creators and businesses in music play a more active role within the community of societies.

CISAC and IFPI agree that safe harbour provisions are dated and create a value gap or transfer of value issues. Legislation is necessary to address this. There should be more unity and transparency on behalf of the millions of people who create music in India and whose companies depend on music to create further wealth. The CISAC website, CISAC.org, has a study that we commissioned in 2015 called 'Creative Times' and we chose creative industries worldwide: TVs, museums, libraries, etc. This showed a global turnover of \$2250 billion, which is approximately the Gross Domestic Product (GDP) of India. Creative industries power other industries that provide jobs all over the world and decision makers, governments and parliaments should support them.

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“Creative industries power other industries that provide jobs all over the world and decision makers, governments and parliaments should support them.”

- Eric Baptiste  
Chair of the Board, CISAC

# Indian Majors: Propelling India to Top 10 Markets by 2022

**Kumar Taurani**

*Chairman and MD, Tips Industries*

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The reason we all have gathered here today is with the long-term goal of emerging in the Top 10 world music market. While we do want India to be among the world's top music markets, there is a need to look closely to decode all that has happened. As mentioned before, seven companies have borne the load for many years. Through IPRS, the artist community has been paid around Rs.130-140 Cr. Initiatives have been taken against piracy. IMI has spent around Rs. 70-80 Cr. to control piracy. We have also trained judiciary and police. Around Rs. 200-250 Cr. have been spent, mostly by these seven labels.



This was an industry effort to work together during the last 5-6 years. There were several meetings with Javed Akhtar and ultimately, we reached a settlement, which is a win for the industry. Particularly for mid-sized companies like Tips and for smaller labels, industry bodies like IMI, PPL and IPRS are very important.

However, there are still many problems. With reference to Section 31D, a telecom company negotiated with Tips for many months; after which they presented a figure, which was well under Tips' real market share. When I informed them that it was not possible, they slapped a Section 31D notice on Tips. A Section 31D notice is meant for the radio industry, not for the Internet. A company like Tips spent Rs. 60-70 lakh on the case, but the order is still awaited. They chose my company because it is mid-sized. They did not want to fight with the big players.

There are many major industry players that are yet to come together. I think 40%-50% of the industry is still on the outside. They don't want to participate in the joint efforts or join IMI. All the majors should support this industry.

Further, considerable support is required from the Government of India. Today, the Indian music industry is valued at Rs. 850 Cr., whereas the industries that use music are valued at Rs. 25000 Cr. For example, there is a radio company that earns around Rs. 300 Cr. annually, but pays only Rs. 6 Cr. to the music industry. The Radio industry is worth Rs. 3500 Cr., but pays only about Rs. 70 Cr. That's a fraction of the total revenues towards the raw material. One needs to look at the true valuations. The government should look into these details and locate the real problem.

## IMI Music Person of the Year Award Presentation



*Shridhar Subramaniam, Javed Akhtar, Seymour Stein*

**Shridhar Subramaniam:** Each year, we would like to award someone, who has actually made a material impact, not just for a sector but for the industry at large. Javed Akhtar is rightly the nominee for this first and inaugural award. We all know about the transformations that have happened under him. A major reason that we are all under the same roof is because of our collective agreement. This is a great milestone and the bar has been set high. To give this award, I invite Rock and Roll Hall of Famer and Billboard icon, Seymour Stein. He has worked with an illustrious list of people including Madonna and is also passionate about Indian artists and Indian music.



**Javed Akhtar:** The award is not only for me, but to all those people who work relentlessly for a certain cause; many of them are here and I am one of them. I share this award not only with the artists, the composers and writers. I share this award also with music companies, CEOs and chairmen who understood the cause and came forward. This is an award for the forward-looking Indian music industry.

# Global Best Practices

**Moderator:** Ameet Datta, Partner, Saikrishna & Associates

**Panelists:** Eric Baptiste, Chair of the Board, CISAC and CEO, SOCAN and Kwee Tiang Ang Regional Director (Asia Pacific), IFPI.



## Introduction and objectives

As the Indian music industry continues to consolidate itself and key stakeholders come together to deal with the issues faced by the industry, what are the lessons that can be leveraged from the global music industry? How can Indian CMOs (Collective Management Organisations) adhere to the global best practices and what are the lessons from CISAC (The International Confederation of Societies of Authors and Composers) and IFPI (International Federation of the Phonographic Industry)?

CISAC is a worldwide organisation with agreements with 240 societies in countries with different traditions, economic development levels and political systems. CISAC maintains a series of rules and guarantees for right holders, authors, the composers and the music publishers.

The main points they discussed were: The roles played by CISAC and IFPI; benchmarks established by these organisations that Indian CMOs can refer to; the nature of the support afforded by the government; the significance of technology's adverse effect on the fair value of content and its impact on the work of organisations such as CISAC and IFPI.



## Key points

**Roadmap for The Indian Performing Right Society Limited (IPRS).** The major challenges for IPRS have resulted from divisions in the Indian music industry. Now that unity has been reached, IPRS needs to finalise its new governance frameworks, new statutes and rules that comply with international best practices. IPRS also needs to finalise the adoption of its renewed distribution rules that will be in compliance with recommendations that CISAC has put forward over the years. Once this is accomplished, IPRS should be able to convince users of music in India, that they can trust IPRS to manage the rights of Indian creators of music and also foreign creators of music.

**IFPI's guidelines for Phonographic Performance Limited India (PPL).** The Constitution of PPL has to be a setup that will survive with time. As far as the approval of the Constitution is concerned, representation is crucial and membership service is important. PPL also needs to accommodate different voices. The strength of the respective companies in the marketplace has to be considered. IFPI has worked with PPL on changes to its constitution and asked to look at PPL's mandates and discussed licensing arrangements. Trainings will continue because exposure to international practices is crucial.

**Best Practices Toolkit for CMOs.** It is extremely important for all CMOs around the world to have a common series of principles with respect to transparency, good governance and efficiency. Societies need access to data and information that enables them to correctly track the use of the music they represent and distribute the amounts that are rightfully owed to the creators, publishers and record labels. For example, CISAC's use of identifiers, makes sure that each song has an identification number like a license plate for a car. Also, each song under IFPI is identified by its ISRC. Such measures will enable smooth progress and management of copyrights in India and around the world.

**Government regulation of copyright societies.** There has to be a balance in the way regulations are implemented or passed. In the case of India, one must guard against over-regulation. The key principles have to be put in place: transparency, accountability and good governance. The Indian Copyright Act has a provision that ordinarily, there will only be one collection society for a category of rights, implementation of which is crucial at a time when efforts are being made to rejuvenate the collection society market in India. Board representation and membership representation are crucial. The appointed collection society must represent a majority of right holders, to avoid duplication as licensees do not like, in general, to engage with more than one entity in any field.

**Technology companies and copyright.** The widely held view that copyright and neighboring rights can drag down the growth and expansion of technology companies is false. Most companies rely on creative content to deploy their services in the marketplace. A sustainable ecosystem involves - creative industries with licensees, with users of music including tech companies. Thus, the need for a system that shares value; between these stakeholders, in a fair way has arisen. This explains the relentless advocacy for more efficient copyright protection or management through the Music Modernization Act in the United States. The value gap needs to be closed, to enable a level-playing field between right holders and digital services, especially user uploaded content sites. This is key in Europe, the US, Canada and in India too.

**Worsening of value gap.** The value gap is largely created because of legislative provisions such as The Digital Millennium Copyright Act (DMCA) in the United States, which encourage the development of tech companies. The challenge is that the value has now shifted too far, in favour of tech companies. The companies are now worth billions but content owners are unfortunately penalised. Safe harbour provisions have worsened the value gap.

Companies like YouTube claim non-liability for user-uploaded content as a result of safe harbor provisions. While there are offers of compensation for the rights, these offers are not commensurate with the investments made by the music industry. The industry is forced to accept these amounts, the alternative being the issuance of notices and take downs which have a low success rate.

