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Copyright Societies in India and the Crisis of Fragmented Collective Licensing: Reimagining Copyright Administration in the Digital Economy

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Abstract

Digital dissemination technologies, streaming platforms, and big commercial exploitation of copyrighted works have changed the modern copyright system. Yet, the collective copyright administration system in India remains in a state of disintegration in the form of multiple licensing systems, forcing users to pay several copyright fees to various copyright societies for the enjoyment of one musical piece. The consequent complexity of licensing requirements has created significant transactional inefficiencies, compliance costs, legal uncertainty and inequitable costs for commercial consumers, including event organizers, digital platforms, restaurant chains, independent content creators and broadcasters. This paper critically discusses the copyright law and institution in India in the light of the Copyright Act, 1957 and the Copyright Rules, 2013 applicable to the copyright societies. It is based on the premise that the current collective management framework is institutionally ill-equipped to address the realities of today's digital economy. The paper analyses the economic and legal problems that have been entrenched in India's existing licensing system through doctrinal analysis, judicial interpretation, and comparative examination of international collective rights management systems. The study also compares a number of international models of centralized and interoperable licensing systems and recommends structural changes for modernizing the collective rights management in India. The paper concludes that India needs a technologically integrated and transparent licensing process

which must be able to strike the balance between the interests of the creators and the commercial feasibility and accessibility of digital markets.

Keywords

Collective rights management, copyright societies, music licensing, digital copyright, royalty distribution, copyright reform, collective administration, intellectual property law.

Introduction

Digital technology has fundamentally changed the way that copyrighted works are produced, shared, consumed and monetized. The music streaming industry, digital broadcasting, short-form content, on-line shows and the social media landscape have turned copyright from a territorial-based system into a global commercial system. In this context, the role of copyright management institutions under collective management is essential to guarantee a smooth licensing and royalty collection process.

In the past copyright societies were born to reduce transactions and to allow collective management of rights in situations where it was not feasible for individual composers and authors to license their rights. Collective rights management in India is regulated by the statute in place, namely the Copyright Act, 1957 and the Copyright Rules, 2013. There are different copyright societies dealing with different categories of rights, in particular those relating to musical works and sound recordings. There are various bodies which collectively manage copyright, like the Indian Performing Right Society (IPRS), Phonographic Performance Limited (PPL).

The Indian collective licensing framework, although important for institutions, is structurally disorganized. Common commercial music uses may involve securing several permissions, as different types of rights exist in an original musical composition, such as literary rights, musical composition rights, performers' rights, and sound recording rights. As a result, multiple licensing negotiations are usually required for businesses and commercial users for the same business activity.

The digital economy has been plagued by licensing fragmentation and its practical and economic implications have been significant. It also often results in significant licensing costs for commercial users who use only a fraction of the copyrighted material in a blanket catalogue. Complex licensing requirements and unfair compliance costs are a major disadvantage for smaller businesses, independent creators and startups. At the same time, due to the non-interoperability of copyright societies, there has been legal uncertainty about the licensing and royalty distribution requirements.

This paper suggests that the current collective rights management regime in India is significantly under-structured, and therefore needs a lot of structural changes to meet the demands of the contemporary digital copyright markets. The paper, using doctrinal comparison and comparison techniques, reviews if the existing licensing regime promotes a balance between creators and commercial efficiency and recommends the creation of centralized or interoperable collective licensing schemes which can be used to modernize the copyright regime in India.

Research Questions

This study seeks to address the following research questions:

1. Whether the fragmented collective licensing structure in India is compatible with contemporary digital copyright markets?
2. Whether the present copyright society framework adequately balances the economic interests of creators with the commercial realities faced by users?
3. Whether India should adopt centralized or interoperable collective licensing mechanisms comparable to international collective management systems?

Research Methodology

This paper adopts a doctrinal and analytical methodology. The research is based primarily upon statutory interpretation of the Copyright Act, 1957 and the Copyright Rules, 2013, supported by judicial precedents, scholarly literature, policy studies, and comparative international practices relating to collective rights management. Secondary sources including peer-reviewed journal articles, international copyright reports, and academic commentaries have been utilized to evaluate the institutional and economic dimensions of collective licensing systems.

