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A STUDY OF DIGITAL STREAMING AND ITS INTERPLAY WITH COPYRIGHT LAW

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Abstract

The present paper attempts to address the issue of finding the space digital streaming occupies in the realm of copyright law from a theoretical perspective. It begins by analysing the growing stature of digital streaming in the music industry, noting that it has started to take on an important role in a post-covid era. The paper also highlights the current issues related to streaming. Specifically, the composers' and songwriters' concern is highlighted where they believe they are inadequately compensated through the traditional forms of royalty for the number of streams their songs receive. It takes a deep dive into how courts in India have dealt with harmonising digital streaming as a part of the existing copyright law structure. In a landmark judgment, the Bombay High Court held that streaming is not a part of radio or television broadcast and thus statutory licensing does not apply to digital streaming services. An analysis of how the US legislature has amended their copyright statute to accommodate digital streaming has also been performed. The paper proposes a distinct category of copyright called "streaming rights", which can give more share of the royalty for composers and musicians.

INTRODUCTION

Digital streaming is becoming the default mode of listening to music nowadays. According to the IFPI Global Music Report 2021[2], streaming accounted for 61.1% of the total global recorded music revenue. On one hand as streaming recorded a year-on-year growth of 19.9%, revenue from physical sales and performances declined by 4.7% and 10.1% respectively. This data clearly shows the overall trend of the music industry, where digital streaming has not just

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[2] International Federation of the Phonographic Industry, *Global Music Report 2021,* (Aug. 8, 2021, 14:35 PM), https://www.ifpi.org/ifpi-issues-annual-global-music-report-2021/.

assumed the dominant role as a medium to enjoy sound recordings, but also sounded the death knell for physical sales of songs.

The global pandemic affected the music industry in a number of distinct ways. With concerts and public performances almost entirely shut down, artists had to find new and innovative methods to connect with their audience. Various artists from around the world such as John Legend, Elton John and Chris Martin, among others, uploaded live performances for their fans through the social media platform Instagram in 2020. While the demand for streaming has been rising for many years now, the global pandemic has made digital music streaming truly mainstream.

At the same time, there are some concerns in the music industry about how much musicians are remunerated per digital stream of their song. Mr. Kevin Kadish was a co-writer of the 2015 hit song "All About That Bass". Mr. Kadish would go on to represent before the House Judiciary Committee in the United States that he only received $5,679 from 178 million digital streams of the song[3]. The Digital, Media, Culture and Sport Committee of the United Kingdom announced on 15 October 2020 that it has launched an inquiry into the economics of music streaming. In its Terms for Reference, the Committee acknowledged that artists only receive 13% of the income generated by their songs through digital streaming[4].

STATEMENT OF THE PROBLEM

At this point, it is worth noting that any song essentially carries two forms of copyright – one which protects the composition (lyrics, music, melody etc.) and other which protects the production (the complete song as a product). While the musicians such as singers and writers may hold the composition copyright, the production copyright is usually held by the record company which produces, markets and distributes the song. This dichotomy is a major reason for the issue previously described, as while musicians may receive a major portion of the revenue from public performances (including radio play), the revenue from physical sales, internet downloads and digital streaming go to the record company. A popular music streaming

[3] Sam Machkovech, *Songwriter says he made $5,679 from 178 million Pandora streams*, arsTechnica, (Aug. 8, 2021, 14:36 PM), https://arstechnica.com/information-technology/2015/09/songwriter-tells-us-house-he-made-5679-from-178-million-spotify-streams/.

[4] The UK Parliament, *Economics of music streaming*, (Aug. 8, 2021, 14:38 PM), https://committees.parliament.uk/work/646/economics-of-music-streaming/.

service Spotify pays around 58% of its revenues from music streaming to sound recording owners and only about 6% to the artists[5].

The musicians are then left to negotiate independently with the record company for their share in the revenue obtained from internet sales and streaming. In many cases the record companies or labels may delay or even withhold sharing of revenue to the artists. In India, various artists such as Lucky Ali[6] and Salim Merchant[7] have publicly highlighted this issue. The Enforcement Directorate has launched an investigation against five major record labels in India for not passing on royalties owed to the artists and misappropriating the money[8].

