

INDIAN ENTERTAINMENT INDUSTRY'S COPYRIGHT EMPIRE: A THREAT TO CREATIVITY

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ABSTRACT

The Indian entertainment industry is facing a growing problem of copyright dominance, where a small group of players control a large portion of copyrighted content. This has created barriers for new and independent artists seeking to enter the industry and protect their work. The article delves into the legal and ethical concerns surrounding copyright ownership and control, such as the exploitation of creators and the stifling of innovation. The article proposes potential solutions to address this issue, including collaboration between creators and copyright holders, the promotion of fair use, and the implementation of open access policies. These solutions would create a more level playing field for creators and facilitate the growth of new and diverse artistic expressions in the Indian entertainment industry. Ultimately, the article emphasizes the need for the industry to address the issue of copyright dominance to ensure the continued growth of and innovation in the industry. It concludes by stressing that a balance must be struck between protecting copyright owners and promoting creativity and innovation in the industry.

I. INTRODUCTION

Copyright is a legal principle that grants exclusive rights to the creators or owners of original works, giving them control over the use, reproduction, and distribution of their creations. The principle applies to various creative works such as literature, music, film, art, software, and other forms of intellectual property.¹ Exclusive rights granted under copyright law include the right to reproduce the work, distribute it, publicly perform, or display it, and create derivative works based on it.² These rights are granted to the owner or creator of the work for a limited period, typically for the life of the creator plus a set number of years.³ In India it is 60 years in addition to the author's lifespan.

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¹ J. E. Longshak et. al., *Intellectual Property Rights (IPR) in the Blockchain Era*, in GLOBAL PERSPECTIVES ON SUSTAINABLE LIBRARY PRACTICES 263, 296 (1st ed., 2023).

² A Guadamuz, *The treachery of images: non-fungible tokens and copyright*, 16(12) J. INTELL. PROP. L., 1367 (Dec 2021).

³ J. E. COHEN ET.AL., *COPYRIGHT IN A GLOBAL INFORMATION ECONOMY.*, 76 (Aspen Publishing, 2019).

Copyright protection provides creators with a legal mechanism to control how their works are used, ensuring that they are appropriately compensated for their efforts.⁴ By granting exclusive rights to creators, copyright incentivizes the creation of original works and encourages continued innovation and creativity in various fields.⁵ In the entertainment industry, copyright is particularly important, as it enables creators and owners of intellectual property to receive payment for their work and control its use.⁶ Without copyright protection, it would be challenging for creators to make a living from their creative endeavours, which could lead to a decline in the quality and diversity of entertainment offerings.⁷

Copyright is a crucial legal concept that plays a vital role in protecting the rights of creators and promoting innovation and creativity in various fields. Its purpose is to strike a balance between the interests of creators and the public, ensuring that creative works are protected while promoting the advancement of knowledge and culture.⁸ Indian entertainment industry is one of the largest and most vibrant in the world, encompassing film, music, television, and other forms of media.⁹ With a growing middle class and increasing access to technology, the industry has seen significant growth in recent years. However, the industry is also known for its complex and often opaque system of copyright ownership and control.¹⁰

In the Indian entertainment industry, copyright dominance is primarily held by a few large companies and individuals who control the distribution, production, and use of copyrighted works.¹¹ This has led to a situation where many artists and creators are unable to access the resources and platforms, they need to share their work, while established companies and individuals are able to maintain their dominance over the market. For instance, let's consider the case of ABC Music, a fictional entity that wields significant influence within the Indian music industry. In this scenario, an independent musician named Priya, who autonomously creates and shares her music on various streaming platforms, is approached by ABC Music for a contractual arrangement. Under this agreement, ABC Music secures exclusive rights to Priya's music and offers marketing and distribution support. While this partnership

⁴ I. E. Okonkwo, *NFT, Copyright and Intellectual Property Commercialization*, 29(4) INT. J. LAW. INF. TECHNOL., 296 (2021).