As a comparative example, Spotify and Apple pay \$22 dollars a year per user to the industry, whereas, YouTube pays less than a \$1 dollar per user. The solution is either the proper interpretation of Safe harbour provisions to ensure its availability to those services that are technical, automatic and passive, unlike YouTube or the amendment of legislation to change these provisions.

**Technology platforms and content liability.** The narrative for technical platforms has changed. No longer mere conduits, these are active managers of content and have to behave responsibly. Taking responsibility means taking steps against hateful content, for example, but also being responsible in the economic sense and recognizing that content has value. Music that people enjoy on these sites is the same reason why a company like YouTube is valued at billions of dollars. These economic benefits need to be shared with the people and companies at the origin of this wealth. It is therefore important that artists, creators and people in the music business support provisions such as Article 13 of the EU Copyright Directive.

**“Fair Use” Exceptions in Copyright Law.** The DIPP can take steps to ensure that public and copyright interest are balanced, without a continuing spread of exceptions and limitations to the copyright law. If any particular party pushes for fresh exceptions, there should be real proof that the exception is required. Fair use exceptions are very specific, for the purpose of teaching or news reporting. If the organization does not fall within the categorization, there cannot be an exception. However, in the case of tech companies seeking fair use, the court will look at factors such as quantity versus quality versus availability.

In Japan, the music industry heavily pushed back and the Japanese government concluded that they did not want to introduce fair use. If the Indian Government wants to introduce a fresh exception, it should be very specific. In Canada, a wide-ranging exception for education was made in the copyright laws. This was promoted by universities to enable more photocopying of textbooks. The result decimated the Canadian textbook industry. The major book publishers left the country because they could no longer be commercially successful. One has to be careful about unintended consequences, because an entire section of industries can be eliminated through broad copyright exceptions. If exceptions have to be introduced, they should be made as narrow as possible, so that courts can interpret it only as intended and not broaden it beyond reason.

# Keynote: Empowering Collection Societies

**Shri Hoshiar Singh**

*Registrar of Copyrights, Copyright Board, GOI*

I am thankful to IMI for providing me an opportunity to share my views on the role of collection societies. India is a land of culture and creativity where music plays a prominent role. Our music has kept pace with the changing times and the new age and boasts an international presence. Also, keeping pace with the changing times, the Union Cabinet has approved India's accession to the World Intellectual Property Organization (WIPO) Internet treaties (WCT & WPPT), which facilitates international protection of domestic right holders. This is a landmark step in the history of Copyright law and will empower creative Indian authors and owners of copyright by enabling a level playing field. Similarly, the Government of India has taken various steps to ensure the implementation of objectives laid down under the National Intellectual Property Rights (IPR) policy.

The copyright office has been co-located with the other IPR units, namely patent and trademark. The copyright office has also made substantial improvements in its working to ensure efficiency and transparency. The office has digitised records related to membership. Communication to stakeholders is through electronic means. The traditional way of managing economic rights in the field of copyright is through individual contracts. This is still the case for the publishing business. However, when it comes to public performance or the publishing of musical works, individual administration of rights is not feasible. This is why collective management through collective management organisations becomes necessary.

Such copyright societies are in the interest of both rights owners and users. For the rights owners, such bodies are indispensable because they, themselves would not be able to control the masses. For users, it is of great advantage to be able to conclude contracts with one party, instead of multiple contracts with thousands of right owners that would not only be time consuming but difficult to manage. The basis of copyright societies is the trust of owners and authors in the functioning of the copyright societies. Such trust is based on the efficiency, transparency and accountability. A copyright society not familiar with its members or its works, represents a failure. Its main duty is keeping and maintaining detailed and precise information of rights and rules and the work it administers.

*“India’s accession to WIPO Internet Treaties is a landmark step in the history of copyright law and will empower creative Indian authors and owners of copyright by enabling a level playing field.”*

*- Shri Hoshiar Singh  
Registrar of Copyrights,  
Copyright Board, GOI*

Documentation is the key to the smooth functioning of the copyright society and includes the repertoire of the work being considered, the assignment deed, the membership related document, tariff scheme, distribution scheme, dispute settlement methodology, besides others. The society must concentrate its efforts on maintaining a repertoire which is complete and up to date. The society must necessarily publish their complete repertoire on their official website to enable the general public to identify the rightful owners and the authors of the work and to ascertain whether a particular work is being administered by the society. It has been noticed that copyright societies have not been regular in publishing their repertoire on their websites.

Authors and owners of content expect fair remuneration for their work when exploited by the public at large. This compensation depends on the tariff, the willingness of the clients to pay and the collection efficiency of the society. The tariff scheme fixed by the society must be just, reasonable and should aim to maximise the availability of the work to the public. All those who use music for commercial and professional purposes should be treated as members of copyright societies, i.e., as clients and not as users.



It has been observed that such clients are not generally consulted during the fixing of tariff. It is therefore suggested, that the clients should receive an opportunity for active participation during tariff fixing. During the process of calculating royalties, the rationale for the decision and the information used to make the decision should be clear and made available, at least to the clients and the members of the society. The distribution royalties to authors and the owners of the copyright work should be based on the principle of equality of treatment of all the members.

Every copyright society should apply the same tariff, methods and collection and distribution of royalties to works in the repertoire of other societies, as it applies to the works in its repertoire. The copyright society is obliged to distribute revenues among its members, after the deduction of permissible administrative and welfare expenses. Furthermore, in addition to distribution of revenues, the society must make all efforts to identify rightful owners and the authors of the work and pay them their respective shares. In case such works are being exploited under the banner of the copyright society, the society should frame schemes to remunerate the authors or legal heirs of such unknown authors or non-members and maintain a separate account for this purpose.

The copyright system must enable an IT-enabled system, so that the members are able to track the exploitation of the works on a real time basis. In India, people are generally not aware of the rights, which exist in songs and music. Therefore, copyright societies should come up with mass awareness programmes to change the nature of users. The Government of India has taken many initiatives to make the general public aware of the copyright law and the impact on pirated music. DIPP has been regularly conducting workshops and seminars to sensitise the general public. A similar option may be considered by creative industries and relevant copyright societies to bolstering creativity and curbing the means of piracy. The users are part and parcel of active development of the music industry. Users must be sensitive to the copyright of the authors and the owners of such creative works.

# PPL 2.0

**Rajat Kakar**

*President and CEO, PPL India*

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These are exciting times for PPL India. Much has happened over the last eight months. The Indian music industry collects 5%-6% from sound recordings. The global average is in double digits. The industry's task is not only to achieve this, but exceed it. The idea is to put right practices in place to ensure that when the industry gains traction, we are not hunting for systems and processes, but they should already be in place, to ensure the industry gets its rightful share.

PPL India has 270 members. This is a representative body which represents not only record labels which are global companies, but the large indies like Saregama and large regional players such as Lahari Music (Bangalore) and Speed Records (Punjab). At PPL India, we are trying to

build a collection society, representative of not just the national repertoire, but also regional repertoires that help the regional telecom operators and radio stations. We control over 800,000 songs in the domestic repertoire, which are not just in the Hindi space, but also in the regional repertoire space. As we go forward, it will be important to track them because of our many languages. Therefore, it is important to ensure we have the right databases, so that money goes back to the correct repertoire, regardless of the language it comes from. PPL India represents over 2 million international songs from all the world majors.

PPL India also has tie-ups with international societies with IFPI support. We are concluding our renewal with PPL in UK, which would give access to their repertoire, several independent labels and would also lead to the monetisation of independent music from India, taking it to the global frontiers. We have been exposed to global best practices, thanks to KT Ang and IFPI. PPL India took part in the WIPO training programme, where we understood how to run an effective CMO, which actually cares for the rights of its users. We have a completely new professional team and management, putting systems and processes in place.

There have been five major changes in PPL over the last eight months. Firstly, we are aiming for impeccable corporate governance. We have an extremely professional management, which will institute best practices. We have also improved copyright governance. PricewaterhouseCoopers (PwC) are our statutory auditors and they ensure that our reporting is good and finances absolutely transparent. We also appointed Ernst and Young (E&Y) as our internal auditors and they make fresh suggestions every quarter. In the first quarter they looked at our distribution policies and suggested improvements. PPL India's Board of Governors have accepted all the recommendations.



