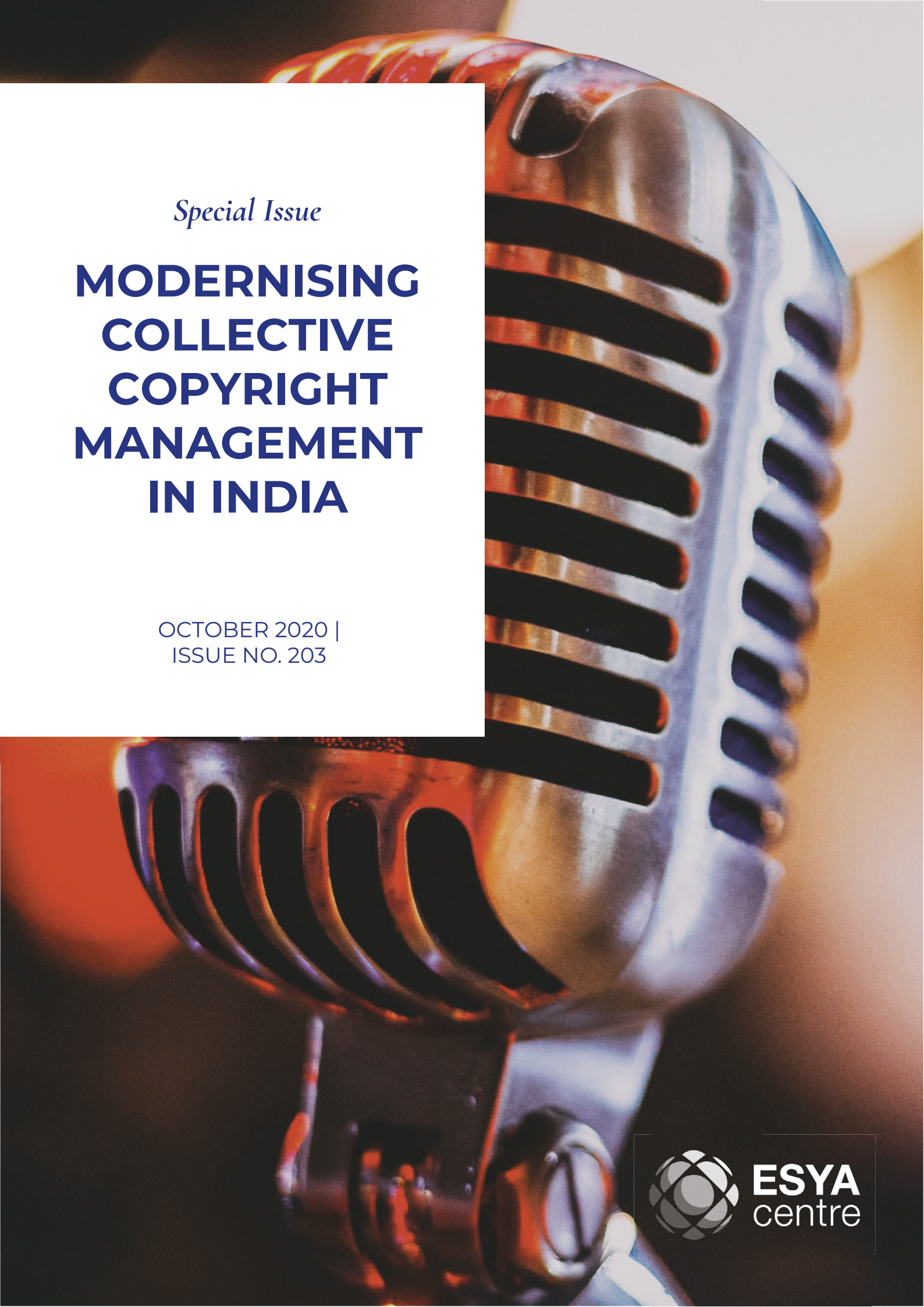

Special Issue

MODERNISING COLLECTIVE COPYRIGHT MANAGEMENT IN INDIA

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OVERVIEW

This brief explores the reform of collective copyright management in India. Section 1 sets out the current landscape while Section 2 describes the models of collective management used in other jurisdictions – Brazil, the Nordic countries, the European Union, the United Kingdom, and the United States – and also details some digital solutions. Section 3 concludes with takeaways for India and recommendations for reform – including legislative and administrative reform, structural reform in copyright societies, and increased transparency.

