

The Government has set up on November 6, 1991 a Copyright Enforcement Advisory Council (CEAC) to review the progress of enforcement of Copyright Act periodically and to advise the Government regarding measures for improving the enforcement of the Act. The term of the CEAC is THREE years. The CEAC is reconstituted periodically after expiry of the term. The current CEAC has been reconstituted on 10th May, 2013 for a period of THREE years. The first meeting was held on 2<sup>nd</sup> August, 2013 and the second meeting of CEAC was successfully organized under the Chairmanship of Secretary (Higher Education) on 19<sup>th</sup> November, 2014 in Vigyan Bhawan Annexe, New Delhi.

The composition of the CEAC comprises Director General Of Police, Government of Uttar Pradesh, Director General Of Police, Government of Andhra Pradesh, Director General Of Police, Government of Gujarat, Director General Of Police, Government of Madhya Pradesh, Director General Of Police, Government of Punjab, etc. and representatives of Federation of the Indian Publishers, New Delhi, representatives of Authors Guild of India, representatives of the Federation of Publishers and Booksellers Associations in India, representatives of Film Federation of India, representatives of National Association of Software Service Companies, representatives of Phonographic Performance Limited, representatives of Indian Performing Right Society Limited, representatives of Federation of Indian Chambers of Commerce and Industry and representatives of Confederation of Indian Industry . The Secretary, Department of Higher Education, Ministry of Human Resource Development and Joint Secretary, Book Promotion and Copyright Division is the Ex-Officio Chairman and Vice Chairman of the CEAC respectively. The CEAC keep holding its meetings regularly.

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## Minutes of the meeting of the Copyright Enforcement Advisory Council.

The second meeting of the re-constituted Copyright Enforcement Advisory Council (CEAC) was held under the Chairmanship of Shri S.N. Mohanty, Secretary, Department of Higher Education, Ministry of Human Resource Development on 19<sup>th</sup> November 2014 at 10.30 A.M. at the Committee Room A, Vigyan Bhawan Annexe, New Delhi.

2. At the outset Joint Secretary (BP&CR) and Vice-Chairman, CEAC welcomed the participants. He said that the role of the Central Government in copyright enforcement is that of an advisory in nature, a bit of regulatory and of a coordinator. The major role is played by the police and other central government agencies like customs for enforcement of the copyright regulations. He further emphasized the importance of copyright enforcement, need for sensitizing all stakeholders, strengthening capacity building and sharing best practices. He said that the Council provides a common platform to interact and learn from each other's best practices. He recalled that in the last meeting of the Council a Sub-Committee was formed under the chairmanship of FICCI. The terms of reference of the sub-committee included - to suggest awareness building, report on best practices and draft IPR curriculum. He further cited relevant figures from the statistics provided by the National Crime Record Bureau (NCRB) (Annexure – II) which revealed a wide variation in registration of cases under Copyright Act under various State Governments which varies from nil for some States to above 2500 (in case of Tamil Nadu), he continued that some States have not registered any case, which is an area of concern. He acknowledged that some states like Tamil Nadu, Andhra Pradesh, West Bengal, Maharashtra and Gujarat have also done a reasonably good work and urged that we could learn from these States through sharing of their best practices.

3. The welcome address by the Vice-Chairman was followed by the Chairman's presidential address. Welcoming the members to the Second meeting, the Chairman, CEAC; Secretary (Higher Education) said that the purpose of the meeting is to review the enforcement of the copyright law in the country and to suggest measures for its improvement. He recalled that this CEAC meeting is taking place after more than a year. He further cited several activities which had taken place i.e. starting of amendment of Copyright Act, e-filing facility, digitalization of record of registration and framing of Copyright Rules etc. The Chairman said that small steps have been taken towards

handling of a big issue i.e. towards a knowledgeable society. He said that Government endeavours to establish a system that promises and intends to promote creativity and reward people for their creativity. Piracy and infringement of copyright is a threat that denies creative people their legitimate dues, and therefore the real challenge is how to enforce the laws.

