

COPYRIGHT SOCIETIES:

Collective administration of copyright by societies is a concept where management and protection of copyright in works are undertaken by a society of owners of such works. Obviously no owner of copyright in any work can keep track of all the uses others make of his work. When he becomes a member of a national copyright society, that society, because of its organisational facilities and strength, is able to keep a better vigil over the uses made of that work throughout the country and collect due royalties from the users of those works. Because of the country's membership in international conventions, the copyright societies are able to have reciprocal agreements with similar societies in other countries for collecting royalties for the uses of Indian works in those countries. From this it can automatically be inferred that it will be in the interests of copyright owners to join a collective administration organisation to ensure better protection to the copyright in their works and for reaping optimum economic benefits from their creations. Users of different types of works also find it easy to obtain licences for legal exploitation of the works in question, though the collective administrative society.

A copyright society is a registered collective administration society under Section 33 of the Copyright Act, 1957. Such a society is formed by copyright owners. The minimum membership required for registration of a society is seven. Ordinarily, only one society is registered to do business in respect of the same class of work. A copyright society can issue or grant licences in respect of any work in which copyright subsists or in respect of any other right given by the Copyright Act.

Functions of a copyright society:

Conditions subject to which a copyright society may issue licences, collect fees and distribute such fees.

(1) A copyright society may issue licences and collect fees in accordance with its Scheme of Tariff in relation to only such works as it has been authorised to administer in writing by the owners of rights and for the period for which it has been so authorised.

(2) The distribution of fees collected shall be subject to a deduction not exceeding fifteen per cent of the collection on account of administrative expenses incurred by the copyright society.

Administration of rights of owner by copyright society (*Section 34 of Copyright Act, 1957*)

(1) (a) a copyright society may accept from an owner of rights exclusive authorisation to administer any right in any work by issue of licences or collection of licence fees or both; and

(b) an owner of rights shall have the right to withdraw such authorisation without prejudice to the rights of the copyright society under any contract.

(2) It shall be competent for a copyright society to enter into agreement with any foreign society or organisation administering rights corresponding to rights under this Act, to entrust to such foreign society or organisation the administration in any foreign country of rights administered by the said copyright society in India, or for administering in India the rights administered in a foreign country by such foreign society or organisation:

Provided that no such society or organisation shall permit any discrimination in regard to the terms of licence or the distribution of fees collected between rights in Indian and other works.

Payment of remuneration by copyright society- (*Section 34A of Copyright Act, 1957*)

(1) If the Central Government is of the opinion that a copyright society for a class of work is generally administering the rights of the owners of rights in such work throughout India, it shall appoint that society for the purpose of this section. (2) The copyright society shall, subject to such rules as may be made in this behalf, frame a scheme for determining the quantum of remuneration payable to individual copyright owners having regard to the number of copies of the work in circulation:

Provided that such scheme shall restrict payment to the owners of rights whose works have attained a level of circulation which the copyright society considers reasonable.

Control over the copyright society by the owner of rights.- (*Section 35 of Copyright Act, 1957*)

(1) Every copyright society shall be subject to the collective control of the owners of rights under this Act whose rights it administers (not being owners of rights under this Act administered by a foreign society or organisation referred to in sub-section (2) of section (34) and shall, in such manner as may be prescribed,- (a) obtain the approval of such owners of rights for its procedures of collection and distribution of fees;

(b) obtain their approval for the utilisation of any amounts collected as fees for any purpose other than distribution to the owner of rights; and

(c) provide to such owners regular, full and detailed information concerning all its activities, in relation to the administration of their rights.

(2) All fees distributed among the owners of rights shall, as far as may be, be distributed in proportion to the actual use of their works.

Registered copyright societies in India:

The following are the registered copyright societies in India:

- i. **For cinematograph and television films** : Society for Copyright Regulation of Indian Producers for Film and Television (SCRIPT) 135 Continental Building, Dr. A.B. Road, Worli, Mumbai 400 018. (Web-site:);
- ii. **For musical works**: The Indian Performing Right Society Limited (IPRS), 208, Golden Chambers, 2nd Floor, New Andheri Link Road, Andheri (W), Mumbai- 400 058(Web-site:<http://www.iprs.org/>);
- iii. **For sound recording**: Phonographic Performance Limited (PPL) Flame Proof Equipment Building, B.39, Off New Link Road, Andheri (West), Mumbai 400 053 (Web-site:<http://www.pplindia.org/>);
- iv. **For reprographic(photo copying) works**: Indian Reprographic Rights Organization (IRRO), 18/1-C, Institutional Area, Near JNU Campus, New Delhi – 110067, (We-site: <http://www.irro.in/>)

Are individual rights owners are entitled to issue licences and collect royalties who are not members of any copyright society ?

As per Section 30 of the Copyright Act, 1957, the owner of the copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in the right by licence in writing signed by him or by his duly authorised agent. Therefore, apart from copyright societies any individual rights owners (e.g. Super Cassette Industries/ Yash Raj Music/ Big Music etc.,) are entitled to issue licences and collect royalties.

As per Section 52 (a) of the Copyright Act, 1957, copyright in a work shall be deemed to be infringed, when any person, without a licence granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under the Act.

