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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

6

+ **C.O.(COMM.IPD-CR) 3/2021**

ENTERTAINMENT NETWORK INDIA LIMITED Petitioner

Through: Mr. Abhishek Malhotra, Mr.
Gurumukh Chaudhari, Ms. Shilpa
Gamnani, Ms. Naomi Chandra, Ms.
Sanya Dua, Ms. Atmaja Tripathi, Ms.
Anjali Tiwari and Mr. Kaizad Irani,
Advs.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Defendants

Through: Mr. Jagdish Sagar, Adv. for R-5.
Mr. Amit Sibal, Senior Advocate with
Mr. Neel Mason, Ms. Geentanjali
Vishvanthan, Mr. Uday S Chopra,
Mr. Harsh Kaushik, Mr. Abhay
Chattopadhyay, Mr. Saksham
Dhingra, Mr. Vinay Tripathi, Mr.
Rishabh Sharma, Mr. Siddharth
Vardhman, and Ms. Varsha Jhavar,
Advs. for R-6.

Mr. Harsh Kaushik, Mr. S. S
Ahluwalia along with Mr Abhay
Chattopadhyay, Ms. Anushree Rauta,
Ms Astha Pandey, Mr. Mohit
Bangwal and Ms Narayini Choudhary
advocates for R-3.

Mr. Saikrishna Rajagopal, Mr. Ameet
Datta, Mr. Sidharth Chopra, Mr.
Himanshu Bagai, Mr. Munish Mehra,
Ms. Sonal Chhablani, Ms. Deepshikha

Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Vivek Prasad, Adv. For IPRS.

7

+ **C.O.(COMM.IPD-CR) 6/2021**

HT MUSIC AND ENTERTAINMENT CO LTD Petitioner

Through: Mr. Abhishek Malhotra,
Mr. Gurumukh Chaudhari, Ms. Shilpa Gamnani, Ms. Naomi Chandra, Ms. Sanya Dua, Ms. Atmaja Tripathi, Ms. Anjali Tiwari and Mr. Kaizad Irani, Adv.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Defendants

Through: Mr. Jagdish Sagar, Adv. for R-6.
Mr. Amit Sibal, Senior Advocate, Mr. Neel Mason, Ms. Geentanjali Vishvanthan, Mr. Uday S Chopra, Mr. Harsh Kaushik, Mr. Abhay Chattopadhyay, Mr. Saksham Dhingra, Mr. Vinay Tripathi, Mr. Rishabh Sharma, Mr. Siddharth Vardhman, and Ms. Varsha Jhavar, Adv. for R-5.
Mr. Harsh Kaushik, Mr. S. S Ahluwalia along with Mr Abhay Chattopadhyay, Ms. Anushree Rauta, Ms Astha Pandey, Mr. Mohit Bangwal and Ms Narayini Choudhary advocates for R-3.
Ms. Namrata Dubey, Adv. for R-3.
Mr Harsh Kaushik, Adv S. S Ahluwalia along with Mr Abhay

Chattopadhyay, Ms. Anushree Rauta,
Ms Astha Pandey, Mr. Mohit
Bangwal and Ms Narayini Choudhary
advocates for R-3.

Mr. Saikrishna Rajagopal, Mr.
Ameet Datta, Mr. Sidharth Chopra,
Mr. Himanshu Bagai, Mr. Munish
Mehra, Ms. Sonal Chhablani, Ms.
Deepshikha Sarkar, Ms. Pallavi
Sondhi, Ms. Namrata Dubey, Mr.
Vivek Prasad, Advs. For IPRS.