The problem is brought to attention when one considers the changing reality for distribution of music in the present digital world, where artists cannot rely on radio broadcasts for their royalty payments. "Music Discovery" or "Lean back" playlists are a collection of songs, available on streaming platforms, which are chosen by algorithms from listener data. These playlists distributed by major streaming platforms also pose a direct threat to broadcast radio around the world. Bear in mind that music artists receive a greater share of royalties when their work is being broadcasted or performed than when it is being downloaded or streamed. Furthermore, the global pandemic has reduced the opportunities for artists to perform their song in front of an audience[9]. Together with the meteoric rise in digital streaming, musicians around the world feel older methods of distributing music revenue must be changed and they must receive a better share of the revenue collected from digital streaming.

Through this paper, the author analyses how the copyright laws passed in major jurisdictions around the world apply to digital streaming. The author then proceeds towards major case laws related to this topic and study how the courts have resolved disputes related to streaming.

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[5] Manatt, Phelps & Phillips, LLP, *U.S. Music Streaming Royalties Explained*, (Aug. 8, 2021, 14:57 PM), https://www.manatt.com/Manatt/media/Media/PDF/US-Streaming-Royalties-Explained.pdf.

[6] Samarth Goyal, *Lucky Ali: I am probably the only artist who has not been paid royalties by a label,* Hindustan Times, (Aug. 8, 2021, 14:59 PM), https://www.hindustantimes.com/music/lucky-ali-i-am-probably-the-only-artist-who-has-not-been-paid-royalties-by-a-label/story-bc19Jxe6ZlrLqrhVO3HKAK.html.

[7] Hindustan Times Correspondent, *Salim Merchant claims YRF haven't paid royalties for 4 years, 'I know Javed Akhtar sahab has not been paid',* Hindustan Times (Aug. 8, 2021, 15:00 PM), https://www.hindustantimes.com/music/salim-merchant-claims-yrf-haven-t-paid-royalties-for-4-years-i-know-javed-akhtar-sahab-has-not-been-paid/story-fv4dXnOIcbY5Rj2RzZrULO.html.

[8] Sunil Baghel, Anupam Dasgupta, *Deepdive: The row over money and melody,* Mumbai Mirror, (Aug. 8, 2021, 15:01 PM), https://mumbaimirror.indiatimes.com/deepdive-the-row-over-money-and-melody/articleshow/61665873.cms.

[9] Christian L. Castle, Esq. and Prof. Claudio Feijóo, *Study on the Artists in the Digital Music Marketplace: Economic and Legal Considerations,* World Intellectual Property Office, (Aug. 8, 2021, 15:01 PM), https://www.wipo.int/edocs/mdocs/copyright/en/sccr_41/sccr_41_3.pdf [hereinafter WIPO Report].

Finally, the author presents a possible solution to the issues plaguing the music industry as a result of the boom in digital streaming.

1996 WIPO INTERNET TREATY PROVISIONS W.R.T. DIGITAL STREAMING

The WIPO Copyright Treaty (hereinafter referred to as WCT) and the WIPO Performances and Phonogram Treaty (hereinafter referred to as WPPT), together known as the WIPO Internet Treaties, were specifically developed to address the issues which emerged from the rapid adoption of the internet in the 1990's. One of the main issues was the unauthorised copying of music through services such as Napster and Kazza. While the WCT covers literary and artistic works such as music, photography and books, the WPPT covers rights of producers and performers of sound recordings. Through these treaties, WIPO has attempted to provide guidelines to member countries on how to harmonise their copyright laws with the changing dynamic of digital streaming.

The treaties establish that the traditional forms of copyright law protection continue to apply for the digital environment, such as storage of copyright protected works in an electronic medium. They also clarified that right owners can control whether and how their works are made available to individual consumers through the internet. However, it must be noted that India has not ratified the WIPO Internet Treaties yet. The paper now analyses how digital streaming has been dealt with in the Indian context.

EVOLUTION OF COPYRIGHT LAW W.R.T. DIGITAL STREAMING IN INDIAN CONTEXT

In the year 2012, Section 31D was introduced in the Copyright Act, 1957 in compliance with Article 11(2) and 134 of Berne Convention, Article 9(1) of the TRIPS Agreement and Article 15(2) of the Rome Convention (for sound recordings). Section 31D brought the provision of statutory license of a copyrighted work (literary or musical recording) for broadcasting by serving a notice to the work owner as per royalty rates fixed by the Intellectual Property Appellate Board (IPAB).