Literature Review

In international copyright scholarship, there has been much discussion of collective rights management as a method to lower transaction costs and make more efficient licensing in industries where copyrighted content is widely disseminated to the public. Copyright societies have been recognized by scholars like Daniel Gervais or Sam Ricketson as playing an important role in easing the negotiation between the rights holder and commercial users. Current research, however, has come to recognise issues around institutional monopolies, transparency, royalty distribution conflicts, and inefficiency in the traditional licensing process.

The issues of digital streaming platforms and online dissemination technologies have been the focus of the international literature. Peter Menell believes that the advances of technology have revealed the weaknesses of the traditional copyright enforcement and licensing systems, especially in the context of digital exploitation models. Likewise, some research on collective management systems in the EU and the USA has identified the need for interoperable databases and for a unified licensing system for digital.For their part, several comparative studies on collective management systems in the EU and the USA have pointed towards the necessity of creating interoperable databases and a centralized digital licensing system.

The scholarship of copyright societies in India is relatively small and mainly concerns statutory interpretation and the rights of the authors. Fragmentation of licensing obligations in digital markets has not been sufficiently covered in the existing Indian literature. By critically analysing the existing collective management system in India and its institutional constraints, this paper aims to add to the existing scholarship on the need for a licensing reform that is integrated.

Conceptual Foundations of Collective Rights Management

The collective rights management foundational is transaction cost theory. Where copyrighted material is used on a large scale in many market areas and numerous users, with repeated transactions, individual licensing becomes commercially unfeasible. The copyright society is thus an intermediary organization that allows efficient licensing while minimizing negotiation costs for both creators and users.

This economic argument is especially relevant in the music sector, where millions of copyrighted compositions are performed, broadcast, streamed or reproduced publicly each day. Without collective management organisations, there would be significant lack of efficiency and difficulty in enforcement in the markets for copyrighted works.

But collective management systems also raise issues of institutional inflexibility and concentration of markets. If there are several societies with separate sets of rights, but these societies do not coordinate their actions, then transaction costs can rise, not fall. Now collective administration is jeopardized by the disintegration of licensing frameworks, which is the main economic motivation behind collective administration itself.

Collective rights management has been further redefined by the digital economy, which demands technologically integrated systems that allow for immediate licensing, automated rights tracking and interoperable databases of rights. New forms of copyright governance now rely not just on the legal system of copyright ownership, but on the efficiency and technological sophistication of copyright licensing institutions.

Statutory Framework Governing Copyright Societies in India

The law that regulates the copyright societies in India is based on the provisions of Section 33 and 34 of the Copyright Act, 1957, and the Copyright Rules, 2013.

Section 33 defines that business of issuing copyright licenses in respect of copyrighted works is reserved for registered copyright societies. The provision aims to give control over collective administration and provide institutional oversight of licensing processes. As far as the statutory framework is concerned, however, there is no provision for an integrated licensing system between the various societies offering different rights.

Section 34 governs rights administration by copyright societies and the rights of copyright societies to collect and distribute the rights of the copyright holders. The provision also outlines fiduciary duties of societies in regard to the management of royalties and governance. The Copyright Rules, 2013 added a layer of regulatory oversight and established requirements regarding transparency, tariff schemes, auditing processes and mechanisms for distributing royalties. These reforms were in respect of institutional accountability, but they did not change much with regards to the structural fragmentation in the collective management system in India.

With the increased convergence of copyrighted content in digital markets, the statutory framework remains in place in the form of a fragmented rights landscape.

Critical Analysis

The Indian copyright system has been fraught with a key conflict between the right to the proprietary interest and the fact of the content market. Collective management organizations were originally designed to help lower transaction costs, streamline licensing, and eliminate inefficiencies. But the current Indian system seems to be creating the inefficiencies that it was meant to cut. Collective administration is a process that has become burdensome and complex due to the multiple copyright societies involved, with a focus on the digital economy.

A major drawback of this current structure is the lack of consideration for the multi-faceted aspects of contemporary music use. One piece of music can have several categories of copyright protection: literary rights, musical composition rights, rights of the performers and rights of the sound recording. While the legal distinction between the rights is still doctrinally sound, the need for user to secure separate licenses for interconnected rights imposes undue burdens on users. A fragmented licensing regime raises commercial issues of uncertainty about the specific rights that may need to be licensed under the law and the risk of unintentionally infringing a license.