8

+ C.O.(COMM.IPD-CR) 7/2021

DIGITAL RADIO MUMBAI BROADCASTING LIMITED

..... Petitioner

Through: Mr. Abhishek Malhotra,
Mr. Gurumukh Chaudhari, Ms. Shilpa
Gamnani, Ms. Naomi Chandra, Ms.
Sanya Dua, Ms. Atmaja Tripathi, Ms.
Anjali Tiwari and Mr. Kaizad Irani,
Advs.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Defendants

Through: Mr. Jagdish Sagar, Adv. for R-5.
Mr. Amit Sibal, Senior Advocate, Mr.
Neel Mason, Ms. Geentanjali
Vishvanthan, Mr. Uday S Chopra,
Mr. Harsh Kaushik, Mr. Abhay
Chattopadhyay, Mr. Saksham
Dhingra, Mr. Vinay Tripathi, Mr.
Rishabh Sharma, Mr. Siddharth
Vardhman, and Ms. Varsha Jhavar,
Advs. for R-6.

Mr. Saikrishna Rajagopal, Mr. Ameet Datta, Mr. Sidharth Chopra, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Sonal Chhablani, Ms. Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Vivek Prasad, Advs. For IPRS.

9

+ **C.O.(COMM.IPD-CR) 8/2021**

SOUTH ASIA FM LIMITED

..... Petitioner

Through: Mr. Abhishek Malhotra,
Mr. Gurumukh Chaudhari, Ms. Shilpa Gamnani, Ms. Naomi Chandra, Ms. Sanya Dua, Ms. Atmaja Tripathi, Ms. Anjali Tiwari and Mr. Kaizad Irani,
Advs.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Defendants

Through: Mr. Jagdish Sagar, Adv. for R-4.
Mr. Amit Sibal, Senior Advocate, Mr. Neel Mason, Ms. Geentanjali Vishvanthan, Mr. Uday S Chopra, Mr. Harsh Kaushik, Mr. Abhay Chattopadhyay, Mr. Saksham Dhingra, Mr. Vinay Tripathi, Mr. Rishabh Sharma, Mr. Siddharth Vardhman, and Ms. Varsha Jhavar,
Advs. for R-5.

Ms. Namrata Dubey, Adv. for R-6.
Mr. Saikrishna Rajagopal, Mr. Ameet Datta, Mr. Sidharth Chopra, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Sonal Chhablani, Ms.

Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Vivek Prasad, Advs. For IPRS.

Mr. Saikrishna Rajagopal, Mr. Ameet Datta, Mr. Sidharth Chopra, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Sonal Chhablani, Ms. Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Vivek Prasad, Advs. For IPRS.

10

+ **C.O.(COMM.IPD-CR) 9/2021**

NEXT RADIO LIMITED

..... Petitioner

Through: Mr. Abhishek Malhotra,
Mr.Gurumukh Chaudhari, Ms.Shilpa
Gamnani, Ms. Naomi Chandra, Ms.
Sanya Dua, Ms. Atmaja Tripathi, Ms.
Anjali Tiwari and Mr.Kaizad Irani,
Advs.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Defendants

Through: Mr. Jagdish Sagar, Adv. for R-7.
Mr. Amit Sibal, Senior Advocate, Mr.
Neel Mason, Ms. Geentanjali
Vishvanthan, Mr. Uday S Chopra,
Mr. Harsh Kaushik, Mr. Abhay
Chattopadhyay, Mr.Saksham
Dhingra, Mr. Vinay Tripathi,Mr.
Rishabh Sharma, Mr.Siddharth
Vardhman, and Ms. Varsha Jhavar,
Advs.for R-6.
Mr Harsh Kaushik, Mr. S. S
Ahluwalia along with Mr Abhay
Chattopadhyay, Ms . Anushree Rauta,

Ms Astha Pandey , Mr. Mohit Bangwal and Ms Narayini Choudhary Advocates for R-3.

Ms. Namrata Dubey, Adv. for R-8.

Mr Harsh Kaushik, Adv S. S

Ahluwalia along with Mr Abhay Chattopadhyay, Ms . Anushree Rauta,

Ms Astha Pandey , Mr. Mohit

Bangwal and Ms Narayini Choudhary advocates for R-3.

Mr. Saikrishna Rajagopal, Mr. Ameet Datta, Mr. Sidharth Chopra, Mr.

Himanshu Bagai, Mr. Munish Mehra,

Ms. Sonal Chhablani, Ms.