4. The Chairman emphasized that there is a need to strike a balance so that the rights of the holders of copyright can be safeguarded without unduly restricting the general public's access to information. He further said that Indian laws are robust enough but the challenge today is that of enforcement. On the one side, the legal framework must be strong enough to grant basic rights to the copyright owners and, on the other side, it should establish a system for ensuring adequate remedies. He showed his concern on current infringement issues faced by the industries, emphasized the need for sharing of the best practices, review the progress of copyright enforcement and getting a feedback on the amendments carried out in 2012 in Copyright Act, 1957. He further desired that each council member may suggest the best practices and some practical ways and means to address the problem of enforcement and hoped that the deliberations would provide a roadmap for developing a strategy to enforce, the copyright laws.

5. It was followed by a series of presentations:

(A) Presentation by Registrar of Copyrights

Director and Registrar of Copyrights gave brief introduction about the copyright infringement, its types and effects including the statutes and remedies available to handle it. She emphasized the role of the police and initiatives taken by the Ministry of Human Resource Development. She further focused on the constitution of the Copyright Enforcement Advisory Council (CEAC) and its journey towards implementation of the copyright enforcement including the provisions of the Copyright Act, 1957 and legislative changes after the amendment of the Copyright Act in 2012 and Scheme for the promotion of the copyright and IPR and placed the issues before the CEAC.

(B) Presentation by CII

Vice President, CII & Director IPR & Technology presented the key issues of concern i.e. low priority and need for trained police staff, delayed

actions, interstate ramifications, procedural bottleneck and insistence on the copyright ownership which restricted the actions. She emphasized that IPR played a very important role in terms of national growth and there is a need of sensitization about the economic loss. She requested MHRD to work in coordination with the Ministry of Home Affairs. She emphasized extensive awareness building workshops in schools and requested MHRD to involve NCERT and CBSE to facilitate the arrangement of half an hour slot once in a year for such programmes in which CII will sensitize the students. She said that training of police officials on the piracy matters is necessary, particularly for probationers by making small sessions for police officials mandatory in a year.

#### (C) Presentation of FICCI

FICCI presented the mandate given to them by the CEAC in previous meeting -- to suggest awareness building of copyrights, to prepare a report on the enforcement of best practices and shared experience of the members, to submit a report on mechanism to ensure that the benefits of enforcement flow back to the creator and copyright holder and to suggest draft IPR curriculum/syllabus for students of secondary, undergraduate and postgraduate levels. FICCI had constituted three Working Groups to carry out the mandate given by the council i.e.(i) Chapter on Copyright for School Students, (ii) Standard Operating Procedure for Copyright Enforcement, and (iii) Issues faced by the Industry regarding enforcement of Copyrights and by Police Officials while dealing with IPR matters. He further presented the report on best practices and issues faced by the industry regarding enforcement of copyright. While preparing the Standard Operating Procedure for Copyright Enforcement by Police, he submitted that SOP of Andhra Pradesh Police has been taken as base. He requested the Council to consider the recommendations made. Some of the recommendations were to set up committee/working groups to identify sector wise copyright issues in the industry, national data base of copyright offenders to be maintained and made readily available to all enforcement agencies and workshops and sensitization programmes for enforcement agencies besides creating IP awareness for school students.

#### (D) Presentation by NASSCOM.

The representative from NASSCOM gave a presentation on enforcement issues and software piracy and showed concern on copyright infringement which is very critical for the industry due to its vulnerability. There is lack of

information regarding licensing terms which are often complicated and further frequent changes in licensing model increase the risk of non-compliance, as a result Indian companies lose a huge amount in export revenues by use of pirated software. She said that IPR and international enforcement issues are a part of a company's business and need to be worked to make licensing terms simpler. There is a need for thinking from strategic perspective, strengthen enforcement, increase awareness among companies regarding license management and tackle emerging trends. She stressed upon the need to articulate the rights of the companies and how far they can go in for enforcement, as a number of companies resist this due to audit, and other kind of investigations.

