

**Date 29.7.2014**

To,

**Mr. Agneshwar Sen, Advisor (B&CS),**

**Telecom Regulatory Authority of India (TRAI)**

**Delhi**

I write to you for and on behalf of The Indian Performing Rights Society Limited ("IPRS"), IPRS is an established Company under the Companies Act established in 1969 and holds assignments for copyrights over musical works and literary works and representing the right-holder owners such as music publishers / authors and currently controls, administers and licenses Indian and International Works.

**Serious concerns:**

Our top concern is that the proposed regulatory framework, unless rectified before-hand, is likely to result in a regime of depriving the right owners and akin to "robbing Peter to pay Paul" i.e. by forcibly mis-directing the works licenced to FM Radio operators be treated as a license to DTH and LCO operators or Internet Streaming – much against the Copyright Act and Constitutional rights of copyright-owners and/or beneficiaries.

Our second major concern is that the proposed framework fails to distinguish between the nature of FM radio channels, which are free-to-air, and that of DPO's who are charge channels.

**Comments on Issues for Consultation:**

Issue No. 2: Transmission of music content by PS in the absence of DAS is a serious risk to the rights and livelihoods of copyright owners. The same must not be forced upon copyright-owners by the proposed regulatory framework.

Issue No. 13: Re-transmission of radio channels: No right should be conferred by the proposed framework that enables the DPO to re-transmit the music content of FM radio. That would result in copyright infringement and trample upon the fundamental Constitutional rights of copyright-holders/beneficiaries. Please be put to notice that FM radio station has no right whatsoever to allow any

third-party to re-transmit the music content which has been licenced to them only for radio broadcasting.

Further, a specific and mandatory obligation/restriction must be imposed on DPOs that they may not offer PS without certifying that all content, including the music content, is duly licensed in writing by the copyright owner, and making such licenses available for inspection. Instances of failure to comply, or delay in compliance, should debar them from broadcasting. They should also be subject to disqualification.

Issue no. 14 : Interconnection with other distribution networks for re-transmission of PS, i.e. sharing or along re-transmission of the PS channel to another DPO should be strictly prohibited, in respect of music content -- for the reason that rights in content are normally licensed only for a particular PS.

**Personal hearing:**

Since the issues raised are serious and are potentially interfering with the livelihood and statutory rights of copyright-owners and beneficiaries, we humbly seek an opportunity for personal hearing and then submit a detailed response, before any precipitate recommendation is made by TRAI which could seriously undermine the ability of the Copyright Owners in Musical and or literary works

Warm and Musical Regards,

**Rakesh Nigam**

**CEO**

**The Indian Performing Right Society Limited**

Mumbai

[www.iprs.org](http://www.iprs.org)