Deepshikha Sarkar, Ms. Pallavi

Sondhi, Ms. Namrata Dubey, Mr.

Vivek Prasad, Advs. For IPRS.

11

+ **C.O.(COMM.IPD-CR) 10/2021**

D B CORP LTD

..... Petitioner

Through: Mr. Abhishek Malhotra,
Mr.Gurumukh Chaudhari, Ms.Shilpa
Gamnani, Ms. Naomi Chandra, Ms.
Sanya Dua, Ms. Atmaja Tripathi, Ms.
Anjali Tiwari and Mr.Kaizad Irani,
Advs.

versus

PHONOGRAPHIC PERFORMANCE LIMITED & ORS.

..... Defendants

Through: Mr. Jagdish Sagar, Adv. for R-5.
Mr. Amit Sibal, Senior Advocate, Mr.
Neel Mason, Ms. Geentanjali
Vishvanthan, Mr. Uday S Chopra,
Mr. Harsh Kaushik, Mr. Abhay
Chattopadhyay, Mr. Saksham

Dhingra, Mr. Vinay Tripathi, Mr. Rishabh Sharma, Mr. Siddharth Vardhman, and Ms. Varsha Jhavar, Adv. for R-4.

Mr Harsh Kaushik, Mr. S. S Ahluwalia along with Mr Abhay Chattopadhyay, Ms. Anushree Rauta, Ms Astha Pandey , Mr. Mohit Bangwal and Ms Narayini Choudhary advocates for R-3.

Mr Harsh Kaushik, Adv S. S Ahluwalia along with Mr Abhay Chattopadhyay, Ms. Anushree Rauta, Ms Astha Pandey , Mr. Mohit Bangwal and Ms Narayini Choudhary advocates for R-3.

Mr. Saikrishna Rajagopal, Mr. Ameet Datta, Mr. Sidharth Chopra, Mr. Himanshu Bagai, Mr. Munish Mehra, Ms. Sonal Chhablani, Ms. Deepshikha Sarkar, Ms. Pallavi Sondhi, Ms. Namrata Dubey, Mr. Vivek Prasad, Adv. For IPRS.

12

+ C.O.(COMM.IPD-CR) 11/2021

HT MEDIA LIMITED

..... Petitioner

Through: Mr. Abhishek Malhotra,
Mr.Gurumukh Chaudhari, Ms.Shilpa Gamnani, Ms. Naomi Chandra, Ms. Sanya Dua, Ms. Atmaja Tripathi, Ms. Anjali Tiwari and Mr.Kaizad Irani,
Adv.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Defendants

Through: Mr. Jagdish Sagar, Adv. for R-7.
Mr. Amit Sibal, Senior Advocate, Mr.
Neel Mason, Ms. Geentanjali
Vishvanthan, Mr. Uday S Chopra,
Mr. Harsh Kaushik, Mr. Abhay
Chattopadhyay, Mr.Saksham
Dhingra, Mr. Vinay Tripathi,Mr.
Rishabh Sharma, Mr.Siddharth
Vardhman, and Ms. Varsha Jhavar,
Advs.for R-6.
Ms. Namrata Dubey, Adv. for R-8.
Mr Harsh Kaushik, Adv S. S
Ahluwalia along with Mr Abhay
Chattopadhyay, Ms. Anushree Rauta,
Ms Astha Pandey , Mr. Mohit
Bangwal and Ms Narayini Choudhary
advocates for R-3.
Mr. Saikrishna Rajagopal, Mr. Ameet
Datta, Mr. Sidharth Chopra, Mr.
Himanshu Bagai, Mr. Munish Mehra,
Ms. Sonal Chhablani, Ms.
Deepshikha Sarkar, Ms. Pallavi
Sondhi, Ms. Namrata Dubey, Mr.
Vivek Prasad, Advs. For IPRS.