1/ THE INDIAN CONTEXT

Copyright societies are a kind of Collective Management Organisation (CMO) registered as collective administrative societies under the Copyright Act of 1957, which provides for the management and protection of copyright undertaken by a society of authors and other owners of copyright works.[1]

Copyright societies are meant to simplify the process of administration and licensing for copyright owners as well as users, by serving as a point of contact between them and reducing friction in the transaction process. Their functions extend from issuing licences and collecting and distributing fees and royalties to administering the rights of owners.[2] They can also enter into agreements with CMOs in other jurisdictions to help administer the rights of Indian copyright holders abroad, and of foreign copyright holders in India.

Ordinarily under the Copyright Act no more than one copyright society should be registered for a single class of works.[3] Registration is granted for five years and may be renewed, and requires that applicants are engaged only in the business of issuing or granting licences for a right or set of rights in specific categories of works, and related activities.[4]

At present the following copyright societies are registered in India:

Certain other organisations have applied for registration as copyright societies: the Screenwriters Rights Association of India applied in 2017,[6] and Cinefil Producers Performance Limited and Recorded Music Performance Limited applied in 2018.[7]

The Copyright (Amendment) Act of 2012 required all existing copyright societies to re-register themselves under Section 33 of the Copyright Act. The copyright society Phonographic Performance Limited, which issued licences for the public performance of sound recordings, did not re-register itself after the Amendment Act was passed and is not currently a copyright society. However, it and other organisations like Novex continue to perform the same functions as copyright societies, by using legislative provisions that allow copyright holders to assign their rights and appoint agents to manage their rights, while not being subject to the same requirements under the Copyright Act. This is discussed in more detail in the section below.

NAME	CLASS OF WORKS
Indian Performing Rights Society Limited (IPRS)	Copyright society for licences for literary works associated with musical works, the underlying sound recordings, and public performances of such works.
Indian Reprographic Rights Organisations (IRRO)	The sole registered copyright society in respect of reprographic rights in the field of literary works, with the right to issue licences to users of its members' copyrighted works.[5]
Indian Singers Rights Association (ISRA)	Copyright society for performers' (singers') rights.

1.1. Changes introduced by the Copyright (Amendment) Act, 2012

Problems in the functioning of existing copyright societies largely provided the impetus for the 2012 Amendment Act. The longstanding dispute between copyright societies and the film and music industry on one hand, and individual lyricists, singers, etc. on the other have been covered in detail elsewhere and are not revisited here.[8] The Amendment Act, which was intended to bring the Copyright Act into compliance with the WIPO Internet Treaties, and balance the disparity in negotiating power between copyright societies and artists of various kinds, introduced certain key changes with respect to CMOs:[9]

(a) **Management of copyright societies:** Before the Amendment Act, authors were not being paid their share of royalties, an issue that was not remedied by the courts. In an attempt to correct this imbalance of power, the Amendment Act required all copyright societies to be jointly managed by the authors and owners of the copyrighted material.[10] This was a key change in the governance of copyright societies in India.

(b) **Registration:** The Amendment Act required all existing copyright societies to re-register themselves with the Copyright Board and renew their registration every five years thereafter, upon demonstrating compliance with the Copyright Act.[11]

(c) **Transparency:** Certain measures were imposed to increase transparency: for example, copyright societies would be required to publish their tariff schemes, and any person could challenge these before the Copyright Board.[12] The Amendment Act also increased the penalties of non-compliance with certain requirements relating to tariffs, filing returns, and the composition of the society.[13]

Registered copyright societies are therefore required to conform to multiple requirements under the Copyright Act. They must publish their tariff schemes,[14] their administration subject to the collective control of copyright owners who are members, the governing body comprised of elected members with an equal number of authors and owners of works, with all members granted equal membership rights.[15]

In response to the changes introduced by the Amendment Act, PPL and IPRS argued that they were not copyright societies at all, but were rather companies under the Companies Act of 1956, and these new requirements would not apply to them.