HR and accounting processes are also being examined. The articles of association and the constitution are the bedrock of any collection society. The entire PPL India constitution has been revamped to sync it with global best practices advised by IFPI, as well as the Copyright Board changes of 2012.

PPL India has a new head of licensing with a lot of experience and have appointed a new head of digital. A high-profile CTO will be joining soon. We are also getting independent directors even though the Copyright Board does not require us to do so. But we have a former judge who will be appointed as an independent director. The Board will be rotated every few years, as required by the Copyright Act. The new Board has young people and regional representation. PPL has revamped the entire leadership team in the regions and there are new regional managers. PPL is expanding regional interactions, the plan is to make sure that regional members have regional boards that work with licensing teams to help and guide them and ensure, we are not just a Mumbai-centric company. The southern-based teams have been given a mandate to work with the regional companies to ensure that PPL reports to them on a quarterly basis and takes inputs on new releases.

We also want to increase our logged income. Tariff simplification is underway. We are fixing tariffs in consultation with industry associations. We will post the tariffs online after the AGM and we hope compliance will also increase. PPL is offering tailor-made solutions on tariffs to key accounts and large institutions, chains and retailers. In the past, this was not possible. They now work with us as partners and not as adversaries.

We will address underreporting with random checks and ensure protection of members' rights under the copyright law. A member grievance redressal mechanism is being put into place. There is a turnaround time for any grievance that is reported. Members will be able to put their complaints on the website. Membership teams have been revamped so that prompt replies are given. We are ensuring that PPL's disbursement policy reflects usage patterns. Distribution policies are being changed and will be passed at the AGM and will reflect the current usage.

**PPL India has introduced a code of conduct for its licensing staff.** There is competition from unscrupulous bodies, which also operate within the scope of the Copyright Act who are giving a bad name to the collection mechanism. People barge into places and ask for licenses. They ask for a "PPL license", which they imply to be as a Public Performance License, thus giving us a bad name. We have weeded out almost a third of unscrupulous field staff.

**Transparent and simplified processes are needed to ensure content usage is paid for and remunerated back to the sound recording label.** People who use our rights do not give us logs. We are trying to get more logs in place by using programming services where you have a party or event, and PPL will pick up the logs through digital means. Rightful payments can be made, since many members complain that their songs were played but they were not paid. Since we currently work on surrogates, no public performance venue gives actual data usage. We are trying to use programming services so that stores and establishments are encouraged to use digital programming services, which can provide the log. We are talking to SOCAN about technology for distributing the revenues that come in. We are finding where usage of sound recordings is happening, through platforms such as Shazam and Facebook. We are also participating in an Asia-wide data-mapping project, where, by putting our data into the Asia-wide servers, we will ensure that our mapping of usage will be accurate. We want to take the accuracy to as high as 90%, to ensure no loss of revenue for members and to ensure that

when our data and songs are used overseas, the revenue comes into the Indian markets, a lot of which will be in US dollars and foreign currencies.

**PPL India wants to focus on its core business.** In the past, PPL was engaged in digital, television and more. Music labels did not want to work with PPL. The focus was on OTT and mobile, since it helped us grow. But public performance was not given its rightful share. With PPL's exit from TV, mobile and online processing, the impetus is on the music labels to focus on the physical, digital and television aspects themselves. PPL will focus on things that labels cannot do themselves, mainly collective licensing of public performance. Now, PPL focuses on just two verticals: public performance and radio. We are also revamping our valuation in radio licensing. The Copyright Board order that came out in 2010 was a little unfair and is being tried in the Madras High Court. Fair value needs to be established for our members in radio as well. Since India is becoming more and more of a streaming market, PPL is trying to give more weightage to streaming services. Lesser weightage is given to the physical format as it declines. Usage decides how public performance happens.

**Users should have access to correct information.** There should be websites and people should be able to be aware of what we represent and we should be able to provide a single window clearance on our two verticals. We are not going to be doing business in digital, but there will be dashboards where members can see in real time how their content is used. Hence, digital infrastructure is being built which will give access to both members and users. Online licensing has been introduced where users can actually pull down their own license without talking to the field staff. It is now currently in beta testing. All licenses are being issued online. In the upcoming AGM, the new tariffs in the licensing system will be passed and introduced. The revamped website, is being made more user friendly. We want to get pre-accredited lists from some users, where we give them login details through which they download their own licenses and won't have to come to us repeatedly. We will do this once the online systems stabilize. We have completely revamped the digital issuance of licenses. The acronym for the new licensing system is **PLUS - performance license for usage of sound recording**. PLUS will ideally be out in November (2018).

Finally, it is all about engagement with rights users, not only by expanding memberships, but engaging with labels and users to ensure that processes and tariffs are right. We want to engage with all our users whether the events people, retail associations, or hotel associations. We want to engage with people who are using our content. They have many questions to which we should respond and find out what their main issues are. Tariffs will become better and compliance will improve only through engagement. Tariff is going to reflect this ease of doing business.

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# The New IPRS

**Rakesh Nigam**

*CEO, IPRS*

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Under the leadership of Javed Akhtar, IPRS has made a lot of changes. The first thing which IPRS did after achieving settlement amongst the authors, composers and publishers, was to have elections for the first time in 14 years. There was fair representation for authors, composers and new publishers on the Board, led now by Javed Akhtar. New articles have been adopted, not just with CISAC guidelines but also considering the Copyright Act. The interests of authors and composers are at heart of the new articles. Nothing can change in the governance or articles of IPRS, without authors and composers equally participating in all the changes.

All stakeholders will have a fair representation and IPRS will ensure that authors' interests and rights to royalties will be protected. After a lot of disputes and filing for registration, IPRS has been granted a clean registration. In November (2017), IPRS was granted conditional registration. The government laid down conditions, all of which IPRS fulfilled, and will be granted a clean registration certificate in June (2019).

IPRS has been re-inducted into CISAC –this will be formalised in October. IPRS has complied with new articles suggested by CISAC. We have adopted new distribution rules which are in line with the Copyright Act and rules including CISAC professional rules. IPRS has started distributing royalties quarterly. The most recent distributions were in March, May and July.

Another major change is that alongside performing rights, IPRS will also administer mechanical rights, and collect the author's share of royalty for synchronisation rights. IPRS will also collect royalties on behalf of authors that are not members of the organisation. This is a sea change — the author's share of royalties cannot be denied. Regardless of the size of the company, not being a member of IPRS does not mean that author's share of royalties for songs and repertoire will not be collected and compensated.

With these new changes, IPRS has been able to license content to streaming platforms like Amazon Music, Apple Music and broadcasters like Star TV Network. We have now been continuously engaging with all our members and users. Transparency is key now. We have a tariff committee which has fixed the tariffs, a licensing committee, a distribution committee, membership committee, legal committee and data registration committee. We have issued public notices for the member grievance committee. Members with grievances can approach IPRS on the website as well. In its outreach programme, IPRS has set up regional committees. Regional committees have been formed for Tamil and Telugu speaking regions. The



committees for Karnataka and Kerala are under formation. We will also do this across the East of India and form regional committees for each of the states. We have been engaging users like EEMA, working closely with music composers' associations and screenwriters' associations. On the digital side, IPRS has adopted government policies to move towards the digital licensing.

From April 1st (2019), IPRS will not take cash because of rumors that people misuse cash. Members can apply online and take a license. They can visit the website, apply, pay the license fee and the license will be generated for them on the spot. We have issued close to 300 licenses in the last 3 months. We have also instructed IPRS officials to refuse cash transactions in certain areas like Jaipur or Udaipur, instead, point-of-sale machines have been provided. We are in the process of making a members' portal.

IPRS has set up a different data team with active members to provide us with data, since a blanket license no longer works. We need accurate data from members so that we can make claims on the DSPs (digital service providers). We are in the process of revamping the data team so that the distribution can come in correctly. In the next few months, robust data will be uploaded to our website. A song search facility will be introduced whereby you can search the song of each member, and if anybody has a query on any song in the member's repertoire, it can be answered. With regard to data identification, we are in talks with Mint and SOCAN for a digital transformation.