13

+ C.O.(COMM.IPD-CR) 12/2021

RAJASTHAN PATRIKA PRIVATE LIMITED Petitioner

Through: Mr. Abhishek Malhotra,
Mr.Gurumukh Chaudhari, Ms.Shilpa
Gamnani, Ms. Naomi Chandra, Ms.
Sanya Dua, Ms. Atmaja Tripathi, Ms.
Anjali Tiwari and Mr.Kaizad Irani,
Advs.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Defendants

Through: Mr. Jagdish Sagar, Adv. for R-8.
Mr. Amit Sibal, Senior Advocate, Mr.
Neel Mason, Ms. Geentanjali
Vishvanthan, Mr. Uday S Chopra,
Mr. Harsh Kaushik, Mr. Abhay
Chattopadhyay, Mr.Saksham
Dhingra, Mr. Vinay Tripathi,Mr.
Rishabh Sharma, Mr.Siddharth
Vardhman, and Ms. Varsha Jhavar,
Adv.s.for R-6.
Mr. Harsh Kaushik, Adv S. S
Ahluwalia along with Mr Abhay
Chattopadhyay, Ms. Anushree Rauta,
Ms Astha Pandey, Mr. Mohit
Bangwal and Ms Narayini
Choudhary, Advocates for R-3.
Mr. Saikrishna Rajagopal, Mr. Ameet
Datta, Mr. Sidharth Chopra, Mr.
Himanshu Bagai, Mr. Munish Mehra,
Ms. Sonal Chhablani, Ms.
Deepshikha Sarkar, Ms. Pallavi
Sondhi, Ms. Namrata Dubey, Mr.
Vivek Prasad, Adv.s. For IPRS.

14

+ C.O.(COMM.IPD-CR) 13/2021

T V TODAY NETWORK LIMITED

..... Petitioner

Through: Mr. Abhishek Malhotra,
Mr.Gurumukh Chaudhari, Ms.Shilpa
Gamnani, Ms. Naomi Chandra, Ms.
Sanya Dua, Ms. Atmaja Tripathi, Ms.
Anjali Tiwari and Mr.Kaizad Irani,
Adv.s.

versus

PHONOGRAPHIC PERFORMANCE LIMITED INDIA & ORS.

..... Defendants

Through: Mr. Jagdish Sagar, Adv. for R-4.
Mr. Amit Sibal, Senior Advocate, Mr.
Neel Mason, Ms. Geentanjali
Vishvanthan, Mr. Uday S Chopra,
Mr. Harsh Kaushik, Mr. Abhay
Chattopadhyay, Mr.Saksham
Dhingra, Mr. Vinay Tripathi,Mr.
Rishabh Sharma, Mr.Siddharth
Vardhman, and Ms. Varsha Jhavar,
Advs.for R-5.
Ms. Namrata Dubey, Adv. for R-6.
Mr. Saikrishna Rajagopal, Mr. Ameet
Datta, Mr. Sidharth Chopra, Mr.
Himanshu Bagai, Mr. Munish Mehra,
Ms. Sonal Chhablani, Ms.
Deepshikha Sarkar, Ms. Pallavi
Sondhi, Ms. Namrata Dubey, Mr.
Vivek Prasad, Advs. For IPRS.

15

+ **C.O.(COMM.IPD-CR) 14/2021**

MUSIC BROADCAST LIMITED

..... Petitioner

Through: Mr. Sagar Chandra, Ms.Surabhi Iyer,
Ms. Sakshi Pande, Ms.Shubhie Wari
and Mr. Raghu Sinha, Advs.

versus

TIPS INDUSTRIES LTD. & ORS.

..... Defendants

Through: Mr. Jagdish Sagar, Adv. for R-9.
Mr. Neel Mason, Mr. Uday S
Chopra Mr. Siddharth Vardhman and
Ms. Varsha Jhavar, Advs for R-2.
Mr. Amit Sibal, Senior Advocate, Mr.
Neel Mason, Ms. Geentanjali

Vishvanthan, Mr. Uday S Chopra,
Mr. Harsh Kaushik, Mr. Abhay
Chattopadhyay, Mr. Saksham
Dhingra, Mr. Vinay Tripathi, Mr.
Rishabh Sharma, Mr.Siddharth
Vardhman, and Ms. Varsha Jhavar,
Advvs.for R-6.

