

THE INDIAN

**IMI**

MUSIC INDUSTRY  
Formerly IPI Estd. 1936

## THE INDIAN MUSIC INDUSTRY

266, Kaachwala Bldg. 2<sup>nd</sup> Floor, Dr. Annie Besant Rd., Opp. Old Passport Office, Above Saraswat Bank,  
Worli, Mumbai - 400 030 • Tel. : +91 22 6660 8349 / 8350 • Website : [www.indianmi.org](http://www.indianmi.org)

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To,

**Shri Rajiv Aggarwal**

Joint Secretary  
Department of Industrial Policy & Promotion,  
Ministry of Commerce & Industry,  
New Delhi.

**SUBJECT: WHY THE RATIFICATION OF THE WPPT IS SOUND POLICY FOR INDIA**

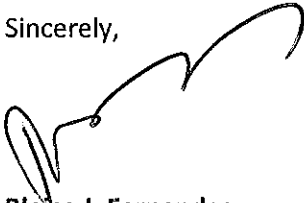
Dear Shri. Rajiv Agarwal,

We, IMI a.k.a. the Indian Music Industry are pleased to present our case in favor of ratification of WPPT for the benefit of the Indian Music industry.

On behalf of IMI, thank you for your kind consideration and we look forward to continuing a mutually rewarding partnership.

Thanking you,

Sincerely,



**Blaise J. Fernandes**

President & CEO  
The Indian Music Industry

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recording industry  
worldwide

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## CASE: WHY THE RATIFICATION OF THE WPPT IS SOUND POLICY FOR INDIA

### INTRODUCTION

The Indian recorded music industry is a digital industry, with 65% of 2016 revenues coming from digital uses of music. However, in terms of the industry's overall size it is ranked only 19<sup>th</sup> in the world (behind Norway) despite India's GDP and large population. In part, this is because India's copyright framework has not kept pace with technological change, and because India has not acceded to the WIPO Internet Treaties – WCT and WPPT, which would enable India's music sector to fully benefit from the popularity of Indian music in foreign markets.

The WPPT in particular is an essential instrument to support the growth and development of local music industries worldwide. The WPPT enables local artists and record companies to benefit from the development of the growing global digital markets by ensuring that Indian sound recordings enjoy international protection. It ensures that Indian right holders receive revenue from the use of their works abroad.

Although the Copyright Amendment Act 2012 updated India's copyright law, it did not wholly fulfil the Government's intention of bringing the law in line with the international treaties. In order to fulfil the Government's intention and to promote growth in the Indian music industry, we urge the Government to accede to the WCT and WPPT, and to review and update the existing law to ensure full compliance with the Treaties.

This paper provides an overview of the Indian music industry and its value to the wider economy, explains the benefits of WPPT, and sets out case studies of successful music industries in other countries.



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### SECTION 1: THE VALUE OF MUSIC TO THE INDIAN ECONOMY

According to statistics published by the World Intellectual Property Organisation (WIPO), industries based on copyright account for an increasing proportion of economic value added (EVA) in the global economy. With an average of 5.18%, the copyright industries of three quarters of the 42 surveyed countries covered by the report contribute between 4% and 6.5% to GDP <sup>[a]</sup>. In India, the media and entertainment industries generate 0.9% of India's GDP and provide direct and indirect employment to nearly 5 million individuals in India <sup>[1]</sup>. There is great opportunity for growth. India's creative economy has the potential to be a \$100 billion industry within the decade, adding 3 million new jobs by 2030 <sup>[2]</sup>. While Broadcast and Film remain major contributors to India's creative economy, music is an integral part of those industries: Indian M&E industry is unimaginable without music as is evident from:

- a) Film soundtracks make up at least 40 minutes/hour of radio broadcasts <sup>[b]</sup>.
- b) The box office records of films where the soundtracks are popular.
- c) The most popular shows on TV across every state are those which feature film based soundtracks.
- d) While Indian Cinema is renowned worldwide, what the Bollywood dance classes, viral videos of Americans dancing to Daler Mehendi and Bollywood's biggest USP in the world have in common, is the domestic music.