While IPRS was eventually re-registered as a copyright society in November 2017,[16] this is a legislative issue which persists. Organisations performing the functions of copyright societies can still avoid registering themselves under the Copyright Act, and can rely instead on Section 30 (which permits copyright owners to issue licences through an agent) read with Section 18 (which relates to the assignment of copyright) to issue licences and collect royalties on behalf of copyright owners.

In this way a company can sidestep the more onerous requirements mandated for copyright societies by the Copyright Act, while performing the same functions as these societies. In conversations with a wide range of stakeholders from the copyright ecosystem in India, we found a consensus on the need to address this legal lacuna.

1.2. The Draft Copyright (Amendment) Rules, 2019

The draft 2019 Rules were notified on May 30 last year and have not yet been passed. They seek in part to reform the functioning of copyright societies to provide more power to individual copyright holders, and contain further measures intended to improve transparency. For example, copyright societies would have to publish Annual Transparency Reports containing financial information on revenues and royalties due, information on refusal to grant licences, etc,[17] as well as information on the royalties due to authors, payouts, and reasons for any delays in payment.[18]

Interestingly, the 2019 Rules also seek to amend the voting rights of members of copyright societies. While the Amendment Act introduced equal voting rights for all members, in an attempt to provide artists with a stronger role in decision making, the 2019 Rules seek to provide voting rights on the basis of specified criteria, including the number of works and amounts due to the author.[19]

This proposes to address a parity issue: currently, an artist with no hit songs is on par with renowned artists and record labels in a copyright society. But the proposal would also likely reintroduce a problem addressed by the Amendment Act: the outsize influence of record labels and production houses over the functioning of copyright societies.

The disparity in bargaining power could be addressed by promoting guilds to represent and advocate for different types of copyright holders. The USA for example has numerous guilds for rightsholders ranging from writers, to artists, screenwriters, actors, and performers.[20] Such organisations may allow independent artists and individual rightsholders to negotiate fairer terms, and provide the necessary support to help them advocate more effectively for themselves. Guilds may lead to better terms for rightsholders in negotiations with different platforms, as well as with copyright societies.

2/ ALTERNATE MODELS

In our conversations, several stakeholders recommended a single-window clearance system and systems of Extended Collective Licensing (ECL) saying that a centralised system of licensing would simplify processes. We explore the collective management models used in other jurisdictions below:

2.1. Brazil

In Brazil, government approval was not initially required to form a CMO, which led to the proliferation of private CMOs. The sheer number of these organisations made it difficult for authors and users to collect and distribute royalties, creating an efficiency problem. Therefore, Article 99[21] of the Brazilian Copyright Law established the Central Office for Collection and Distribution (ECAD) in 1973 to centralise the collection and distribution of royalties for public musical performances.[22] The ECAD acts on behalf of CMOs, which in turn act on behalf of authors.[23] Brazil has also other CMOs not linked to the ECAD, such as for the protection of reprographic rights, the rights of authors of visual works, etc.[24]

Brazilian copyright law lays down certain requirements for the operation of CMOs to ensure transparency, accountability, and rights protection for both users and creators.[25] These provisions were introduced in part to balance the centralisation of power in Brazil's collective licensing system.[26]

Even so, the system has had its share of issues. For instance, the ECAD was unsupervised between 1990 and 2013 when the National Copyright Council (CNDA) was inactive,[27] and it has been embroiled in controversies about the mismanagement of finances, corruption, price-fixing and a lack of transparency.[28] This led to the amendment imposing requirements meant to ensure transparency and efficiency,[29] and subsequent litigation on the legality of the state's increased role in collective rights management.[30]

While the government is currently contemplating more comprehensive copyright reform,[31] the issues faced in Brazil suggest the problems that centralised collective management may cause in the absence of an efficient administrative system, or one with limited powers to enforce transparency and oversight.