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# Keynote: Protection of Indian IP

**Shri Sushil Satpute**

*Director, Department of Industrial Policy and Promotion, Ministry of Commerce and Industry*

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The Government of India observes the activities in the music industry through the various reports published by E&Y, FICCI or the other reports that are available. One such report is prepared by Indian Brand Equity Foundation (IBEF), an organisation under the Ministry of Commerce. According to this report, the Indian media and entertainment industry grew at 18.55% in the year period 2011-17 and is **expected to grow at 13.9% to touch \$37.55 billion** in coming years. This benchmark is expected to be achieved by 2021. The views in this report are indicative of the Government's expectations of and support for the industry.



The government is bullish on the media and entertainment industry. In the next five years, it also anticipated that digital technology will increase its influence across the music industry. The government is very interested in the fact that the music, **media and entertainment industry provides employment to 3.5-4 million people in the country**, directly or indirectly. This is laudable since job creation is a major challenge for the Govt. of India. Thus, the industry is helping the government in a major way.

In 2015, the government started working on the national IPR policy. This was needed because all industrial sectors, including media and entertainment and copyright were concerned about it. The government is not creative enough to develop a media and entertainment industry, but it can provide an ecosystem, where their Intellectual Property Rights are protected in the best possible way. In May 2016, GOI came up with the national IPR policy and one of the key objectives was to work on copyright systems in India. The first achievement was the Copyright office, which was with the Ministry of Human Resource Development and was then transferred to the Ministry of Commerce and Industry. The Ministry of Commerce is an umbrella for all IPR activities inside the country, all policies and Acts in the area of patents, trademark, designs, copyright, semiconductors and geographical indications. With these six Acts, there is cohesion in the approach towards building respect for Intellectual Property Rights.

With the feedback from the industry, this forum and other forums as well as stakeholders' meetings will be useful to us. The first achievement, as mentioned earlier, was the merger of the copyright office. We also came up with a forgotten reservation that India had on translation related provisions in the Berne Convention. There was a provision which the Indian government used to utilise for translation of public works or copyrighted works. This provision



is mostly related to publication and was also implemented and submitted to WIPO, two months ago. On July 4, the Cabinet of India approved accession to the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT). This was very important for us because the music industry had been echoing this issue since 2012. In 2012, the Copyright Act was amended, many of us contributed to that amendment of that Act and the natural outcome should have been accession to WCT and WPPT. It took some time, but this year in July, we achieved this when the Union Cabinet approved it. We have received information that even the President has signed the instrument of declaration, which will be now submitted to WIPO, so it is official. It is only a matter of declaration in the general assembly of WIPO, Geneva, which will happen in September end.

The main benefit that we are enforcing in this area is protection of the music industry's work and creation in the digital medium throughout the world and throughout the member countries that have signed this treaty. Since India has IPRS and other interested bodies including PPL, we need to best utilise this opportunity jointly, to bring more revenue from the other countries where Indian work is utilised. This is not just the job of IPRS or industry bodies, it should be jointly discussed by industry. Please give us some suggestions on this so that we can start working with CISAC and IFPI and other bodies. Since WIPO is a neutral body, we tend to include them in all such discussions, and we will continue to do so in our future consultations on this matter. There is a request for feedback on how to make best use of this accession to the WIPO treaties.

I understand piracy is one of the major concerns raised by the industry. E&Y's 2017 report has noted that piracy would cause a loss of around \$3.08 billion for OTT, TV and movie revenues in India by 2022. This is a sharp increase from losses reported in 2016. India would be ranked third in the world in terms of such losses. Further, according to E&Y's 2018 report, annual losses of around \$2.8 billion to the film industry due to piracy are expected. These are major concerns, so there is a need to work together. After the advent of adoption of national IPR policy, we decided to start working on this issue.

The first thing is generation awareness, especially among enforcement agencies. As suggested by the industry, we have come up with an enforcement toolkit for police officials. These toolkits have been widely circulated in English and Hindi. We are in process of converting the tool kit in other languages too. If required, we can share this with IPRS and other industry bodies so that they can also contribute to this. We also arranged many police training programmes and contacted police training academies. It is now mandatory for new IPS officers to undergo studies on IPR, so they have some basic knowledge, which was not available to them initially. We organised a music conference last year where the Minister of Home Affairs directed his ministry to include all such studies in the curriculum of the IPS officers. Enforcement agencies also include the judiciary part of our legal system. When we consulted our judicial mechanisms and the judiciaries, the National Judicial Academy of Bhopal accepted and arranged a sensitisation programme for judges in Bhopal last year. Nearly 30 judges attended this program and the feedback was encouraging. Apart from the judges in Delhi and Mumbai, most of them do not have to deal with many IPR cases, whether copyright, patent or trademark. Therefore, the High Courts of Allahabad and Nagpur are not sufficiently aware, because they do not handle these kinds of cases. Hence this sensitisation programme was first in the series and will continue with the help of WIPO in India.

Based on the suggestions from industry, the Govt. spoke to the search engines and social media platforms and discussed a few issues. The discussions with them were regarding support to the industry in identifying and removing infringing material. Some websites will help on a voluntary basis, others will help because the Govt. is intervening. Some others will also help, because the government might decide to have a dialogue with them on developing guidelines to handle this issue. There is a matter in Madras High Court where Viacom (Viacom 18) proposed actions to deal with issues related to copyright infringement on websites. This is a proposal and currently there is no provision in the Copyright Act. But the matter is being discussed. Representatives who are present here should provide us with some feedback on how to have a better administrative mechanism to block a website. There are no provisions in any law in India at present to do so. Secondly, when we search for something on a search engine and a particular website has a history of being a pirated website, or has content which was not supposed to be on it, those results will be pushed down. This is also workable, but we have not seen much action on this front.

I personally tried searching for pirated websites, and found that such websites are on the third or fourth pages of the search results, instead of the first page. This is an encouraging trend and can be used by the industry to have further discussions with search engines and provide them with more information about such websites. The engines can block these websites, and if not entirely blocked, can be demoted to the last page, and not the second or third page. The third suggestion given by the industry is to have discussions with advertising agencies. Most infringing websites work on revenue generated from the advertisements that they receive. Industry can sit with ad agencies or other advertisement providers and decide to not advertise on illegal websites or infringing websites. Such systems have worked in other countries where people come together on a common platform. We will try to have a meeting with the advertisement association. We have not succeeded in having a meeting with them as yet, but we intend to do so and your (the music industry) help will definitely be useful.

Some infringing websites require payment gateways for downloads. This is a serious issue, which should be discussed with payment gateways so that they too do not provide their payment gateways on websites. This is how we can make it difficult for pirated websites to operate. If the users want content they should approach the industry or the owner and proceed legally.

With regard to internet service providers (ISPs), there is a government agency called National Internet Exchange of India (NIXI) which registers (dot)in websites, allowing them to work in India and they generally have a KYC (Know Your Customer) form, which provides details of the owner of a website. Most infringing websites do not provide complete details. They may or may not provide an address or a contact number. We decided to make a quick check across their database and took action with the help of NIXI, wherein they started issuing notices to such websites. In certain cases, the industry provided us the list. IMI particularly helped in providing this information and when notices were given, nearly 80 websites failed to provide

“Most infringing websites work on revenue generated from the advertisements that they receive.”

- Shri Sushil Satpute  
Director, DIPP, Ministry of  
Commerce & Industry

any information and these websites were then blocked by NIXI. Only four or five websites reverted with information. Full information about the website gives the owners (of content) a chance to take legal action against them. Legal research teams should find out whether these infringing websites have updated their KYC. If not, NIXI and DIPP should be complained to. The IMI platform can also be used for such complaints. We can slowly build up a programme where such websites can be blocked all together. As far as new websites that are being registered, NIXI is making sure that all KYCs are available.