⁵ M. Kop, *Quantum Computing and Intellectual Property Law*, B.T.L.J., 101 (2022).

⁶ Kaye, D. B. V., & Gray, J. E. *Copyright gossip: Exploring copyright opinions, theories, and strategies on YouTube*, SOCIAL MEDIA+ SOCIETY, (2021), <https://journals.sagepub.com/doi/epdf/10.1177/20563051211036940>.

⁷ H. L. VOGEL, ENTERTAINMENT INDUSTRY ECONOMICS: A GUIDE FOR FINANCIAL ANALYSIS 75 (2020) ["Vogel"].

⁸ J. P. Quintais, *The New Copyright in the Digital Single Market Directive: A Critical Look*, 42(1) E.I. P.R., 28 (2020).

⁹ A. B. ALBARRAN, *THE MEDIA ECONOMY*, 12 (2nd ed., 2016).

¹⁰ R LOBATO, & J THOMAS, *THE INFORMAL MEDIA ECONOMY* 105 (1st ed., 2015).

¹¹ D HESMONDHALGH, *HAVE DIGITAL COMMUNICATION TECHNOLOGIES DEMOCRATIZED THE MEDIA INDUSTRIES?* 101 (James Curan et al, eds., 6th ed., 2019).

presents Priya with the potential for a wider audience and increased opportunities for success, it also entails a transfer of copyright ownership from Priya to ABC Music. This shift in ownership can bolster her prospects but also entails the label's control over how her music is promoted and distributed, which might influence her artistic autonomy. This example underscores the issue of copyright concentration within the Indian entertainment industry, wherein major players like ABC Music can limit smaller artists' access to resources and platforms, thereby perpetuating the dominance of established entities.¹²

In other words, there is a lack of transparency in the process of copyright ownership and control in India,¹³ which further complicates matters. This has resulted in disputes over copyright ownership and infringement, which can be difficult to resolve through legal channels. In short, the Indian entertainment industry is currently facing a state of copyright dominance, where a few powerful entities hold significant control over the distribution and use of copyrighted works, which can limit creativity and innovation in the industry as a whole.¹⁴ The purpose of this article is to raise awareness about the issue of copyright dominance in the Indian entertainment industry and to explore its potential impact on creativity and innovation. The article aims to examine the ways in which copyright dominance operates in the industry, the threats it poses to artistic expression and innovation, and the legal and ethical implications of maintaining the current system. Additionally, the article seeks to offer potential solutions to address the issue of copyright dominance and to encourage a more collaborative and open approach to creativity and innovation in the Indian entertainment industry. Ultimately, the article intends to spark a conversation about the importance of fair and equitable access to copyrighted works and the need to support independent and emerging artists in the industry.

II. ENTERTAINMENT INDUSTRY'S COPYRIGHT EMPIRE

Copyright dominance refers to the state in which a few powerful entities hold significant control over the ownership, distribution, and use of copyrighted works in an industry.¹⁵ The Indian entertainment industry is one of the largest in the world, with a wide range of creative and cultural works such as music, films, and television shows. These companies and individuals have a

¹² Refer cases like *Zee Entertainment Enterprises Ltd v. Mr. Gajendra Singh and Ors*, 2008(36) PTC53 (Bom); *Indian Performing Right Society v. Eastern Indian Motion Pictures Association and Ors.*, 1977 (2) SCC 820.

¹³ J Khan et. al., *Secure anti-piracy system in INTELLIGENT SYSTEM DESIGN: PROCEEDINGS OF INTELLIGENT SYSTEM DESIGN* 827, 835, (B Janaki Ramaiah et al., 1st ed., 2020).

¹⁴ T GANTI, *BOLLYWOOD: A GUIDEBOOK TO POPULAR HINDI CINEMA* 65 (2nd ed., 2013).