2.2. Nordic Countries

The Nordic countries (Denmark, Finland, Iceland, Norway, and Sweden) use a system of ECL for collective rights management. Essentially, the representative CMO in each country negotiates with a user or representative of a large user group to arrive at a mutually satisfactory agreement. Thereafter the agreement is made legally binding on non-represented copyright holders as well, since an individual copyright holder is unlikely to obtain a more favourable deal than the CMO.[32]

Users are thus assured of the legal use of materials covered by the agreement, even from non-represented copyright holders. Copyright holders, even those not represented by the relevant CMO, have the right to remuneration on the basis of the agreement reached with users, and can also, in most cases, opt out. This means they can prohibit the use of their works, and have the right to claim individual remuneration.

Government oversight in countries using this system is restricted to issues of representation in a CMO, and the framework governing non-represented copyright holders and their rights.[33]

The system has earned its share of criticism, especially for the practical difficulties posed to foreign rightsholders trying to receive royalties or control the use of their works.[34] It also presupposes that the copyright market in a country is well organised and disciplined, with the CMOs representing a substantial number of rightsholders in the relevant fields.[35] Absent these circumstances, such a system may lead to disputes over licensing terms and rates and mismanagement, and add to the administrative and judicial bodies' burden.

2.3. The European Union

There are at least 180 CMOs in the EU,[36] with one CMO usually representing rightsholders of a class of works in each member state (one for performers, another for authors, etc). There are also cases where one CMO manages more than one category of rightsholders, or where multiple CMOs compete to represent the same category of rightsholders within the same country.[37] Given the large number of CMOs across the EU, those

from different countries usually grant each other the right to license their repertoire of works in the others' territories, through reciprocal representation agreements.[38] The EU did not opt for a single European license in order not to create a de facto monopoly.[39]

Collective management organisations are governed by the Collective Rights Management Directive in the EU. The CRM Directive is intended to deal with issues of transparency, common standards for multi-territorial licensing, and measures linked to new digital markets. It requires CMOs to establish effective mechanisms for inclusive corporate governance, transparency, and reporting requirements,[40] and member states to monitor compliance with its directives through competent authorities identified or set up for this purpose.[41]

The Digital Single Market Directive, which was introduced for broader reform, creates a system similar to ECL. It allows for licensing agreements entered into by CMOs (as defined under the CRM Directive) to extend to rightsholders who have not authorised the CMO to represent them, subject to certain conditions.[42] For example, the CRM Directive imposes EU-wide standards on multi-territorial licensing and uniform governance and transparency standards for CMOs.

Such a system may contribute to increasing fragmentation of the repertoires of CMOs in different countries, since it provides rightsholders the freedom to entrust or withdraw rights, categories of rights or works from CMOs.[43] There are also concerns it may have negative implications for cultural diversity, and for small or medium-sized CMOs, by increasing the concentration of rights in a few large organisations.[44] There are concerns similarly that smaller CMOs would have trouble entering the multi-territorial licensing market.[45]

2.4. The United Kingdom

The UK is in the process of leaving the EU, but the bulk of EU copyright regulations continue to operate there at present. The UK implemented the CRM Directive through the Collective Management of Copyright (EU Directive) Regulations of 2016. From January 2021, CMOs in the EU will not be required to represent UK rightsholders, or to represent the catalogues of UK CMOs for licensing musical rights online. However, existing obligations on British CMOs will remain even after January 2021.[46] The UK also allows CMOs compliant with the 2016 Regulations to apply to operate an ECL scheme, provided they satisfy certain requirements.[47]

Some CMOs such as Phonographic Performance Limited and PRS for Music issue licences through a tiered system. The licensing process is simplified for some categories of users: for instance, music licences for short-term restricted services, or student radio licences, can be purchased online from PPL,[48] while the process takes longer for larger-scale users such as in TV broadcasting.[49]

Such tiered systems can be useful, especially to ease licensing for short-term or one-time use. But there have been criticisms of the CMOs' functioning: for example, concerns that PPL has been using its resources to prioritise the interests of record companies over those of performers.[50]

2.5. The United States

There are multiple performance rights organisations (PROs) in the US, which are akin to CMOs in other jurisdictions. They are a type of CMO which collect performance royalties on behalf of their members.[51] The American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc (BMI), SESAC, Global Music Rights and SoundExchange are some prominent PROs that grant and administer voluntary collective licences on behalf of copyright holders. There is no single organisation for any category of licensing: PROs compete in the market and have different tariff and payment systems.