Mr. Harsh Kaushik, Mr. S. S
Ahluwalia along with Mr Abhay
Chattopadhyay, Ms. Anushree Rauta,
Ms Astha Pandey, Mr. Mohit
Bangwal and Ms Narayini Choudhary
advocates for R-1.

Ms. Namrata Dubey, Adv. for R-7.

Mr. Harsh Kaushik, Mr. S.S.

Ahluwalia, Mr. Abhay

Chattopadhyay, Ms. Anushree Rauta,
Ms. Astha

Pandey, Mr. Mohit Bangwal and Ms.
Narayani Choudhary, Advocates for
R-1.

Mr. Saikrishna Rajagopal, Mr. Ameet
Datta, Mr. Sidharth Chopra, Mr.
Himanshu Bagai, Mr. Munish Mehra,
Ms. Sonal Chhablani, Ms.

Deepshikha Sarkar, Ms. Pallavi
Sondhi, Ms. Namrata Dubey, Mr.
Vivek Prasad, Advvs. For IPRS.

Mr. Mustafa S. Doctor, Senior
Advocate with Ms. Gayatri Roy, Mr.
Saral Minocha and Mr. Akshay
Agarwal, Advvs. for R-8/ Yash Raj
films Private Limited.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

06.10.2021

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1. At the outset, Mr. Mustafa Doctor, Senior Counsel and Ms. Gayatri Roy, on behalf of Yash Raj Films, seek to clarify that in the judgement dated 27th September, 2021, their submissions are confined to para 8 thereof and they do not co-opt the submissions of the Respondents made therein. This submission is taken on record.

2. Today, the Court has heard the counsel for the parties on the aspect of issuance of public notice under Rule 31 of the Copyright Rules, 2013, for inviting objections/suggestions from the interested persons, going forward.

3. Since the Petitioners have approached the Court for the revision of royalties in relation to the ‘sound recordings’, in the opinion of the Court, the public notice, has to be issued in terms of the prayer made to the Court.

4. Accordingly, the Registry is directed to issue a public notice *qua* revision of rates for ‘sound recordings’, as provided under ‘ANNEXURE-A’ at the end of the order.

5. Mr. Amit Sibal, Senior Counsel, Mr. Saikrishna Rajagopal and Mr. Harsh Kaushik, Counsel for the Respondents, contend that since the IPAB had fixed composite rates for both the ‘sound recordings’ as well as ‘underlying works’ in ‘sound recordings’, i.e. the ‘literary and musical works’ – notwithstanding the fact that the question is pending before the Division Bench of the Court – this Court may also issue a public notice for ‘musical and literary works’ underlying the ‘sound recordings’. They further pointed out that a similar exercise was undertaken by the IPAB last year.

6. Mr. Saikrishna supplements the arguments by submitting that specific request has been raised in this regard in I.A. No. 11446/2021 in C.O.(COMM.IPD-CR) 3/2021, to the following effect:

“(c) Issue a public notice as required under Rule 31(1) of Copyright Rules, 2013 for setting royalty rates for broadcast by way of radio of literary works, musical works and sound recordings;”

7. Mr. Abhishek Malhotra and Mr. Sagar Chandra, Counsel for the Petitioners submit that the request of the Respondents is mis-founded. They emphasise that while broadcasting ‘sound recordings’, they do not utilize or exploit the underlying works independently. Notwithstanding this objection, they urge that in case the Court were to issue a public notice, as requested by the counsel for IPRS, it be clarified that the same exercise is objected to by the Petitioners and is without prejudice to their rights and contentions.

8. Considering the fact that the issue pending before the Division Bench and the final view on this issue, as noted in the previous order, would impact the outcome of the present proceedings, the Court considers it appropriate at this stage, without prejudice to the rights and contentions of the Petitioner, to direct the publication of a separate notice, with respect to revision of the rates for ‘literary and musical works’ in ‘sound recordings’, as sought for by the counsel for IPRS, and also prayed for orally by the counsel for Super Cassettes Industries Private Limited and others.