¹⁵A Chakraborty, *Interface between Copyright Societies and Competition Laws in India: An Analytical Study*, 6 GNLU L. REV., 141(2019).

significant impact on the industry, as they hold the power to dictate the terms and conditions of licensing agreements and control the use of copyrighted works.¹⁶

One of the primary reasons for this copyright dominance is the vast collection of copyrighted works held by these companies and individuals.¹⁷ They have invested heavily in creating and acquiring copyrighted works, which has allowed them to build a vast library of content. This library not only gives them a significant competitive advantage but also makes it easier for them to distribute their content across the country and even internationally.¹⁸ Another factor that contributes to the copyright dominance of these companies and individuals are the resources and infrastructure they possess.¹⁹ They have the financial resources to invest in the latest technologies, hire the best talent, and create high-quality content. Additionally, they have established distribution networks, partnerships, and licensing agreements that allow them to reach a wide audience and generate revenue.²⁰

The significance of copyright dominance lies in its capacity to restrict independent and up-and-coming artists from obtaining the resources and platforms necessary for sharing their creative work. It can also stifle innovation and creativity by limiting the diversity of perspectives and styles in the industry.²¹ In addition, copyright dominance can create a barrier to entry for new players in the market, further entrenching the power of established companies and individuals.²² In the Indian entertainment industry, copyright control is established through a few entities holding a concentration of power, and this can have significant implications for the entire industry.

A handful of influential companies and individuals wield substantial copyright authority and influence within the Indian entertainment sector. Noteworthy entities such as T-Series, Yash Raj Films, and Sony Music India stand out as major music labels, boasting extensive collections of copyrighted content. These entities exercise command over the creation, dissemination, and licensing of copyrighted material within the Indian entertainment sphere. This dominance has the potential to curtail the opportunities available to independent and emerging artists in terms of

¹⁶ A MORCOM, HINDI FILM SONGS AND THE CINEMA, 192 (1st ed., 2017).

¹⁷ W M Landes & R A Posner, *An economic analysis of copyright law*, 18(2) J. LEGAL. STUD., 325(1989).

¹⁸ K Erickson, *Can creative firms thrive without copyright? Value generation and capture from private-collective innovation*, 61(5) BUSINESS HORIZONS, 699 (2018), <https://doi.org/10.1016/j.bushor.2018.04.005>.

¹⁹ M Kwet, *Digital colonialism: US empire and the new imperialism in the Global South*, 60(4) RACE & CLASS, 3 (2019).

²⁰ J. C. Ginsburg, *Creation and commercial value: copyright protection of works of information*, 90 COLUM. L. REV., 1865. (1990).

²¹ M. B. Zinn, & B. T. Dill, *Difference and domination*, 12 (4) WOMEN OF COLOUR IN US SOCIETY, 3 (1994).

²² B Maury, *Sustainable competitive advantage and profitability persistence: Sources versus outcomes for assessing advantage*, 84 J.BUS.RSCH. 100 (2018).

accessing essential resources and platforms for showcasing their creations. Furthermore, the industry's overreliance on these powerhouses may stymie innovation and artistic diversity by restricting the array of perspectives and styles within the field.

III. THREATS TO CREATIVITY

Copyright dominance has far-reaching consequences on creativity, innovation, and the entertainment industry as a whole.²³ When copyright power is concentrated in the hands of a few companies and individuals, it can limit the diversity of perspectives and styles in the industry, thereby hindering innovation and creativity.²⁴ This also creates a barrier to entry for new players, which entrenches the power of established entities and stifles competition in the industry.²⁵ Copyright dominance also affects artistic expression by limiting the ability of artists to use and remix copyrighted works in their own creations.²⁶ This restriction can lead to a lack of development of new forms of expression and creativity. Moreover, it limits access to cultural heritage by making it challenging for individuals and organizations to access and use copyrighted works that are integral to their cultural traditions.²⁷