However, ASCAP and BMI are the largest PROs in the US and hold the majority of performance rights for music. Since 1941 they have been subject to antitrust 'consent decrees', which regulate the process of licensing rights to publicly perform musical works. Meant to promote competition in the market for musical works, consent decrees require ASCAP and BMI to, among other things, issue both blanket and separate licences when requested by users, and provide transparency on the titles in their catalogues. They also provide that any pricing disputes for such licences are to be decided by a district judge in a 'rate court' proceeding in the District Court for the Southern District of New York. These decrees have been updated a few times since, and the Department of Justice is currently reviewing whether to terminate them.[52] The question of whether to retain consent decrees is the subject of much debate.[53]

An important legal development in the US was the Music Modernization Act (MMA) introduced in 2018, which updates Section 115 of the US Copyright Act to account for changes introduced by the increasing use of online streaming. A major component of the modernisation, with implications for PROs, is the creation of the Mechanical Licensing Collective (MLC), a central database for licensing mechanical rights from which streaming services can obtain blanket licences for all the music in the database.[54] It will run on a non-profit basis, and is also tasked with implementing policies and procedures to address and resolve disputes relating to ownership interests in licensed musical works.[55] Importantly, it is to be run by a board of directors consisting of songwriters and publishers, and will be funded from the fees charged to digital service providers.[56] The MMA intends for the MLC to be operational and licences to be available by January 2021. The effectiveness of this system can only be evaluated once it is operationalised.

There have been concerns that the blanket licences offered by PROs like ASCAP and BMI hamper the rights of songwriters, by skewing incentives to favour more famous songwriters over others,[57] and that their model is inherently anticompetitive. An alternative model for collective copyright management has been explored in the US in the form of a collecting society. It is not a statutory licensing model and is voluntary, and offers annual and pay-per-use licences.[58] Its fundamental difference with traditional CMOs is that pricing and licensing terms are set by individual rightsholders, and the collecting society merely enforces and collects the licensing fees on their behalf.[59]

The Copyright Clearance Center (CCC) provides this option to copyright holders. While it can be susceptible to the same issues as other CMOs in some respects – relating to transparency and preferential treatment, for example[60] – it has the advantage of addressing anticompetitive pricing concerns.

2.6. Digital Solutions

In the music industry, given some of the issues described above, many independent artists are turning to digital solutions offered by platforms such as CD Baby, DistroKid, TuneCore, etc. Such digital platforms offer varied services including digital music distribution, monetisation on digital platforms, rights administration, advertising, and licensing.[61]

These platforms do not currently offer copyright management services in India, where they act more as digital distributors. CD Baby for instance, currently offers their standard plan in India, which allows artists to distribute their music, submit it to some digital music platforms, and monetise videos on YouTube.

While such services do not replace CMOs, they can help provide an alternative to institutional measures, creating competition and delivering better service to rightsholders. Supplementing traditional rights management systems with such digital services would lead to a more effective system overall.

3/ LESSONS FOR MODERNISATION IN INDIA

Collective management models can be broadly divided into two categories: one that tends towards a more centralised system (as with Brazil) and the other that prioritises choice and retains a multiplicity of CMOs (as with the EU, and the US in contexts besides the MMA).

There are advantages to a centralised system. It can simplify processes, allowing users to easily obtain licences, and provide CMOs with higher bargaining power in negotiations for royalty and licence rates. It may also be easier to regulate a few rather than a host of CMOs and ensure compliance with the law.

On the other hand, such a system severely restricts choice for rightsholders who may not be adequately represented by the CMOs, or would want to opt for different licensing terms. It leaves them only with the option of opting out of collective management entirely and negotiating their own contracts.

Coupled with a lack of transparency and ineffective redressal, the inability to opt out of such a mandatory system can hamper creator and user rights and entrench existing inequities.[62] Too much governmental control and the lack of competition can also increase administrative delays and reduce incentives to efficiently respond to rightsholders' concerns.[63] Improper management, price fixing, and opaque administrative and redressal processes can also be very hard to address, especially if a state has limited administrative and juridical capacity.