The Section was introduced into the Copyright Act by the legislature to provide broadcasting services a means to broadcast musical works through the medium of radio and television. It aimed at balancing the public interest, in that the public can enjoy musical works without restrictions, and the private interests, in that the owners of the copyright receive a fair royalty which was to be decide by the IPAB. Section 31D has over the years come to take centre stage whenever the discussion over digital streaming takes place, as streaming platforms rely on its provisions to obtain statutory licenses for the songs they wish to provide for streaming through

their platform. Statutory licenses are preferable to the streaming services as it is more convenient than opting for individual contracts for setting royalty rates with the record labels that own the reproduction rights of the songs. The paper now goes a bit deeper into how the Section has been interpreted over time by the judiciary.

The balance between public interest and private interest

On numerous occasions, issues related to Section 31D of the Copyright Act have been brought to public notice. The primary amongst these is it takes away the opportunity of right holders to negotiate on even terms with the broadcasters, and consequently the broadcasters enjoy preferential and subsidised royalty rates. Another concern that has been raised is the possible violation of Art 19(1) (g) as the fixing of royalty rates by the IPAB may not come under the ambit of reasonable restrictions. These concerns were brought before the Court in *South Indian Music Companies v. Union of India*[10] in which the Court took up the question of balancing public interests and private interests. It held that under the guidelines for determining of royalty rates by the IPAB, a reasonable opportunity is given to the right holders to be heard. After applying the doctrines of purposive construction and reading down, the Court held Section 31D of the Copyright Act to be constitutional. Furthermore, the Court in two separate occasions[11] [12] has held that once a license has been obtained from the owner of a sound recording to broadcast it to the public, separate authorisations are not required from the authors of the underlying works (composers, musicians etc.).

It must be noted that the Section itself does not mention the words "internet broadcasting". Consequently, there has been much confusion whether Section 31D might apply for digital music streaming or not. The consequences either way can be paradigm-changing. If the section were to apply for internet broadcasting as well, then streaming platforms can approach the IPAB to obtain statutory licenses for the songs which they wish to broadcast, meaning a less lucrative option for record labels. If not, these platforms will have to negotiate terms the music labels individually which would mean better deals for the labels but heavy costs for the streaming platforms and consequently heavy charges for the user streaming music digitally.

[10] W.P No. 6604 of 2015.
[11] International Confederation of Societies of Authors and Composers (CISAC) v. Aditya Pandey, Civil Appeal No. 9416 OF 2016.
[12] Indian Performing Right Society Ltd. v. Eastern Indian Motion Pictures Association, (1977) 2 SCC 820.

The 2016 DIPP Memo

On September 5, 2016, the Department of Industrial Policy and Promotion (DIPP) published an office memorandum (OM) in which it stated that Section 31D covers internet broadcasting within its ambit. The rationale behind this was explained by the DIPP on two grounds:

i. Section 31D consists of the phrase "*Any broadcasting organization desirous of communicating to the public….*" which can be interpreted to include internet broadcasting as there are no specific restrictions for its coverage within the ambit of the Act.
ii. Section 2(ff) defines 'communication to the public' as follows: "*making any work or performance available for being seen or heard or otherwise enjoyed by the public directly or by any means of display or diffusion…*" which can be given a broad interpretation to include internet broadcasting together with radio and television broadcasting.

Along similar line, in 2017 the Punjab and Haryana HC[13] directed the Copyright Registrar to hear the case of Kuku and Koyal Internet, a company registered in Ludhiana, Punjab, which had applied for a statutory license under Section 31D for internet broadcasting. The Registrar consequently did grant the company the license, but this was then challenged successfully in the Delhi HC by Saregama[14]. The Court ordered an interim stay on the license obtained under Section 31D, and thus no clarity has been obtained from these events as to the applicability of internet broadcasting under the Section.

Tips v. Wynk

In another case, the Court has taken a more concrete view. In *Tips Industries Ltd v. Wynk Music Ltd*[15], the Bombay High Court held that Section 31D does not cover internet broadcasting, and that the OM issued by the DIPP is not statutory in nature. Using the doctrine of literal construction, the Court opined that internet was a well-known domain in 2012 when section 31D was introduced, and that there must have been a reason it was not mentioned in the wordings of the Section by the legislature.