Since copyright industries have raised section 31D, I want to share that we have initiated an industry consultation, prior to coming out with such a Government office memorandum (OM). There is no new addition in the law or creation of any new provisions in the law. Government office memorandums (OMs) are not law, they are simply a clarification, which is done because it was requested by some people. The OM states that the definitions of broadcast and communication to public in the Copyright Act does not restrict internet as a medium where protection can be sought. Hence, this particular OM should not be seen as a restrictive one. However, if there are issues; and we have been receiving representations on this particular OM, we are willing to discuss this further. We can have meetings and discussions here, or in DIPP in Delhi to further deliberate on this issue. I can assure that whenever there is a demand from the (music) industry and since copyright is now with the Department of Industry Promotion and Policy, we are open to any suggestions that can help the Indian music industry grow.

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# Anti-Piracy Efforts in India

**Abhishek Dhoreliya**

*Founder & CEO, MarkScan*

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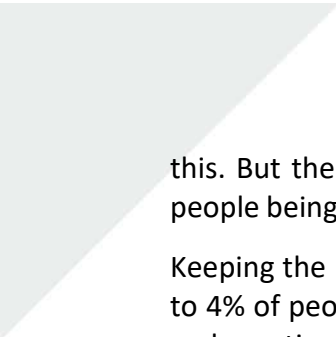


Digital piracy is a major battle that MarkScan, a content protection firm, is fighting. When we work across genres, such as TV, sports, movies, music and publishing, we repeatedly hear two questions; The first question is that what are the returns on investment from the efforts being put in to fight piracy? The second question, often discussed among industry leaders and across content genres, including music, is how can we work with law enforcement, Cell for IPR Promotion and Management (CIPAM) and the entire government machinery in this area.

With regard to the first question about returns on investment, India can try to develop a framework to quantify what actually happens when content protection work is done, its impact on owners, the impact on the pirate websites and how does it lead to returns. We have developed such a framework, which can be improved with inputs from the industry.

We used the case study of a content protection project, which was done for a music client. We used six months data in the project, working on 200 tracks covering Hindi, Telugu, Tamil and Punjabi music for a period of six months. Around 100,000 cases of piracy were addressed. This is the basis used to develop the framework, where 100,000 results were addressed were for 200 tracks. Around 60,000 listings were removed from search engines and around 45,000 media files were removed. Hundreds of mobile apps were also removed. Where does this kind of work lead to? When you do this, the visibility of legal or whitelisted platforms improves on search engines – this is the first thing that happens. We used indicators like Saavn, Gaana and YouTube as the whitelisted platforms. Their visibility is significantly higher in any of the search engines. Using the same data for the same period, we measured traffic, which is getting diverted to these platforms, and there was a significant increase in traffic to these platforms.

This is a complex environment with multiple moving parts. While it is very difficult to separate the impact of just one exercise, the trend is a clear indicator of what happens. As the visibility of the whitelisted platforms increases along with the traffic to it, the amount of pirated content for the portfolio that you are working on decreases significantly. This leads to a significant drop on traffic to the pirate websites, which are being targeted. It is all about advertising for these platforms. With lesser traffic, the key revenue source is being hit, so they are obviously being targeted where it hurts the most. How does one estimate the monetary gains from this effort? When trying to calculate how many people are diverted to whitelisted platforms after a content protection project, we found that India does not have a study for



this. But there are several studies in UK and Korea, which indicated nearly 20% to 40% of people being diverted to whitelisted platforms when they are not able to get pirated content.

Keeping the Indian context in mind, we downplayed the numbers, and decided that only 3% to 4% of people will move to the whitelisted platform. We then spoke to industry people to make estimates of what numbers of people visit streaming platforms versus download platforms, what is the typical monetization, which happens for a music publisher in streaming and download format. Eventually, we were able to put a value to the possible gains. This is not pure science as of now, but based on some assumptions. But this is a start to try and make available such an instrument to business leaders. These are the key concerns prevalent across genres.

IMI is partnering with the Maharashtra government, represented by Maharashtra Police – in particular, with the nodal agency of cyber police within the Maharashtra Police. There is a nodal agency called Maharashtra cyber, which deals with cyber related advisory issues for the police of Maharashtra and the Government of Maharashtra. Maharashtra cyber has launched a new unit called Maharashtra Cyber Digital Crime Unit (MCDU) and this is the first such initiative in the country whose mandate is to protect intellectual property rights on digital platforms or to address digital IP issues.

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# C-suite Panel

**Moderator:** Devraj Sanyal, MD and CEO, Universal Music Group and EMI Music (India and South Asia)

**Panelists:** Mandar Thakur, Times COO; Anurag Bedi, Zee Music EVP & Business Head, GB Aayeer, Saregama CFO; Kumar Taurani, Tips Industries MD and CEO and Sanujeet Bhujabal, Senior Director, Sony Music.



## Introduction and objectives:

India's music market is worth \$130 million (as per IFPI's Global Music Report 2018), approximately Rs. 850 Cr. China, which entered the top 10 markets is worth Rs. 1945 Cr. (\$293 million). Therefore, the gap between the emerging markets of India and China, which are ranked 19th and 10<sup>th</sup> respectively, is over Rs.1000 Cr. Challenges such as piracy; which results in a yearly loss of Rs 1500 Cr. in revenues for the music industry, and the gap in the valuation of content by technology and broadcast platforms, represent major hurdles in the path to the Top 10 music markets in the world.

The C-suite panel was tasked with examining the various difficulties of India's music industry such as piracy, low public performance collections, non-commensurate remuneration by derivative industries such as the radio industry and India's performance relative to the performance of leading music economies globally.

## Key points

**India's data consumption and growth in music audience.** Currently, the number of unique users of music on Indian streaming platforms is close to around 18 million with monthly streams crossing 4 billion. In 2017, the average smartphone data consumed per month in India was 1GB. It is currently 13 GB and is expected to climb to 30 GB next year, of which, music or video consumptions will be 65%. If the inflection point of 300 million smartphones is reached in the next one year, it would give a big boost to music consumption and the music industry.

**Unfair remuneration for public performance licensing.** India can improve its performance as a music market if every entity that uses services and content, pays for content fairly. This could be a restaurant, an event, a wedding, or any of the agencies that are the cumulative representatives of licensing such as Event & Entertainment Management Association (EEMA), The Federation of Hotel and Restaurant Associations of India (FHRAI) and National Restaurant Association of India (NRAI). A recommendation has been made for creating an enterprise license for such establishments and enforcing it with the help of the ministry, police, and music bodies. If each of these establishments pay enterprise license of \$10 per month, additional Rs. 800 Cr. could be collected every year.

**Improvements in Collective Management Organisations (CMOs).** Societies such as IPRS and PPL in the last five-six years have faced a lot of turbulence, problems with the creative community, rights and ownership issues. In 2017, these issues were resolved with IPRS collecting Rs. 40-45 Cr. By the end of 2019, the expectation for collections is about Rs. 150 Cr. Government help and the recognition of IPRS as a collection society and the various changes at PPL, we expect collections to improve.

**The legal battle against piracy.** If India; where 50%-60% of revenues are lost on account of piracy, followed copyright administration like China, its position in the global music market would rapidly improve from 19<sup>th</sup> to 10<sup>th</sup>. Legal recourse against pirate websites and ISPs provide short-term relief as websites like songs.pk resurface under different domain names, rendering expenditure on legal proceedings futile. With the help of DMCA, takedown notices are issued and many websites are pulled down, however, this process cannot keep up with the influx of new pirate websites. Further, the decisions against ISPs in Indian courts will be applicable only to the websites hosted by ISPs in the territory of India.

**Fair value and need for Government support.** The Indian music industry powers many other industries. Mobile service providers also license content in order to boost their subscription bases. However, the compensation for the content used is not in line with its fair value. Through the support of the Ministry of Commerce and DIPP, regulatory processes and frameworks need to be established so that copyright is not misused and creators have value.

**Declining music revenue per capita.** India and Thailand are music economies where per capita are the lowest. China is 21 cents to India's 10 cents, while the US is \$21 dollars, Germany is \$16 and France is \$14. South Africa is at 81 cents. The music industry will have to find a way for the paid ecosystem as digital technology has caused a big decline in the per capita, which was earlier driven by physical sales. There can be no major improvements unless the per capita divide is addressed as part of the value gap or 'value chasm'. Brazil is a benchmark to follow since its national per capita is around four times that of India, but the music revenue per capita is 14 times higher.