Conversely, in a system that allows a multiplicity of CMOs, rightsholders have more choice and can opt to join the CMOs that best represent their interests and offer the licensing terms they prefer. CMOs have an increased incentive to maintain efficiency in terms of disbursing royalties, and rightsholders have options besides adjudication in case of mismanagement or any other issue with a CMO.

Such a system can however make it much harder for users to correctly identify the appropriate CMO from which to obtain licences. This may also occur in a system where there is confusion in the law, as discussed in the case of India. It may require users to approach multiple CMOs to fully cover a single use, increasing transaction costs.

It could also lead, in circumstances of limited state capacity, to delays and inefficiencies caused by improper enforcement or drawn-out adjudication. When improperly implemented, it can lead to a system that is unresponsive both to competition concerns and democratic safeguards.[64]

It is true however that concerns about the timely distribution of royalties, adequate representation, transparent governance, and overzealous enforcement actions can arise regardless of the system in place.[65] CMOs in countries ranging from Brazil to Sweden to Nigeria have all been found to have engaged in corrupt practices,[66] and even more in practices that more broadly serve themselves at the expense of rightsholders. Untimely payment of collected royalties, and the quantum of payment, have consistently been core issues, especially in the case of international works.[67]

Addressing these concerns will require a robust administrative system with well defined rules, and an efficiently functioning adjudicatory system. Given India's limited administrative and adjudicatory capacity, it may be simpler to have a limited number of CMOs, and address antitrust concerns by mandatorily subjecting them to basic governance and transparency requirements, and clearly identified review processes.[68] In this context, it is important to ensure transparency in how CMOs are managed, and in how they enforce the rights of their members.

Licensing processes could also be simplified further, based on users and term of use. For instance, CMOs could let users obtain licences online for one-off use with a limited audience, or for use in educational or healthcare settings and the like. A system similar to ECL may also simplify processes for rightsholders and users alike, but lead to disputes if the negotiating parties disagree on the terms of licensing, and thereby entrench inequities in an inefficiently functioning system.

No single model of collective management works flawlessly, and much of the functioning of any model is based on a variety of factors including the relevant context and implementing mechanisms.

Ultimately, the effective functioning of any collective management system will require implementing the Copyright Act's mandates for CMOs, and ensuring the efficient functioning of administrative bodies in the copyright ecosystem, for effective redressal. While the Copyright Act does provide some safeguards, as discussed, there is ambiguity in the text on its applicability to various organisations. Therefore, there is an urgent need to amend the Copyright Act, reform the functioning of the Intellectual Property Appellate Board, and streamline enforcement mechanisms.

We recommend that reforms in the CMO ecosystem in India include the following:

1. **Legislative and administrative reform**
   There is an urgent need for legislative certainty regarding the collective management of copyright, and the removal of ambiguity in the Copyright Act. This would include resolving the conflict between Section 33, and Section 18 read with Section 30 as discussed above. Broader reform is also necessary to build state capacity in the administration and adjudication of copyright, to ensure effective redressal and implementation, without which no copyright model can function well.

2. **Structural reform in collective management**
   . As discussed, a single-window or centralised system of licensing that simplifies processes could be beneficial to copyright holders as well as users, especially in a country with limited administrative capacity. However, this would run the risk of perpetuating the centralisation of power, increasing pricing inequities, and anticompetitive behaviour. Any such system will have to be subject to antitrust scrutiny,[69] with the institution of adequate administrative and juridical safeguards.

   Promoting guilds for specific classes of rights could also help independent artists and individual rightsholders to advocate for themselves more effectively.

   We also recommend the use of technological solutions to help issue licences more effectively, as with the simplified licensing process in the UK. These could be used to supplement institutional requirements with respect to CMOs and simplify processes for copyright holders and users.

3. **Transparency**
   Mandating transparency, as proposed in the 2019 Rules, is a necessary step to reduce information asymmetry and increase accountability in the functioning of copyright societies. Another essential component is to communicate the necessary information in an easily consumed format, which makes clear the rights and responsibilities of various stakeholders. 'FAQs' on various issues regarding the regulations governing CMOs, the rights available to creators and users, tariffs, and applicable laws would be very useful in enabling rightsholders and users. The Government and relevant CMOs would do well to publish and disseminate such comprehensive explainers, to relevant communities, and wherever applicable.