[13] Inderjit Singh v. Union of India, COCP No. 622/ 2017 (O&M).
[14] Saregama v. Union of India, W.P.(C) 1155/2018
[15] N.M (L) 197/2018 in C.S. I.P (L) 114/2018, 23 April 2019.

However, the government has stuck to its guns on the issue. In 2019, the Department for Promotion of Industry and Internal Trade (DPIIT) introduced the Copyright (Amendment) Rules for public comments. As per the new rules, internet broadcasting would be within the ambit of Section 31D of the Copyright Act and it has placed reliance on the narrative of "greater public interest" for introducing the change. These rules have not yet come into effect, but have received some criticism. It is possible that these rules could again be held invalid considering the *obiter dictum* of the *Tips case*, and the only possible recourse for the government would be to amend the Copyright Act itself to include the term "internet broadcasting".

Abolishment of IPAB

It must be noted that in April 2021, the President of India promulgated the Tribunal Reforms (Rationalisation and Conditions of Service) Ordinance which abolished the IPAB. All issues related to compulsory/statutory license shall now go to the appropriate Commercial Court (a Commercial Court or the Commercial Division of the respective High Court). It is also a well-known fact that these Commercial Courts face a long pendency and delay with respect to disposal of cases[16]. Without a specialised body or tribunal to look into fixing royalty rates for licensing of copyright works, one can expect further delays as broadcasting organisations will have to approach the Commercial Court before broadcasting every musical recording for which they seek a statutory license.

Having discussed how digital streaming has interacted with the copyright legislation in India, the paper turns its attention towards the international scene and analyses how other countries have adapted their legislations to incorporate digital streaming.

EVOLUTION OF COPYRIGHT LAW W.R.T. DIGITAL STREAMING IN INTERNATIONAL CONTEXT

A concern with streaming platforms and their usage of copyrighted works is that often they do not secure the required rights to offer the songs for streaming by their users. This was the case in *Tips v. Wynk Music*, in which Wynk had stopped paying royalties for many songs (relying on securing a statutory license), and also in the international scene. In December 2017, Spotify

[16] Press Trust of India, *Govt pushes for minimal adjournments to reduce delay in commercial disputes,* The Business Standard, (Aug. 8, 2021, 15:05 PM), https://www.business-standard.com/article/pti-stories/govt-pushes-for-minimal-adjournments-in-cases-related-to-commercial-disputes-120061200852_1.html.

had to settle a copyright infringement suit worth $1.6 billion with Wixen Music Publishing[17]. Wixen had alleged that Spotify was using a huge amount of songs which were a part of Wixen's catalogue without procuring a license from them. Spotify, perhaps indicative of a trend, was in a similar dispute with Warner Music India which they had to settle as well[18]. This dispute and other similar ones made it clear that the domain of digital streaming needed some regulation in order to streamline relations between the various parties involved. The United States of America passed a historic amendment to their copyright law regime in 2018 which addressed several issues, one of the primary ones being digital streaming.

The historic Music Modernisation Act of USA

In 2018, the US legislature wanted to address the issue of modernizing the archaic framework of rewarding music artists through sales, which allowed instances like the one mentioned earlier where streaming companies could escape paying royalties. The Music Modernisation Act, 2018 ("MMA")[19] aims to make significant changes to the federal laws related to sound recordings, primarily through Titles I and II of the Act. For the purpose of our discussion on digital streaming, Title I of the Act is the most relevant. Title I, the Musical Works Modernization Act ("MWMA"), relates to mechanical royalties (which are generated when mechanical or digital copies of a sound recording are reproduced or sold or downloaded) and public performance royalties for digital streaming of musical compositions. Title I mandates digital streaming platforms to obtain mechanical licenses for the songs which they offer for streaming to their customers[20]. In essence, the Act extends the reach of mechanical license to cover digital streaming. Title I also expanded the scope of compulsory licensing for streaming platforms. Under earlier law, they could not go for compulsory license for songs which had not yet been released physically. But the Act removed this limitation and allowed streaming services like Spotify to go for a compulsory license even for songs not available in the physical format yet.

[17] Sarah Perez, *Spotify settles the $1.6B copyright lawsuit filed by music publisher Wixen,* TechCrunch, (Aug. 8, 2021, 15:05 PM), https://techcrunch.com/2018/12/20/spotify-settles-the-1-6b-copyright-lawsuit-filed-by-music-publisher-wixen/.