India is also lowly ranked in IFPI's Global Music Report: India is ranked 19<sup>th</sup> in the world. India ranks 14<sup>th</sup> in digital, 16<sup>th</sup> in streaming, 7<sup>th</sup> in synchronisation and 32<sup>nd</sup> in collections.

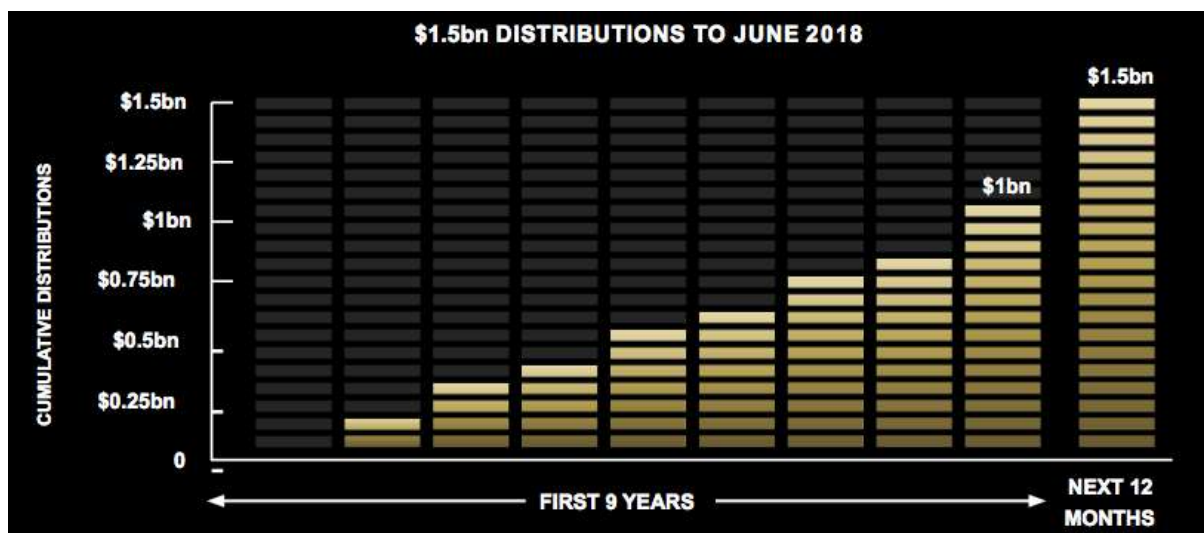
**The need for innovation.** Saregama's success story with the launch of 'Carvaan', highlights the possibility of disruptions based on existing models. Saregama's market research confirmed that customers wanted music in the physical format with convenience. If the convenience of a consolidated device is given, customers will pay, not only for music but for the device as well.

# Rise of the Indies

Charles Caldas

CEO, Merlin BV

Merlin was created over 10 years ago by a group of independent labels around the world. These labels had different environments and challenges in terms of evolving their business into a digital one. They were also exploring what the changes (digital disruption) meant for their ability to compete, get revenues and determining the potential of the future in their business.



It took the first nine years of operating Merlin (from its inception 10 years ago) to make its first billion dollars. This is an extraordinary figure, since Merlin represents only independent record labels and distributors from around the world. Most of the value generation has been through audio streaming and does not include download, public performance or any of the other revenue streams. It took only 12 months to achieve 50% of the revenues that Merlin collected over nine years and this is testimony to the evolution of the market.



This evolution is not just from the major music markets, but enormous growth was seen in the last 3-4 years in markets that were initially considered very low value. A survey was conducted, of the companies that Merlin represents, to understand how their business looks in the current scenario. The survey showed that in the last three years, 39% to 42% of the companies represented by Merlin, made more money outside their home territory than inside. Merlin believes this fact, combined with the fact that the Indian diaspora is mobile, global and

widespread, hailing from different regions of India could be a key factor that could drive more value back into the Indian marketplace in coming years.

The innovation of streaming in mobile phones has changed the way that people access music, thus changing the actual shape of the business. Only around 17% to 18% of Merlin members saw More money come from outside their market in physical sales. The shape of the business in most markets used to be largely determined by an enormous concentration of value with hits, a little bit of music in the middle and a long tail that struggled to get into the market place. One had to be very lucky to make money outside of their home territory. But now, in the streaming market, the fact that one can put any piece of music on Spotify, Apple, Google Play and that music is available to any consumer, anywhere in the world immediately, has changed the shape of the business in recent years. Generating revenues outside of your market is now an exciting reality.

From the perspective of the IMI Dialogue, a core aspect to understand is the potential and challenges not just within the domestic market, but also opportunities that sit outside the market. There has been an enormous shift from domestic business to international businesses. This is a global phenomenon, with music not just moving from the west to the east or from the west to Latin America, but also cross-pollinating. When Merlin started, it did not make money from Chile, Argentina, Brazil and Colombia, whereas currently these four markets are among Merlin's top 20 earning markets, with Brazil being the sixth highest earning market. Six or seven years ago, Brazil was a market beset by piracy, with very little credit card or payment systems, the penetration of broadband was low and data was expensive. Yet in a short period of time, Brazil has overtaken countries like France to be Merlin's sixth biggest earner. Merlin has also worked with Japanese and Italian labels, which are struggling with the emergence of the streaming market, but are making money outside their home countries.

The availability of music globally on streaming platforms has not only changed the value proposition, but also the consumer experience. Consumers from India can access music from Italy on Google Play, while youngsters from Sao Paolo, similarly, have access to music from India. This has flattened the market. The market was controlled by major global labels that had the financial muscle to create global mega stars, ensuring they dominated radio, TV and retail, and target the consumers who only had access to these mediums. Now consumers are completely unbundled. The ability to participate not only in the domestic market but also in the global marketplace should be an exciting opportunity for Indian labels in particular.

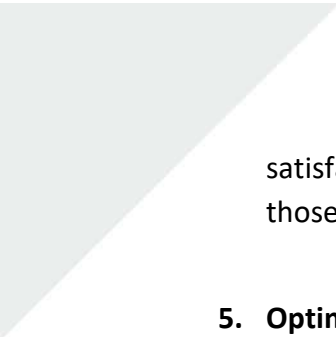
Five key trends have emerged which matter to the Indian market and are signs of a positive future:

“The ability to participate not only in the domestic market but also in the global marketplace should be an exciting opportunity for Indian labels.”

- Charles Caldas  
CEO, Merlin BV

- 1. New market dynamics have benefitted companies outside of the global major labels.** Of the top 20 music channels on YouTube globally, 4-5 are Indian, because of Bollywood, which is a lot of audiovisual content that reaches a very big global market. However, this is not the trend even among the top 200 or 500 or 1000 playlists on Spotify, Apple Music or Google Play. In terms of Merlin's business, every dollar earned on YouTube, is matched by 10 dollars from their audio partners. Therefore, if Indian channels could achieve 10% of what they're achieving on YouTube, in the audio market, they would double their business immediately.
- 2. Growth is from the heart, not the head.** People who are active users of streaming platforms are diving deeper than they ever have in traditional music markets. Further, the heart of the market right now we think is the music that's been created by smaller labels in their own territory that's connecting with some other cultures from around the world, the most obvious example is electronic music. If you look at the growth of EDM as a genre, without the limitation of language we are seeing an incredible cross-pollination between music producers, DJ's and electronic musicians from different continents. So, this notion of a heart, of building culture, of building opportunities for the kind of music that you're producing and the ability to be able to tap into people that share your vision or share your passion is going to create, I think, some incredible new music and incredibly exciting music projects in the years to come.
- 3. Independents are making real money from markets outside the western markets.** As important as it is to build the next phase of the domestic market, there is a global market. Along with the issues already discussed on the panels, the Indian music industry needs to strategize for the dynamics of the global market.
- 4. The "Sweet spot" - high value repertoire attracts high value customers.** Merlin has found that once audio streaming takes hold in a market and you get to a point of conversion where less than 10% of the population or a couple of million users in the market are driving consumption. The tipping point for conversion of users can then be driven through social media because once people are inside these systems, they dive in deeper and deeper. So, the longer people live on these platforms, the more music they listen to, the more the product becomes part of their lives, the more they have music not just in their home, in the car in the radio but they carry it with themselves as they travel, or commute or sit at home on the weekend. And the more you engage with these platforms and these platforms, as some of you may know, there are these sort of rabbit holes that you can go down to try and find either music you used to love or music you think you might love. So, I think this success of independent repertoire combined with the fact that we have hungry consumers looking for music and more





satisfaction is again another point that should point to enormous opportunity for those of you spreading in the market.