Further, the economic theory for collective rights management is seriously undermined when the licensing systems themselves create too many transaction costs. The argument of copyright societies is that they are more efficient in administration than is a case-by-case negotiation between creators and users. But when users have to license their use from several different sources, then the efficiency argument of collective administration is reduced. Under these conditions, the segmented licensing systems can become a hindrance to legal access rather than a facilitator, and may even prevent market participation.

There are also concerns about proportionality and fairness in the present system in regards to royalty structures. Blanket licensing arrangements often involve paying to have access to large libraries of copyrighted material even if they are not being used. While they may only be using a small number of catalogues, restaurants, hotels, cafés, and event organisers can pay a significant licensing fee for thousands of works. This lack of correlation between expenditure on licensing and use of licensed products is a structural imbalance in the structure. Smaller companies and individual creators are especially affected as the cost of licensing is often far higher than the value of the copyrighted material itself.

Further, the Indian system is not sufficient to deal with digital dissemination. Technologically advanced licensing frameworks are necessary for streaming platforms, short-form content ecosystems and algorithm-driven media consumption, to enable fast-granting permissions, automatic royalty tracking and interoperable rights databases. The current collective management system, however, still heavily relies on the traditional licensing models in an analogue commercial world. Without embedded digital licensing, the overall commercial efficiency and copyright protection in online ecosystems are then compromised.

Another major issue is the transparency and good governance of copyright societies. While the Copyright Rules, 2013 strengthened the regulatory oversight and auditing requirements, the issues related to the methodologies of royalties distribution, tariff standardization and accountability of institutions still persist. A high level of centralisation in the licensing process can also lead to monopolistic tendencies that can affect the efficiency of competition and access to the market. Collective management organizations can fall into the danger of favouring institutional interests over equitable royalty payments if they are not well supervised and lack transparency.

Judicial interpretation has also had trouble balancing the traditional concepts of copyright with the current technological realities. The situations in Indian Performing Right Society Ltd. v. Eastern Indian Motion Pictures Association and Entertainment Network (India) Ltd. v. Super Cassette Industries Ltd. differ greatly in their commercial and technological environment. While these judgments continue to be doctrinally relevant, they offer little insight into the models of platform-

based dissemination, AI tools for content production, streaming algorithms, and foreign digital licensing that now sustain the modern media industries.

Consequently, the current system mirrors a broader institutional issue of copyright in India – the system of copyright remains based on the logic of fragmented ownership, even in the age of converging copyrighted content in digital ecosystems. The law treats rights separately, while digital consumption is done on technological platforms that are designed to combine broadcasting, streaming and public performance and online dissemination in an increasingly integrated manner. This has resulted in an institutional system of licensing that is both over-regulated in process and under-developed in institutional coordination. Therefore, real reform cannot be simply a change based on minor changes in the licensing process. What is needed is a structural rethinking of the collective rights management that is able to balance the protection of the proprietor with the technological integration, market efficiency and accessibility. If nothing changes, the overall system for copyright administration in India is likely to become more and more out of sync with the working dynamics of the digital economy.

Fragmented Licensing and Transactional Inefficiency

The disjointed and disjoint CIR has led to significant economic and operational inefficiencies in India. A song that is being commercially exploited can have copyrights in literary works, musical compositions, sound recordings, and performances at the same time. This means that the users have to buy multiple licenses from various firms for the same use.

Commercial entities like hotels, restaurants, cafés, event management firms, and digital streaming services face the challenge of compliance with numerous licensing requirements, making it difficult to determine the specific permissions needed by the law. Overlapping claims of authority by the different copyright societies are a common cause of licensing issues.

More economic inefficiency comes from blanket licensing models. Rather, companies are frequently forced to buy large catalogues with thousands of copyrighted songs that they don't use at all in reality. Licensing fee structures tend to be poorly designed, with a tendency to over-spend and waste resources.

This burden is even heavier on small and medium enterprises whose finances are not able to support them in having to continuously buy several licenses. Against the backdrop of the digital economy, independent content creators and startups are also struggling with compliance issues that hinder lawful licensing practices.