[18] Manish Singh, *Spotify and Warner Chappell end dispute in India, sign global licensing deal,* TechCrunch, (Aug. 8, 2021, 15:06 PM), https://techcrunch.com/2020/01/14/spotify-and-warner-chappell-end-dispute-in-india-sign-global-licensing-deal/,

[19] Orrin G. Hatch-Bob Goodlatte Music Modernization Act, Pub. L. No. 115-264, 132 Stat. 3676, (codified at 17 U.S.C. § 1401 (2018)).

[20] LaFrance, Mary, *Music Modernization and the Labyrinth of Streaming*, Bus. Entrepreneurship & Tax L. Rev. 2 (2018): 310.

In order to facilitate the process of issuing compulsory licenses, the MMA envisages a non-profit mechanical licensing collective which will have three objectives – issue blanket mechanical licenses when requested by digital streaming platforms, collect the mechanical royalties from the streaming services, and distribute them to the artists. This remedies the issue of streaming services not paying the necessary royalty amounts to the Copyright Office in case they were not aware of the copyright owners, as now they must pay the royalties to the collective under any circumstance. To accomplish the objective of distributing royalties to the appropriate copyright owners, the Act tasks the collective with maintaining a database containing a record of all sound recordings and their respective copyright owners. However, the collective will not be responsible for setting the royalty rates for the compulsory licenses, a responsibility that will still vest with the Copyright Royalty Board ("CRB", a board with three copyright royalty judges).

How should the CRB set the royalty rate? In another landmark change, the MMA establishes the "willing buyer/willing seller" model for determining the royalty rate for a sound recording which is very similar to a fair market value. Till now, judges around the world would grant a compulsory or statutory license keeping "reasonableness" as a criterion, which consisted of maximising public availability of the sound recording and giving the copyright owner a fair return. By introducing a fair market value model, the MMA enables the copyright owners to demand market rates for licensing their musical works, in turn theoretically leading to higher revenues. The MMA also removes the distinction between non-interactive streaming services such as SiriusXM (which used to pay lower royalty rates) and interactive streaming services such as Spotify for the purposes of a compulsory license.

Although the MMA is laudable in that it addresses many long-standing issues related to music streaming, there are some concerns which arise directly from the nature of the solutions it proposes. Primary amongst these is the application of the standard mechanical licensing structure on digital streaming. While this does present a logistically simple solution, it fails to consider the very nature of digital streaming which is different from digital reproduction or downloading of music. During streaming, a transient copy of the sound recording is created on the user's device which is removed once the work has finished playing. This is not akin to a download, where the user gets to own a copy of the sound recording forever. Equating digital streaming to downloading a sound recording is not sound as far as technological merits are concerned. Secondly, it does not propose an effective solution as to how streaming services

should distribute the revenues they generate from streaming the sound recordings to their various users.

Artist's remuneration from streaming platforms has been an ongoing issue ever since users switched over to digital streaming instead of purchasing physical copies of songs. There is a lack of uniformity across the streaming services regarding how to track the revenue generated from a song which is streamed by a user, and what portion of this revenue must be given as royalty to the copyright owner. The next section discusses an overview of the methods currently adopted by streaming platforms to remunerate the copyright owners as per the number of streams their sound recordings record on the platforms, and discusses the issues related with these methods.

CURRENT METHODS OF REMUNERATION TO THE ARTISTS

At present there are two methods of remuneration to the artists by music streaming platforms. The primary one used by all platforms except one is the "Big Pool" method. According to this method, the streaming data of all artists is collected at the end of a payment cycle (usually a month) and the artists are then paid according to their market share of total plays or streams across the platform[21]. Thus, artists are paid more for their popularity than their actual performance. This method is easy to implement for the streaming platforms but has a few major concerns as follows:

i. It creates a bias towards the star or popular musicians who collect the majority of the revenue, leaving bits and pieces for the less famous artists.
ii. Users have to pay from their subscription for music they never listened to, as their share could be going to an artist who is very famous but not liked by the particular user.
iii. It has led to the menace of fake users at the streaming platforms to drive up streams for an artist so as to increase their market share and consequently, share in their revenue.