- 5. Optimism reigns – opportunity abound.** The influx of value, the globalisation of business and the realisation that one can connect with different types of consumers, which was not possible before.
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# Regional Panel: Fair value roadmap

**Moderator:** Atul Churamani, Founder and MD, Turnkey Music and Publishing

**Panelists:** Sagarika Das, Sagarika Music (Marathi), Aditya Gupta, Aditya Music (Telugu), Balwinder Singh, Speed Records (Punjabi), Santhosh Kumar, Think Music (Tamil) and Mahua Lahiri, Asha Audio (Bengali)



## Introduction and Objectives:

Regional and independent labels have unique challenges that need to be addressed, whether negotiating with the television networks and big corporations, or getting regional radio stations to play their music. Piracy and declining revenues have also affected regional labels. The aim of the panel was to identify difficulties in getting fair value for the regional music industry.

## Key Points

**Survival of small and independent regional labels.** In the past, independent music labels were able to estimate the returns on their investments and the accompanying risks, on the basis of physical sales. This dynamic has since disappeared, and independent labels are now uncertain about returns, and the rates they are paid. This has resulted in a lack of new products and investments. The emphasis has shifted from albums to singles and each song costs much more than what it used to cost to produce entire albums. Labels, which have been in the business for many years are now producing content and putting in money without commensurate returns. Further, the internal issues that have plagued IPRS and PPL (India) have also affected a source of revenue for regional labels, as royalties for licensed content is not collected.

**Lack of radio airplay for regional music.** Independent regional music is not being played on the radio. Regional radio stations do not play regional music, favouring Hindi and Bollywood music owing to the genres' popularity.

**The Issue of fair value.** TV networks are known to threaten labels with non-payment. In Telugu music, mid-sized and small labels are pressurized by big corporate houses, forced to compromise and accept low value. TV is outside the remit of societies like PPL, thus, forcing labels to sign individual deals with television, mostly news channels, which pay low value. Many local channels do not pay. The main source of revenue is from digital sources. Artists and labels should not be forced to give their music to radio and TV broadcasters at prices dictated by big players, but as per the true value.

**Relationship with aggregators.** The relationship between regional labels and aggregators is complicated, owing to the aggregators refusal to pay for various rights. Many big corporates and networks get independent artists to sign contracts, which transfer rights to royalties to the networks in return for the artists receiving publicity. They also claim the right to sublicense the content of labels in perpetuity without payment. The Government needs to be involved in the standardisation of terms of contract going through a recognised music rights society.

**The case of the Punjabi music industry.** The situation in Punjab is very different from West Bengal, Maharashtra, Tamil Nadu or Telangana in terms of non-film music.

In the mid-90s, the Punjab film market suffered due to the lack of commercial success of the films and their music (film). This was when people got into the business of promoting Punjabi non-film music. It became very big and television channels that started playing non-film Punjabi music became popular. Today, PTC runs four channels that primarily play non-film music. They have also signed a deal with Facebook to play non-film music. The Punjabi music industry has done well globally because of the presence of Punjabis worldwide (Canada, Australia, etc.), thus, the industry receives revenues in different currencies from streaming and other sources. In addition to a robust internet market, Punjabi radio and television channels are a huge support to both film and non-film music and all of license content and pay commensurately.

**The role and needs of independent regional labels.** Independent labels provide variety and repertoire to the music industry. If the regional labels struggle, the music industry would become top heavy and lopsided. Independent labels require timely reporting of streaming revenues from the platforms, in order to forecast their revenues and plan ahead. Independent labels also infuse new talent into the industry. Talent has to keep on flowing, in various languages as the regional markets have great potential. The regional radio industry has to support independent labels - a certain percentage of music in the local language should be played.

Digitisation has helped the regional industry in terms of content distribution (domestically and internationally). However, piracy has hit regional markets the most, since there is no other source of revenue in terms of brands or sponsorships.

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“Independent regional music is not being played on radio.”

- Mahua Lahri  
Director, Asha Audio

# Collection Societies Panel: Where is the money?

**Moderator:** Ameet Dutta, Partner, Saikrishna and Associates

**Panelists:** Rajat Kakar, President & CEO, PPL India and Rakesh Nigam, CEO, IPRS

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## Introduction and objectives

Collection societies like IPRS and PPL (India) have been through tough times. They continue to struggle with formal recognition, getting content users to buy licenses and gathering intelligence on live events.

At IMI Dialogue 2018, the panel was tasked with exploring some of these challenges, discussing potential solutions and laying a roadmap to encourage rights owners to register with IPRS and PPL (India) and users to license from these societies.

## Key points

**Challenges faced by the societies.** People challenge the rights of societies and question the legitimacy of the society, using it as a pretext to avoid dues. Further:

- ***Duality of rights:*** The user needs to accept the idea of duality of rights. Globally, whenever music is played, whether recorded music, or a cinematographic film, two separate licenses need to be paid for. One such license is for the underlying work

which IPRS controls, which is known as the origination right. This is important because a sound recording or a cinematographic film is created on the basis of a literary musical work. Users that have the end product such as the sound recording or the cinematographic work, challenge the need for a separate license for a literary musical work.

- ***Paying for background score:*** Background score has been included within the scope of music rights. IPRS has been approaching television channels, which until now, were not used to paying for background scores. In the past, channels would pay only for songs, included as the part of a serial or a reality show, now, the payouts need to include the authors' share of royalties for background score. Advertisers use music, which is either the use of third party music, owned by labels or music created by authors, specifically for advertising. Advertisers need to understand that there is a separate set of performing rights, which they also need to pay for.

**Single window license.** Single window license for PPL and IPRS; which have a large number of common members, might ease procedures and multiply revenues. It would also reduce transaction costs, enabling members to receive more royalties, and ensuring users are less troubled. Users also want a single window, to reduce the number of representatives approaching them for rights collection.

**Representing small and regional labels in IPRS.**

Around 25%-30% of the IPRS revenues of distribution have gone to regional labels or regional music companies. IPRS has started regional outreach sessions, beginning in the South India to better understand the issues of its regional members. Where needed, the IPRS has started forming regional committees to provide guidance on which licenses are needed, valuation of content, means of approaching licensing bodies, and how licenses are to be given to television channels, to broadcasters and to public performance teams.

**Public performance licenses.** In 2017, 15000 licenses were issued for Indian establishments playing music 365 days a year. The United Kingdom on the other hand had issued 270,000 licenses. PPL (India) would need to comb the markets and assess which markets are easy to tap, which is why membership is important. Before entering a particular state, PPL would have to prepare itself, so that it is not challenged on rights and other issues.

IPRS has simplified tariffs and made online licensing easy. The number of events held annually is nearly 80,000-90,000, yet IPRS was able to collect licenses fee for only 8000 events from EEMA. It is important that entities like EEMA be compliant, because



*“Single window license for PPL and IPRS might ease procedures, multiply revenues, reduce cost and cause less trouble for users”*

- Rajat Kakar  
President & CEO  
PPL India



collection societies can only offer fair negotiation terms if there is a cooperative ecosystem and equality in the responsibility shared.

**PPL's transparency and compliance issues.** While PPL is not a society, it still adheres to the principles required of a society. Therefore, PPL publishes its tariffs on their website, well documented and utilised by its online licensing system. However, PPL's competitors work in an opaque manner, misusing the acronym "PPL" as Public Performance License, thus tarnishing the image of PPL (India) and the music industry as a whole. Consolidation is required to ensure a unified front, to reduce duplication and ensuring people stop finding ways to avoid licensing thus propelling the industry.

