

**31D. Statutory licence for broadcasting of literary and musical works and sound recording—**

(1) Any broadcasting organisation desirous of communicating to the public by way of a broadcast or by way of performance of a literary or musical work and sound recording which has already been published **may do so subject to the provisions of this section.**

(2) The broadcasting organisation **shall give prior notice, in such manner as may be prescribed,** of its intention to broadcast the work stating the duration and territorial coverage of the broadcast, and shall pay to the owner of rights in each work royalties in the manner and at the rate fixed by the Appellate Board.

(3) The rates of royalty for radio broadcasting shall be different from television broadcasting and the copyright Board shall fix separate rates for radio broadcasting and television broadcasting.

(4) In fixing the manner and the rate of royalty under sub-section (2), the Copyright Board may require the broadcasting organisation to pay an advance to the owners of rights.

(5) The names of the authors and the principal performers of the work shall, except in case of the broadcasting organisation communicating such work by way of performance, be announced with the broadcast.

(6) No fresh alteration to any literary or musical work, which is not technically necessary for the purpose of broadcasting, other than shortening the work for convenience of broadcast, shall be made without the consent of the owners of rights.

(7) The broadcasting organisation shall —

(a) maintain such records and books of account, and render to the owners of rights such reports and accounts; and

(b) allow the owner of rights or his duly authorised agent or representative to inspect all records and books of account relating to such broadcast, in such manner as may be prescribed.

(8) Nothing in this section shall affect the operation of any licence issued or any agreement entered into before the commencement of the Copyright (Amendment) Act, 2012.

**Rule 29. Notice to owner for communication to the public of literary and musical works and sound recordings.-**

(1) Any broadcasting organisation desirous of communicating to the public by way of broadcast or by way of performance of a published literary or musical work and sound recording under sub-section (1) of section 31 shall give a notice of its intention to the owner of the copyright and to the Registrar of Copyrights before a period of five days in advance of such communication to the public and shall pay to the owner of the copyright, in the literary or musical work or sound recording or any combination thereof, the amount of royalties due at the rate fixed by the Board in this regard:

*Provided that in case of communication to the public by way of broadcast or by way of performance of a newly published literary or musical work or sound recording or any combination thereof, which has been published within the said period of five days of such communication and which do not form part of the scheduled programmes, the notice shall, be given before such communication to the public:*

*Provided further that in case of communication to the public by way of broadcast or by way of performance of any published literary or musical work and sound recording or any combination thereof, in unforeseen circumstances, the notice shall, be given within twenty- four hours of such communication to the public.*

**Provided also that any broadcasting organisation shall give a notice under this Chapter only after the royalty to be paid is determined by the Board under Rule 31 and published in the Official Gazette and in the website of the Copyright Office and the Board.**

(2) Every such notice shall be in respect of works belonging to one owner only.

(3) Separate notices shall be given for communication to public by way of radio broadcast or television broadcast or by way of performance of a literary or musical work and sound recording which has already been published.

(4) The notice under sub-rule (1) shall contain the following particulars, namely:-

- (a) Name of the channel;
- (b) Territorial coverage where communication to public by way of radio broadcast, television broadcast or performance under sub-rule (3) is to be made;
- (c) Details necessary to identify the work which is proposed to be communicated to the public by way of radio broadcast, television broadcast or performance under sub-rule (3);
- (d) Year of publication of such work, if any;
- (e) Name, address and nationality of the owner of the copyright in such works;
- (f) Names of authors and principal performers of such works;
- (g) Alterations, if any, which are proposed to be made for the communication to the public by way of radio broadcast, television broadcast or performance of the works, reasons thereof, and the evidence of consent of the owners of rights, if required, for making such alteration;
- (h) Mode of the proposed communication to public, i.e. radio, television or performance;
- (i) Name, if any, of the programme in which the works are to be included;
- (j) Details of time slots, duration and period of the programme in which the works are to be included;
- (k) Details of the payment of royalties at the rates fixed by the Board; and
- (l) Address of the place where the records and books of accounts are to be maintained for inspection by the owner of rights.

**Rule 30. Maintaining of records-**

- (1) Records containing the details of the owners in respect of total number of works broadcast, the details of such works and the time slot, duration and period of the broadcast shall be maintained by the broadcasting organisation at its principal place of business and shall be open to inspection on prior notice by the owner of rights or his duly authorised agent or representative in the works during business hours and may obtain copies of relevant extracts from such records at their cost. The broadcasting organisation shall maintain separate records for radio broadcasting and television broadcasting.
- (2) The broadcasting organisation shall maintain separate books of accounts for communication to public by way of broadcast containing such details as may be determined by the Board at the time of fixing the rate of royalty and render to the owners of rights such reports and accounts.

**Rule 31. Manner of determining royalties.** - (1) The Board shall immediately after its constitution either suo motu or on receipt of a request from any interested person, give public notice of its intention to fix royalties for communication to the public of literary or musical work and sound recording under section 31 D and may invite suggestions for determining the same. Such notice shall be given separately for radio and television broadcasting.

- (2) The notice under sub-rule (1) shall be published by the Board in the Official Gazette and shall be re-published in two daily newspapers having circulation in the major part of the country and shall be posted on the website of the Copyright Office and the Board.
- (3) Any owner of copyright or any broadcasting organisation or any other interested person may within thirty days from the date of publication of public notice under sub-rule (1) shall give suggestions with adequate evidence as to the rate of royalties to be fixed including different rates for different works and different formats.
- (4) The Board shall after giving an opportunity of being heard to the persons who made relevant suggestions under sub-rule (3), consider such suggestions, as it deems fit.
- (5) The Board shall within a period of two months from the last date of receipt of suggestions, determine separate rates of royalty to be paid to the owners of literary or musical work and sound recording for radio and television broadcasting respectively.

*(6) The Board shall determine the royalties payable to the owner of the copyright under sub-section (2) of section 31 for radio and television broadcast separately.*

*(7) The Board while determining the royalty shall take into consideration the following factors, namely: --*

*(a) time slot in which the broadcast takes place and different rates for different time slot including repeat broadcast;*

*(b) different rates for different class of works;*

*(c) different rates for different nature of use of work;*

*(d) the prevailing standards of royalties with regard to such works;*

*(e) the terms and conditions included in the Grant of Permission Agreement (GOPA) between Ministry of Information and Broadcasting and the broadcaster for Operating Frequency Modulation (FM) Radio Broadcasting Service; and*

*(f) such other matters as may be considered relevant by the Board.*

*(8) The Board while determining the payment of royalties under sub-rule (5) shall take into consideration, the following factors, namely: -*

*(a) works included in the scheduled programmes;*

*(b) works newly published and not included in the scheduled programme;*

*(c) works communicated to the public on unexpected circumstances; and*

*(d) use of works in excess of the duration, different time slot or territorial coverage than mentioned in the notice*

*(9) The Board may revise the rates of royalties periodically, at least once in a year keeping in view the provisions of these rules.*