Procedure for obtaining approval of owners of rights for collection and distribution of fees, etc.

Every copyright society shall maintain the following registers at its registered or administrative office :

- (i) A register of owners of copyright and other rights to be called the “Register of Owners” in respect of which the copyright society has been authorised by the owners to issue or grant licences. The register shall contain the names of the owners, their addresses, the nature of rights authorised to be administered by the copyright society, date of publication of the work, the date on which the copyright society becomes entitled to and the duration of such right.
- (ii) A register to be called the “Register of Agreements” containing a copy of every agreement entered into by the copyright society with the owners for the purpose.
- (iii) A register to be called the “Register of Fees” containing particulars of fees and mentioning the name of persons or organisations from whom the fees have been realised, the amount so realised and the date of realisation.
- (iv) A register to be called the “Disbursement Register” containing details of disbursements made to each owner of copyright, category-wise, mentioning the name of the owner, nature of his copyright and the date and amount of disbursement made to him.

Tariff Scheme.

As soon as may be, but in no case later than three months from the date on which a copyright society has become entitled to commence its copyright business, it shall frame a scheme of tariff to be called the “Tariff Scheme” setting out the nature and quantum of fees or royalties which it proposes to collect in respect of such copyright or other rights administered by it.

Distribution Scheme.

(1) As soon as may be, but in no case later than three months from the date on which a copyright society has become entitled to commence its copyright business, it shall frame a scheme to be called the “Distribution Scheme” setting out the procedure for collection and distribution of the fees or royalties specified in the Tariff Scheme among the owners of copyright or other rights whose names are borne on its Register of Owners [maintained under clause (i) of rule 14-I] for the approval of such owners.

(2) Any distribution under the Distribution Scheme shall, as far as possible, be in proportion to the income of the copyright society from actual use of the work or works of each owner of rights.

Meeting of a copyright societies.

(1) As soon as the Tariff Scheme and the Distribution Scheme have been prepared, the copyright society shall call a general meeting of the owners of rights whose names are recorded in the Register of Owners to approve the same.

(2) A notice of not less than twenty-one clear days shall be given to every such owner of rights of the meeting and a copy each of the proposed Tariff Scheme and Distribution Scheme shall be annexed to the notice.

(3) The notice under sub-rule (2) shall specify that any owner of rights who objects to the Tariff Scheme or Distribution Scheme shall be entitled to withdraw the authorisation given to the copyright society to administer any right in his work.

(4) The copyright society shall keep a record of the owners of rights who have given their approval and those who have objected thereto.

(5) Approval by owners of rights for the Scheme shall be by a majority of such owners present in person.

(6) The quorum for a general meeting shall be one-third of the members.

(7) The copyright society shall not amend an approved Tariff Scheme or Distribution Scheme except with the consent of the owners obtained at a subsequent general meeting called for the purpose.

Accounts and audit.

(1) Every copyright society shall maintain proper accounts of the fees and royalties collected in a financial year, payments made out of such collections to the owners of rights and other expenditure incurred for meeting administrative expenses and related matters with the approval of the owners of rights:

Provided that a copyright society shall not spend more than fifteen per cent of its collection towards its administrative expenses.

(2) Every copyright society shall get its accounts audited by a chartered accountant annually.

Annual general meeting of owners of rights.

(1) Every copyright society shall, within a period of twelve months from the holding of a meeting in pursuance of sub-rule (1) of rule 14L, hold a general meeting of owners of rights, herein called the annual general meeting of owners :

Provided that a special meeting of the owners of rights may also be held, if considered necessary.

(2) The meeting of owners of rights shall be held in the town or city in which its registered or administrative office is situated and the notice calling the meeting shall specify the time, date and address of the venue of the meeting.

Documents to be presented in the annual general meeting of owners of rights.

Every copyright society shall place before its annual general meeting the following documents, namely :—

- (i) an up-to-date list of the owners of rights, their names and addresses as recorded in the Register of Owners maintained by the copyright society,
- (ii) audited accounts of the society for the previous year;
- (iii) the Tariff Scheme ;
- (iv) the Distribution Scheme ;
- (v) a statement approved by its governing body (by whatever name called) setting out a full and detailed account of all its activities during the previous years; and
- (vi) details of budget estimates for the succeeding year and a programme of action for the succeeding year.

Returns to be filed by the copyright societies with the Registrar of Copyrights.

Every copyright society shall file a return called the annual return with the Registrar of Copyrights within one month from the conclusion of each annual general meeting of owners setting out the following details, namely :—

- (i) the date of the annual meeting of owners held immediately preceding the filing of the annual return, the number of owners who attended the meeting in person or by proxy, and the minutes of such meeting ;
- (ii) the up-to-date list of the owners of rights, their names and addresses as recorded in the Register of Owners maintained by the copyright society, as provided in rule 14-I;
- (iii) audited accounts of the copyright society ;
- (iv) the Tariff Scheme ;
- (v) the Distribution Scheme ; and
- (vi) a statement approved by its governing body or Board of directors setting out a full and detailed account of all its activities during the year in relation to the rights of the owners.