ENDNOTES

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37 For example, SGAE and DAMA in Spain both manage the rights of authors in audiovisual works – see European Commission, Memo, 4 February 2014, Q 5, available at <https://ec.europa.eu/commission/presscorner/detail/de/MEMO_14_79>.

38 European Commission, Memo, 4 February 2014, Q 8, available at <https://ec.europa.eu/commission/presscorner/detail/de/MEMO_14_79>.

39 European Commission, Memo, 4 February 2014, Q 15?, available at <https://ec.europa.eu/commission/presscorner/detail/de/MEMO_14_79>.

40 See especially Chapters 1 and 5, Directive 2014/26/EU of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0026&from=EN>.

41 Member States can designate existing authorities for this function, or establish new ones. They also have flexibility on the types of sanctions they impose, as long as they are effective, proportionate, and dissuasive. These authorities also have other responsibilities relating to exchange of information and cooperation. See CRM Directive, paras 50-53 and Articles 36-38.

42 Directive (EU) 2019/790 of the European Parliament and of the Council on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC, Article 12, available at <https://eur-lex.europa.eu/eli/dir/2019/790/oj>. Also see discussion at Kluwer Copyright Blog, Johan Axhamn, 'The New Copyright Directive: Collective licensing as a way to strike a fair balance between creator and user interests in copyright legislation (Article 12)',25 June 2019, available at <http://copyrightblog.kluweriplaw.com/2019/06/25/the-new-copyright-directive-collective-licensing-as-a-way-to-strike-a-fair-balance-between-creator-and-user-interests-in-copyright-legislation-article-12/?doing_wp_cron=1595512463.4487209320068359375000>

43 Daniel J. Gervais (ed.), Collective Management of Copyright and Related Rights, 3rd ed, Kluwer Law International, 2015, p. 171.

44 Daniel J. Gervais (ed.), Collective Management of Copyright and Related Rights, 3rd ed, Kluwer Law International, 2015, pp. 165 and 171; Opinion of the European Economic and Social Committee on the "Proposal for a Directive of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market" (COM(2012) 372 final – 2012/0180(COD)),O.J.C 44/104, 15.02.2013 [Opinion of the EESC], at paragraph 62.

45 Daniel J. Gervais (ed.), Collective Management of Copyright and Related Rights, 3rd ed, Kluwer Law International, 2015, p. 172.

46 Gov.uk, Guidance, 'Collective rights management from 1 January 2021', 30 January 2020, available at <https://www.gov.uk/guidance/collective-rights-management-after-the-transition-period>.

47 Gov.uk, Guidance, 'Extended Collective Licensing', 1 October 2014, available at <https://www.gov.uk/government/publications/extended-collective-licensing>; Intellectual Property Office, 'Extended Collective Licensing (ECL):Guidance for relevant licensing bodies applying to run ECL schemes', available at <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/544362/extended-collective-licensing-application-guidance.pdf>.

48 See PPL terms for short-term restricted service license at <https://www.ppluk.com/music-licensing/radio-tv-and-online-licensing/short-term-restricted-service/>; for student radio licensing at <https://www.ppluk.com/music-licensing/radio-tv-and-online-licensing/student-radio/>, and for online radio and services at <https://www.ppluk.com/music-licensing/radio-tv-and-online-licensing/online-licensing/online-radio-and-services/>.

49 See PPL terms for television broadcasting at <https://www.ppluk.com/music-licensing/radio-tv-and-online-licensing/tv-broadcasting/>.

50 See generally Ananay Aguilar, "The collective management of performers' rights in the UK: a story of competing interests" (2019) 16:1 SCRIPTed 4, available at <https://script-ed.org/?p=3779>.

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52 Department of Justice, 'Department of Justice Opens Review of ASCAP and BMI Consent Decrees', 5 June 2019, available at <https://www.justice.gov/opa/pr/department-justice-opens-review-ascap-and-bmi-consent-decrees>.