9. Accordingly, the Registry is directed to issue public notice *qua* revision of rates for ‘literary and musical works’ in ‘sound recordings’, as provided under ‘ANNEXURE-B’ at the end of the order.

10. The Notices are to be published by the Registry in the official Gazette of India as well as on the website of this Court, within 3 weeks from today. The learned Registrar General is requested to get the email ID (as mentioned in the ANNEXURES) functional before publication of such Notices.

11. The publication of the Notices shall also be carried out in the national daily editions of 'The Times of India' and the 'Dainik Bhaskar', within 2 days from the publication on the website of this Court, for which, the expenses for issuance of Notice at ANNEXURE-A will be borne by the Petitioners, and expenses for issuance of Notice at ANNEXURE-B shall be borne by IPRS. Affidavit of compliance be filed one week before the next date of hearing.

12. List for further proceedings on 14th December, 2021.

SANJEEV NARULA, J

OCTOBER 6, 2021

Pallavi

PUBLIC NOTICE

Dated:

Reg: C.O.(COMM.IPD-CR) 14/2021 & other matters

This is for information of all concerned that in view of Section 31D of the Copyright Act, 1957, read with Rule 31 of the Copyright Rules, 2013 and upon an application in this regard filed by Music Broadcast Ltd. and other radio broadcasters, the Hon'ble High Court of Delhi, IP Division is required to fix/revise the royalties for communication of 'sound recordings' to the public by way of broadcast through Radio under section 31D of the Copyright Act, 1957 and the rules thereto.

This Public Notice is issued to inform all those interested persons regarding the Hon'ble High Court of Delhi, Intellectual Property Division's intention to fix/revise royalties for broadcast of 'sound recordings' through radio, as mandated under Section 31D of the Copyright Act, 1957, read with Rule 31 of the Copyright Rules, 2013 and the suggestions of all interested persons are invited in this regard.

In accordance with sub-rule (3) of Rule 31, it is stated that any owner of copyright or any broadcasting organization or any radio broadcaster or any other interested person may, within thirty days from the date of this publication, give its suggestions, in writing, with adequate evidence, as to the rate of royalties for the broadcast of 'sound recordings' through FM radio. No further time will be granted for the purpose of suggestions after the expiry of 30 days of Public Notice.

The suggestions be e-mailed to ipd-copyright@gov.in in this regard.

PUBLIC NOTICE

Dated :

Reg: C.O.(COMM.IPD-CR) 14/2021 & other matters

This is for information of all concerned that in view of Section 31D of the Copyright Act, 1957, read with Rule 31 of the Copyright Rules, 2013 and upon an application in this regard filed by Indian Performing Rights Society Limited, the Hon'ble High Court of Delhi, IP Division is required to fix/revise the royalties for communication of underlying works, viz. 'literary and musical works' in 'sound recordings' and utilization thereof in FM radio stations, to the public by way of broadcast through Radio under section 31D of the Copyright Act, 1957 and the rules thereto.

This Public Notice is issued to inform all those interested persons regarding the Hon'ble High Court of Delhi, Intellectual Property Division's intention to fix/revise royalties for broadcast of underlying works viz. 'literary and musical works' in 'sound recordings' through radio, as mandated under Section 31D of the Copyright Act, 1957, read with Rule 31 of the Copyright Rules, 2013 and the suggestions of all interested persons are invited in this regard.

In accordance with sub-rule (3) of Rule 31, it is stated that any owner of copyright or any broadcasting organization or any radio broadcaster or any other interested person may, within thirty days from the date of this publication, give its suggestions, in writing, with adequate evidence as to the rate of royalties to be fixed/revise for the broadcast of underlying works viz. 'literary and musical works' in 'sound recordings' through FM radio. No further time will be granted for the purpose of suggestions after the expiry of 30 days of Public Notice.

The suggestions be e-mailed to ipd-copyright@gov.in in this regard.