**Online procedures can address some problems, not all.** Online licensing eliminates the role of middle men and rogue field agents, thus improving transparency. Last minute licenses and physical paper will also be eliminated. However, piracy is still widespread, irrespective of processes, loopholes will continue to be exploited. For those who are unwilling to pay, the law and Govt's intervention should ensure that everybody pays fair value once again.

**Unfair exemptions in the music market for marriage events.** The exemptions granted towards marriage events in the Copyrights Act has impacted the societies. Users spend vast sums on hiring artists, emcees and equipment for various events, marriages, etc. but when it comes to paying the people for the creation of the recording and the publishing, they demand exemptions.

**Intelligence gathering on live events.** From a transactional and administrative perspective, it is difficult to approach the court each time a live events organizer refuses to pay for music played. There are misconceptions about the value of music. IPRS contends that live performers make money from these shows, thus people who have invested in and created the music, also need to be paid.

IPRS has a network which receives information on live events from its members, but the bulk of the information is provided by the licensing team. Technology also offers the potential to find out where one's music is played. Through social media, Facebook, Whatsapp, geotag and artificial intelligence, one can find out where the content is used and follow it up with a notice. Advertising for live events also starts early, on platforms such as BookMyShow, which can also be monitored.

**Encouraging music publishers to register their rights with societies.** IPRS represents 300-400 music publishers plus producers separately. However, the registrations of their works with IPRS in terms of data and rights is very low. IPRS has thus started a drive to reach out to its members, highlighting the change in the claims process, where, in the past a blanket license was enough to collect all the royalties, however, in the digital age, they would need to raise a claim with the platforms individually. If members

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“*The exemptions granted towards marriage events in the Copyrights Act has impacted the societies.*”

- Rakesh Nigam  
CEO, IPRS

do not have their data with IPRS or any society, they cannot make a claim. Over the last few months, with revenues multiplying and increased traction, members have begun to acknowledge the importance of these changes and have started to register their works.

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# The China Model

**Moderator:** Blaise Fernandes, President & CEO, IMI

**Panelists:** Ed Peto, Founder and MD, Outdustry and Kwee Tiang Ang, Regional Director (Asia Pacific), IFPI

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## Introduction and objectives

In 2012, China was behind India in the global music market. It is now, a Rs. 2000 Cr. (\$292M) market while India is only a Rs. 850 Cr. market. China was able to transform into a major music market since it brought down piracy from 99% in 2010 to less than 30% (in 2018) and moved to a subscription-based economy.

At IMI Dialogue 2018, the panel was tasked with explaining the shift in China's position in the global music market; its growth as a subscription based economy; and the lessons that can be leveraged by India on the basis of this model.

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“China was able to transform into a major music market since it brought down piracy from 99% in 2010 to less than 30% in 2018 and moved to a subscription-based economy.”  
- Ed Peto  
Founder & MD, Outdustry

## Key points

**Strong Anti-piracy in China.** The following actors had a role in driving down piracy:

- *Technology companies:* Technology companies like Tencent and Alibaba began to license content exclusively and use it as a differentiator on streaming services. In the period from 2011-2014, the largest infringers in the copyright market became

the biggest policemen of the same copyright. Tencent is the largest player with the largest exclusive content catalogue and has agreements with all three major labels (Sony, Universal and Warner) and a lot of the local repertoire. The company's mandate to protect copyrighted content transformed the market rapidly.

- *Role of IFPI:* IFPI began taking legal action against the infringers. Through legal recourse and out of court settlements, IFPI required these infringers to set up anti-piracy accounts and sign anti-piracy agreements with IFPI. China now enjoys a takedown rate of 99.9%. In India, the take down rate is about 27%.
- *Role of the Chinese government:* IFPI worked with the Chinese Govt. and the National Copyright Administration to ensure that infringing links, social media links and cloudlocker links came down within a matter of hours. The Govt. permitted private actors like Tencent to make commercial decisions regarding content and protect it. Small players working with the help of IFPI could also police their content. It was not a unilateral decision by the Chinese government to end piracy, but encompassed the efforts of IFPI and private commercial interests.

The Chinese government has an annual anti-piracy program called Sword Net Action. Each year IFPI files between 200-500 administrative complaints and each year 80% to 90% of the cases are successfully resolved. When an offending website is identified, evidence of unlicensed content needs to be submitted to the National Copyright Administration. Once identified as accurate, the information is provided to the Province Enforcement Bureau and action is taken – either they are fined, and if they refuse to take it down, the site is closed or they have to remove the infringing content. In such cases, IFPI works very closely with the Chinese government on the anti-piracy front. IFPI's staff in Beijing sometimes works from the National Copyright Administration's office to extract evidence and show proof that a certain website is an infringing site. The government also plays an important role in softly persuading the platforms that they need licenses.

## Recommendations for India:

- *Strong anti-piracy programme:* A strong anti-piracy program is needed. Without a strong anti-piracy program, digital service platforms will exploit loopholes to avoid licensing. China already has such a programme.
- *Consolidation of the Indian music industry:* There are big and small Chinese companies as well as those from Hong Kong and Taiwan that have come together. The collection societies in China are also fairly organised and internal issues have been dealt with. Whilst, there are no public

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“(In India) a strong anti-piracy program is needed. China already has such a programme (Sword Net Action)”

- KT Ang  
Regional Director  
IFPI

performance and broadcast rights in China yet, total collections on the producer side is about \$21-22 million, which is nearly twice of what PPL collects in India, despite PPL's primary rights in India.

- *Indian consumers WILL pay for music:* The long-held belief that Chinese consumers would not pay for music delayed progress. However, Chinese consumers proved that they would pay for the music experience, i.e., 30 million of roughly 600 million digital music consumers pay (for music) in China, which is a 5% conversion. It is a start. The Indian music industry needs to work together, on both the content and platform side, create more value or put more value behind a paywall and guide people into that model. In India, there are a little over 1 million paying subscribers on a platform of 100 million monthly active users across the platforms, i.e., a 1% conversion rate. There needs to be a change in mindset and everyone has to push towards the idea of premium engagement with music.

**Refraining from exclusive licensing arrangements.** The Chinese government came down heavily on the efforts of some companies who had worked to get exclusive licensing. The government wanted to discourage a monopoly. They summoned the recording companies and IFPI to Beijing to express their displeasure about the exclusive licensing nature, because the prospects for a 'one horse' or 'two horse race' became strong. When a label's license is across the board, more competitors are in the sphere. Hence, the ways in which companies license is important.

**Suggestions for major and small regional Indian labels:** For the major Indian labels that wish to tap the Chinese market, classic Bollywood music or Indian classical music would be a tough sell. However, Indian rap music and collaborations with Chinese artists on major chart topping tracks in China would lay the path for market penetration. Regional Indian music labels are also encouraged to be creative and expressive and seek out collaboration opportunities in China, however, the scope for growth is small.

**"Vision 2022".** It is possible for India to be among the top 10 music markets by 2022. This would require the music industry to work together on licensing. Public performances can contribute up to 30% of revenues. Thus, revenues can come in from PPL and digital sales. The music industry would also need to be creative in channeling consumers towards a paid subscription model. If the current base of 1% (of Indian music consumers) paying subscribers, can shift upwards to 5% and 10%, digital revenues can propel the necessary growth to push the Indian music market



# HIGHLIGHTS



Shridhar Subramaniam, Javed Akhtar



Rakesh Nigam

Blaise Fernandes, Seymour Stein, Shri Hoshair Singh



Rajat Kakkar  
Ed Peto, KT Ang



Vinit Thakkar



Rakesh Nigam



Rajat Kakkar  
Ed Peto, KT Ang



Charles Caldas



An Initiative by  
THE INDIAN



Santhosh Kumar



Sanjuet Bhujabal





# DIALOGUE

## THE INDIAN MUSIC CONVENTION 2018

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 The Indian Music Industry

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