Therefore, music is a vital piece of the puzzle in achieving India's \$100 billion ambition <sup>[2]</sup>. The recorded music market in India performed strongly in 2016 and grew by 26.2% to US \$111.6 <sup>[3]</sup>. However, while

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<sup>[a]</sup> WIPO studies on the economic contribution of the copyright industries

<sup>[b]</sup> Netscribes: FM Radio Broadcast Industry - India

<sup>[1]</sup> CII: Convergence: The New Multiplier for Indian Media & Entertainment's \$100 Billion Vision; p.9

<sup>[2]</sup> Digital India Foundation (DIF): Bolster Economic Growth Through Creative Industries: India's USD 100 Billion Imperative

<sup>[3]</sup> IFPI Global Music Report 2017; p.45



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these developments are positive, as the 7<sup>th</sup> largest global economy by GDP, the Indian recorded music industry's present ranking at 19<sup>th</sup> globally shows that the industry has significant potential grow further.

To unlock that potential India's copyright framework needs to be upgraded to be consistent with the international norms established in the WIPO Internet Treaties, and India should join the treaties to ensure that Indian music is fully protected in foreign markets.

### SECTION 2: FOUR REASONS WHY RATIFICATION OF THE WPPT HAS A POSITIVE EFFECT ON THE LOCAL MUSIC SECTOR AND TRADE

#### 1. Ensuring the International Protection Of Local Recordings

The WPPT adapted the rights and protections of performers and phonogram producers to the digital environment. The ratification and implementation of the WPPT ensures not only adequate protection locally, but crucially -- by operation of the "national treatment" obligation enshrined the treaty-- the protection of local recordings in all of the 95 WPPT member countries. Otherwise, in most cases recordings from countries that have not ratified the WPPT will not be protected outside their own country. Without the ratification of the WPPT Indian recordings do not enjoy full treaty protection in key markets including Australia, China, Japan, the US and the EU. Section 3 of this paper, *A focus on digital markets* explains the importance of the WPPT legal framework in developing fair digital markets.

#### 2. Generating Revenue from the Growing Global Digital Content Markets

Implementation of the WPPT allows local right holders to benefit from the global digital distribution of their recordings abroad and generate export revenue. The economic incentives provided by the exclusive

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making available right are real, as shown by the global recorded music revenue figures of US\$ 15.7 billion in 2016 <sup>(4)</sup>. With the digital music market becoming truly global, Indian artists and record producers have much to gain from these new digital distribution channels. However, without ratification and full implementation of the WPPT, sound recordings are left without adequate protection in the digital environment, and Indian artists and music companies risk being unremunerated for the use of their recordings in the growing digital services outside India.

### 3. Encouragement of investment

The WPPT will encourage investment in the Indian music industry, both by domestic and foreign investors. Certainty that Indian recordings can fully benefit from the global digital content markets provides a powerful additional incentive to invest in Indian music sector. Moreover, generally, uncertainty surrounding intellectual property protection is considered a negative factor in investment decisions; ratification of the WPPT will remove such uncertainty. Adherence to the WPPT makes a strong statement of India's commitment to copyright protection and readiness to embrace technological change.

### 4. Protection of local creativity and culture

Implementation of the WPPT in India will provide stronger incentives to music companies and artists to produce new music and will promote the development of expressions of local culture.

Claims that the ratification of the WPPT benefit mainly international rights holders are unfounded. Domestic repertoire dominates most local music markets, particularly in countries like India with strong local music culture and tradition. In India, all of the top 10 albums and top 10 singles in 2016 were in Hindi. Plainly, local repertoire and local artists continue to be successful and drive national cultural output.

A handwritten signature in black ink, consisting of a stylized, cursive 'M' followed by a horizontal line and a small flourish.