53 See, for example, responses to the call for public comments at <https://www.justice.gov/atr/antitrust-consent-decree-review-public-comments-ascap-and-bmi-2019>; Complete Music Update, Chris Cooke, 'Alternative views from within the music industry feature among 877 submissions to the BMI/ASCAP consent decree review', 12 September 2019, <https://completemusicupdate.com/article/alternative-views-from-within-the-music-industry-feature-among-877-submissions-to-the-bmi-ascap-consent-decree-review/>.

54 Copyright Office, Musical Works Modernisation Act, available at <https://www.copyright.gov/music-modernization/115/>.

55 See Orrin G. Hatch-Bob Goodlatte Music Modernization Act, <https://www.congress.gov/bill/115th-congress/house-bill/1551>; Copyright Office, Frequently Asked Questions, <https://www.copyright.gov/music-modernization/faq.html>.

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57 Jonathan Band and Brandon Butler, Some Cautionary Tales about Collective Licensing, 21 Mich. St. Int'l L. Rev. 687 (2013), pp. 710-711; available at <https://digitalcommons.law.msu.edu/ilr/vol21/iss3/7>.

58 See Overview of CCC's Licensing Services, available at <https://www.copyright.com/get-permissions/>.

59 See Daniel Gervais (ed), 'Collective Management of Copyright and Related Rights', Kluwer Law, 2006, pp. 311-315.

60 See, for example, Washington Research Library Consortium, 'An Open Letter in Observance of Open Access Week 2013', 18 October 2013, <https://www.wrlc.org/open-letter>.

61 See, for example, distribution, monetisation, publishing administration and sync licensing services offered on <https://cdbaby.com/>, music publishing and artist services at <https://www.tunecore.com/>, and distribution services at <https://distrokid.com/>.

62 The EU noted in rejecting a single EU-wide license for collective management that the creation of de facto monopolies could create restrictions to competition, including price fixing - European Commission, Memo, 4 February 2014, Q 15?, <https://ec.europa.eu/commission/presscorner/detail/de/MEMO_14_79>; See also, for example, Canada, Brazil: Jonathan Band and Brandon Butler, Some Cautionary Tales about Collective Licensing, 21 Mich. St. Int'l L. Rev. 687 (2013), pp. 704-706; available at <https://digitalcommons.law.msu.edu/ilr/vol21/iss3/7>.

63 Jonathan Band and Brandon Butler, Some Cautionary Tales about Collective Licensing, 21 Mich. St. Int'l L. Rev. 687 (2013), p. 701; available at <https://digitalcommons.law.msu.edu/ilr/vol21/iss3/7>.

64 See, for example, the discussion on Canada, Jonathan Band and Brandon Butler, Some Cautionary Tales about Collective Licensing, 21 Mich. St. Int'l L. Rev. 687 (2013), p. 718; available at <https://digitalcommons.law.msu.edu/ilr/vol21/iss3/7>.

65 Jonathan Band and Brandon Butler, Some Cautionary Tales about Collective Licensing, 21 Mich. St. Int'l L. Rev. 687 (2013), p. 718; available at <https://digitalcommons.law.msu.edu/ilr/vol21/iss3/7>.

66 Jonathan Band and Brandon Butler, Some Cautionary Tales about Collective Licensing, 21 Mich. St. Int'l L. Rev. 687 (2013), pp. 691-693; available at <https://digitalcommons.law.msu.edu/ilr/vol21/iss3/7>.

67 Jonathan Band and Brandon Butler, Some Cautionary Tales about Collective Licensing, 21 Mich. St. Int'l L. Rev. 687 (2013), pp. 694-704; available at <https://digitalcommons.law.msu.edu/ilr/vol21/iss3/7>.

68 See, for example, for a comparative analysis of transparency requirements in India, the UK, and the US, at <https://cis-india.org/a2k/blogs/comparative-transparency-review-of-collective-management-organisations-in-india-uk-usa>.

69 The Collective Rights Management Directive in the European Union, for example, enables rights holders to authorise the CMO of their choice through the EU, and to only authorise a CMO to manage certain categories of rights. It also lays down strict requirements regarding the collection and use of revenue. See Daniel Gervais (ed), 'Collective Management of Copyright and Related Rights', 1st ed, Kluwer Law, 2006, pp. 148-153, 162.

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