This existing framework, therefore, runs counter to the one that aims at simplifying licensing and lower transaction costs.

Judicial Interpretation and the Evolution of Authors' Rights

The courts in India have come across several copyright-related issues, including disputes over copyright ownership and copyright licensing and royalty payments.

In *Indian Performing Right Society Ltd. v. Eastern Indian Motion Pictures Association,* the Supreme Court examined the copyright relationship between the rights of the author and the producer in the case of cinematographic works. The case made a significant impact on the ownership of musical works in movies, and has also become a template for future collective licensing in India. But the decision was made in an analogue commercial world and did not take into account today's streaming and digital dissemination models.

Similarly, in the case of *Entertainment Network (India) Ltd. v. Super Cassette Industries Ltd*., the Supreme Court considered crucial aspects of compulsory licensing under copyright law and highlighted the need to weigh the proprietary rights with the public interest. The judgment shows the judicial awareness of the economic consequences of monopolization of copyright in media industries.

While in recent years the judiciary has come to accept that a balance between rights and the market is required, Indian law has still not fully considered how an imperfect enforcement of collective licensing can create institutional inefficiencies in digital markets.

Comparative International Models

Collective management systems with advanced technology have been introduced in a number of jurisdictions, which can enable efficient digital licensing.

In the United States, digital systems for tracking royalties support large-scale licensing structures like the American Society of Composers, Authors and Publishers and the Broadcast Music, Inc. In the same way, the United Kingdom has established integrated licensing rights systems which make it easier for commercial users to access copyrighted works.

The EU has also strengthened cross-border interoperability and databases of digital rights with regulatory requirements incentivizing transparency and multi-territorial licensing approaches.

These jurisdictions are coming to understand that a successful collective management relies not only on the protection of rights under statute, but on technologically sophisticated licensing systems that can minimize the friction of transactions in digital markets.

The collective management system in India is relatively underdeveloped in this area. Lack of interoperable licensing systems and lack of a centralized digital rights infrastructure persist in causing unnecessary inefficiency in copyright administration.

Reimagining Collective Rights Management in India

The copyright regime in India desperately needs structural changes that would meet the challenges of digital dissemination and widespread online copyright infringement. It is not enough to merge the current copyright societies into one institutional monopoly; reforms need to be aimed at building technologically interoperable and integrated licensing systems.

The possibility of having a centralized digital licensing exchange that can offer access to many different types of rights would cut the compliance burden and would not compromise institutional specialization among existing societies. use of forms to help manage records. Use of forms and integrated databases to assist with record keeping.

An increase in transparency in relation to who owns what, who gets the royalties and what the licensing obligations are would be provided by licensing protocols.

AI-based royalty tracking systems and blockchain-based digital ledgers can further enhance the accuracy of royalty payments and reduce disputes surrounding usage tracking. These kinds of systems would increase transparency and institutional accountability in collective management systems.

Further, India should explore different licensing models for different kinds and scales of commercial uses. We cannot impose the same blanket licensing model that is used for large-scale commercial broadcasters and streaming companies on small businesses, startups, independent creators, and education institutions.

A balance between proprietary protection and commercial accessibility is needed for modern copyright governance. The too-fractured licensing regime serves neither of these goals because it hikes transaction costs and discourages legal licensing.

Conclusion

Collective rights management is still essential for today's copyright management. But the current licensing environment in India, which is very fragmented, is increasingly at odds with the nature of digital copyright markets and technologically integrated media environments.

The need to obtain several licenses to use one musical work creates significant compliance costs for businesses and commercial users and creates economic inefficiencies. Blanket licensing often leads to over-payment for unused copyrighted materials, especially for smaller companies and independent artists.

The shortcomings of the current system are not only functional but structural. The undermining of the economic basis on which copyright societies were set up by fractured collective administration. For copyright governance to work effectively in the digital age, it is imperative that copyright systems are technologically interoperable, that copyright royalties are transparent, and that copyright licenses are simplified, allowing lawful access to copyrighted materials.

India needs to shift its focus to a more comprehensive and technologically advanced collective management regime, therefore. A unified and common licensing system would enhance administrative efficiency and transparency, while ensuring the sustainability and success of copyright governance in the changing digital economy.

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