RETHINKING MUSIC COPYRIGHT MANAGEMENT IN THE AGE OF DIGITAL DISTRIBUTION:

Business Models. Licensing practices and Copyright Institutions in India

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THE ENQUIRY

• How have evolving technologies impacted business models and licensing practises?

• What challenges have emerged?

• How can copyright institutions provide for more effective management?
BUSINESS MODELS

• **Telecom music products** (ringtones, caller tunes, mobile radio)

  - New intermediaries: Telecom operators
  - Rise in revenues for PPL

• **Online streaming**

  - Viability of the freemium model?
The 2012 Amendment

- Inalienable right to royalty for authors of underlying musical works
- Obligatory collective management for the “business of licensing” underlying works (?)
- Stricter transparency regulation copyright societies
- Recognition of registered copyright society for singers (ISRA)
Challenge no.2:

**Vaccum**

- De-registration of PPL and IPRSL
- Legal status of licensing agencies like Novex Ltd.
- Copyright Board has *still* not been constituted

**Vagueness**

- Meaning of “equal share”?
- Penalties for non compliance of obligatory collective management?
- Retroactive?
- Performers Rights: industry pushback!
Why direct licensing?

What was the impact on cost of acquiring content?
Minimum Guarantees & The Trust Deficit

- Challenge no.1
- The burden of “Minimum Guarantees”
- The trust deficit
- **What hangs in the balance:**

  The viability of nascent business models

  Non-transparent ad-hoc distribution of royalties

  Evading the inalienable right to royalty for authors
The technical fix to the trust deficit:

Mime360 and why it failed

Can/should Copyright Societies play this role:

• Distribute royalties in accordance with actual use or reliable statistical data (2013 Copyright Rules)

• Need to build technical competency and provide the crucial service of tracking music play data and issuing royalties.

• Standardizing technical identification codes (ISRC)

• Standardizing rates

Would a private, competitive collective management system enable this better?
(1) Vaccum & Institutional illegitimacy

(2) Vagueness in Law

(3) Anti-competitive behaviour of dominant content companies

(3) Non-transparency

Is significantly *hindering innovation, access to music, and potential revenue returns for rights holders*

Also: role of competition regulator?