The Chairman mentioned that advocacy is the best measure to resolve issues of piracy rather than people going to courts and spending money. It is for the industry to articulate their requirement about the things which are absolutely not viable and indicate when and where the government must step in. Regarding the use of latest devices by young people without being aware of key elements of licensing he desired this to be included in the agenda in the next meeting and NASSCOM to circulate a paper on the role of different players in the field.

Representative from Maharashtra Police informed that NASSCOM has done a wonderful work on cyber crime in Maharashtra and has been instrumental in creating cyber crime cells. He further said that any law/ Act creates a new liability for investigation for the police officers without providing the resources, and also highlighted problem of lack of space in the police station for keeping seized property.

#### (E) Presentation on behalf of IRRO

In the presentation it was explained that Indian Reprographic Rights Organization (IRRO) is one of the registered copyright societies and its membership consists primarily of authors and publishers of educational, scientific and technical works who often reproduce work by means of photocopy. It was explained how authors and publishing industry lose significant royalties due to photocopying. The need for sensitization of the police as well as the public on fair dealing was emphasized.

(F) Federation of Publishers & Booksellers Association of India (FPBAI)'s view was that thrust may be given on the awareness with focus on infringement involving circumvention of all the technological measures.

(G) Director of Prosecution, Maharashtra apprised about his views on prosecution barriers which was duly supported by the representative from Director of Prosecution, Delhi.

6. The presentations were punctuated by comments, discussions and exchange of views.

7. The issue of non-compoundability of offences committed under the Copyright Act, 1957 was noted as a key area of concern. It was suggested that the offence under the Copyright Act must be made compoundable so that not only the pendency of cases could be reduced but also the right holders could get their right dues. Mr. Ghayur Alam, MHRD IPR Chair, Bhopal said that compoundability does not mean negotiating the case. He further explained that in Copyright Act, 1957, it is nowhere mentioned that the offence is cognizable or non-cognizable. He pointed out that, in some decisions of the courts, it has been held that copyright cases are compoundable while in some cases these are non-compoundable. He further referred the decision of the High Court of Andhra Pradesh, wherein it had been clearly stated that in criminal matters of copyright, it was not necessary to trace the owner of the copyright.

8. The Chairman said that in the general consensus was on the need for more capacity building programmes for all stakeholders including the general public, police officials, judiciary and other enforcement agencies. He said that there was also a consensus on the need to establish national enforcement task force as the enforcement of IP and copyright infringement, handled by the State police, has limited jurisdiction. Representative of DGP, Andhra Pradesh Police conveyed State's willingness to invite the IP experts for giving specialized lectures/ training in the police training school at Sub-Inspector level.

9. Based upon the extensive discussions that took place during the meeting, the following **decisions** were taken by the Copyright Enforcement Advisory Council :

i. While every state has its own separate awareness programme, a common training cum awareness programme for every State may be conducted based on

a common curriculum / programme advisory issued by MHRD for the State Police Officials to ensure uniformity.

ii. Awareness programme may be devised for all other stakeholders including judiciary, consumers, journalists and general public. The programme advisory and the awareness material for different stakeholders may be prepared by FICCI and CII and placed before the Council in the next meeting in both electronic and printed form.

iii. The copyright enforcement tool kit and police handbook prepared by FICCI for the police officers needs to be viably disseminated in the States.

iv. There is a need to share the best practices in the states particularly in Police Training Colleges. Accordingly all the best practices and copyright enforcement tool kit may be uploaded on copyright portal and state police portal.

vi. FICCI and CII may arrange copyright awareness program in some selected schools.

vii. Ministry of Home Affairs will be requested to consider making it mandatory to arranging regular sessions for the state police officials and state nodal officers designated for IPR issues regarding copyright enforcement.

viii. NASSCOM will prepare information for creating awareness on software piracy and licensing issues for different players / users specifically children using tablets and place this as an agenda in the next meeting.

ix. The Chairman in his concluding remarks stressed the role of increasing awareness about copyright in general and its violation in particular. The Registrar of copyright gave her special thanks to all the representatives, government officials for their participation in the CEAC meeting.

10. The meeting ended with a Vote of Thanks to the Chair.

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