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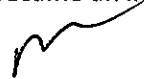
Countries that have ratified the WPPT have attracted investment in local talent – from local and international companies - by ensuring that local artists can benefit from commercial opportunities outside their home markets. That’s already the case in India - the international companies and their local affiliates such as Sony Music India, are among the biggest investors in local talent and producers of local music, but the figures show that India needs to attract greater investment through implementing a legal framework that is consistent with international norms and ensures protection of Indian recordings in key foreign markets including Australia, China, Japan, the US, and the EU.

## SECTION 3: A FOCUS ON DIGITAL MARKETS

### CASE STUDY 1: SOUTH KOREA

It’s important to put the recent growth of the Indian music industry in the right context. Similar growth in music industries around the world is having a very significant impact on job creation and economic growth. For instance, in South Korea (ranked 8<sup>th</sup>), the music industry directly contributed USD 330M to the economy in 2016 [4], while indirectly causing an uptick in tourism, an industry that contributes 5.8% of the nation’s GDP. According to a study by Korean International Trade Association, South Korea’s popular music was a draw responsible for 15.8% of tourism [5].

The record industry is by far the primary investor in artists & repertoire, consistently investing 27% of its revenues into artists & repertoire and marketing. The effects of the industry’s investment and work in discovering and nurturing artists is seen in the global success of South Korean artists like Psy. This has resulted in K-Pop music exports in South Korea shooting up by an average annual rate of nearly 80% since 2007 [6]. The South Korean Cultural Ministry emphasized such cultural export as a primary aspect of economic development. In 2012, Psy’s Gangnam Style became an international sensation, particularly on



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digital services licensed by the music industry, and brought total sales revenue of \$ 9.7M to the local industry [7]. Aside from revenues to the local industry, according to Ronald Man, economist at HSBC, Gangnam Style helped South Korea build its brand globally and contributed to a significant growth in tourism in the second half of 2012, the year of its release, due to the way it presented South Korea as a fun place to be.

### CASE STUDY II: UNITED KINGDOM

Similarly, in the UK (ranked 3<sup>rd</sup>), in addition to contributing £4.1 billion to the British economy, the music industry also supported more than 117,000 jobs. The global success of artists such as Sam Smith and Ed Sheeran helped recorded music exports in UK to increase by 17 per cent, contributing £2.1 billion in revenue [8].

Music and recording artists play a huge role in powering global social media platforms as well, which is a key aspect of the digital marketing industry. In 2016, seven of the top 10 most followed people and brands on Twitter, seven of the top 20 most liked people on Facebook and five of the top 10 most followed people on Instagram were recording artists. This speaks for the massive reach of the music industry in binding economies worldwide. This social media reach of recording artists is used globally by brands for generating marketing revenues, further contributing to the local economy and creating jobs in other sectors.

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[4] IFPI Global Music Report 2017

[5] A Research by Korean International Trade Association (KITA), 2011

[6] Korea Creative Content Agency (KOCCA), Ministry of Culture, South Korea

[7] IFPI Global Music Report 2013, p. 12

[8] UK Music: Measuring Music Report 2015; p.1



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In the advent of cheaper data rates, better digital infrastructure and availability of curated platforms, India too is moving rapidly towards a digital age. As a result, 65% of the total recorded music industry revenue is generated from digital consumption of music in India as opposed to 50% globally <sup>[9]</sup>. Hence, the Indian music industry too has the potential to mirror the success of more evolved industries. However, with the creative economies crossing more boundaries than ever before, there is an urgent need for a legal basis for the protection of domestic companies and artists during the dissemination of their protected material over digital networks, such as the Internet. This legal basis is found in WPPT, which underpins fair digital markets.

### CONCLUSION

The Indian music industry is already a digital industry and the proportion of digital revenues as a share of overall revenues will only increase. For the Indian music industry to grow to its full potential and compete on a global scale, India should ratify and faithfully implement the WPPT, to put in place a legal framework that:

- Supports fair digital markets in which music can be licensed freely and fairly,
- Ensures that Indian recordings are protected in foreign markets,
- Drives the development of innovative digital services, and
- Provides Indian consumers with access to more music in more ways than ever before.

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<sup>[9]</sup> FICCI Frames 2017 KPMG