Soundcloud is a streaming service which has adopted a different approach for artist's remuneration which is called "User centric" method[22]. According to this method, a user's

[21] Tim Ingham, *Soundcloud Is About To Revolutionize Streaming Payouts, Launching User-Centric Royalties For 100,000 Indie Artists,* Music Business Worldwide, (Aug. 8, 2021, 15:08 PM), https://www.musicbusinessworldwide.com/soundcloud-is-about-to-revolutionize-streaming-payouts-launching-user-centric-royalties-for-100000-indie-artists/.
[22] *Supra* note 7.

subscription or advertising revenue is split in the proportion of the artists they listened to over a period of time. For example, if a user listens to ten songs over a month and five of those songs belonged to artist A, A would receive 50% of the subscription and ad revenue generated by the streaming platform through the user. But this method has its drawbacks as well. As the major record labels have not given their consent for this method, Soundcloud is restricted to exercise this method only for its "premier" platforms where it has a direct relationship with independent music producers (which do not distribute their music through record labels, or have their own labels). This method is also functionally difficult to implement for the streaming service as there is an ambiguity in scenarios where the user did not listen to the song completely or merely added it to their playlist.

In light of the above two prevalent methods for artist remuneration and their drawbacks, as well as the various aspects touched upon till now, a solution for the issue is proposed in the next section.

SUGGESTIONS AND RECOMMENDATIONS

The paper has so far observed how courts and lawmakers around the world are unsure on the position of digital streaming in the classical copyright framework, where they are primarily two kinds of rights (performers and reproduction) associated with a sound recording. When faced with this dichotomy, digital streaming has been arm-twisted to try and fit one or the other category. In the Tips judgment, the Bombay HC ruled that streaming is not similar to radio or TV broadcasting (performer's rights). Through the MMA, the US legislature has placed streaming as equivalent to mechanical rights (reproduction rights). The time has come to look at streaming from a technological perspective and not force it into one of the two copyright categories which are ill-fitted to cover streaming.

From a technological viewpoint, a digital stream is neither a performance nor a reproduction. It does not classify as a performance such as radio airplay, as the user exercises a high degree of control over the sound recording they wish to listen to, a feature inherently not present in radio. Further, a transient or temporary copy of the sound recording is placed on the user's device during streaming, which runs contrary to radio airplay where no copies are ever stored in the user's device. However, neither is streaming a reproduction or download, as the user cannot access the transient copy of the sound recording once they stream the next song. The user does not possess the copy of the sound recording, unlike a permanent copy generated during downloading. Interestingly, a digital stream, while being different from both radio play

and downloading, also possesses some of their features. It can be argued that "Music Discovery" or "Lean Back" playlists offered by most streaming platforms are a form of radio play, as a selection of music is offered to the user very much like a radio station picking songs to be transmitted to a user. Also, even if temporary in nature, a copy of the sound recording is stored on the user's device, like a download.

Considering the unique position that digital streaming occupies as a technology, it can only be fair to create a new category of rights specifically for digital streaming. This new category, which could be referred to as "streaming rights", shall be different from performance rights or reproduction rights. To enable these rights, a necessary amendment would be needed in Section 14 of the Copyright Act which describes the rights of owners of a copyright. Creation of "streaming rights" can help artists receive just and reasonable royalties for their creations. While they receive the lion's share of royalty for a performance, the scope for performances and concerts looks bleak in a post-covid world. As stated earlier, artists only receive a meagre share from reproduction royalties. Streaming royalties can then come to the rescue of artists in a modern era by allowing them to earn a fixed share of royalty revenue per stream of their song, which can be at least 50% of the royalty for that sound recording.

However, there are some shortcomings to this approach as well. The solution has been proposed from a singular perspective, and does not take into account the opinion of the various stakeholders related to digital streaming. Implementing this solution would also need a major amendment of the Copyright Act which can be time-consuming and slow. Also, the very fact that harmony between record companies and composers has been difficult to achieve so far, indicates that it may remain a pain point in the future as well. Within its limited scope, the present paper has attempted to throw some light on the current scenario of interplay between digital streaming and copyright legislations around the world. Considering the crucial role digital streaming now plays in the global music industry, there is now increased demand for more research into this domain to cover various aspects of digital streaming. The ultimate objective would be a framework where composers and record companies should be compensated fairly through royalties for the creativity and effort they put into a sound recording, and these sound recordings are easily available to the public to enjoy at a reasonable price.

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