A. Limited Diversity of Perspectives and Styles:

Copyright dominance for instance, can restrict opportunities for emerging artists to share their work by making it expensive to obtain licenses and gain access to distribution channels. As a result, new artists struggle to establish themselves and showcase their unique perspectives.²⁸ Another way in which copyright dominance stifles creativity is by limiting the diversity of content in the industry. A few powerful entities controlling production, distribution, and licensing of copyrighted works often produce the same genres and styles of music and film repeatedly, leading to a lack of variety and novelty.²⁹

B. Barriers to Entry and Reduced Competition:

Furthermore, copyright dominance can restrict artistic expression by limiting the ability of artists to use and remix copyrighted works in their own creations. This creates a barrier to the development of new forms of expression and creativity. Lastly, the dominance of established

²³ P Jaszi, *Caught in the Net of Copyright*, 75 OR. L. REV., 299 (1996) ["Jaszi"].

²⁴ P AUFDERHEIDE, & P JASZI, RECLAIMING FAIR USE: HOW TO PUT BALANCE BACK IN COPYRIGHT, 102 (2018) [hereinafter Aufderheide & Jaszi].

²⁵ R V BETTIN, COPYRIGHTING CULTURE: THE POLITICAL ECONOMY OF INTELLECTUAL PROPERTY 20 (1st ed., 2018).

²⁶ J P Fishman, *Creating around copyright*, HARV. L. REV., 1333 (2015).

²⁷ J P SINGH, GLOBALIZED ARTS: THE ENTERTAINMENT ECONOMY AND CULTURAL IDENTITY 127 (1st ed., 2011).

²⁸ P WIKSTRÖM, THE MUSIC INDUSTRY: MUSIC IN THE CLOUD, 1955 (3rd ed., 2020).

²⁹ Aufderheide & Jaszi, *supra* note 24, at 26.

players in the industry makes it difficult for new and independent artists to gain access to essential resources and platforms required for success in the industry.³⁰ This limitation can reduce the number of artists producing content and limit the diversity of perspectives and styles.

C. Restrictions on Artistic Expression:

Additionally, copyright dominance can contribute to a skewed economic system, where a few powerful entities capture a disproportionate amount of the profits generated by the industry.³¹ This perpetuates inequality and limits opportunities for smaller players in the industry.³² In summary, copyright dominance has significant consequences for the industry, which include limiting the diversity of perspectives and styles, hindering innovation, creating barriers to entry, restricting artistic expression, limiting access to cultural heritage, and perpetuating inequality in the economic system. In summary, copyright dominance in the Indian entertainment industry can stifle creativity by limiting opportunities for emerging artists, restricting artistic expression, limiting content diversity, and entrenching established players in the industry.

D. Limited Ownership of Copyright

Independent artists in the Indian entertainment industry face numerous challenges with regard to copyright ownership and access to resources.³³ One of the main issues is the limited ownership of copyright. Many new artists, especially those who are not affiliated with established companies, may not have full ownership of the copyrights to their work. This can make it challenging to monetize their creations, protect their intellectual property, and negotiate favourable deals with industry players. Another challenge faced by independent artists is a lack of access to distribution channels.³⁴ They may not have the connections or resources needed to reach the appropriate distribution channels, which can limit their ability to monetize their work and reach a broader audience.

E. High Production and Promotion Costs

The high costs of production and promotion are also an obstacle for new and independent artists. Production and promotion costs in the entertainment industry can be exorbitant, and artists may

³⁰ D Lim, *Copyright Under Siege: An Economic Analysis of the Essential Facilities Doctrine and the Compulsory Licensing of Copyrighted Works*, 17 ALB. LJ SCI. & TECH., 481 (2007).

³¹ J Hughes, & R P Merges, *Copyright, and distributive justice*, 92 NOTRE DAME L. REV., 513 (2016).

³² R MANSELL, & W E STEINMUELLER, *ADVANCED INTRODUCTION TO PLATFORM ECONOMICS*, 45 (2020).

³³ D Hesmondhalgh, *Is music streaming bad for musicians? Problems of evidence and argument*, 23(12) NEW MEDIA & SOCIETY, 3593 (2021).

³⁴ D Hesmondhalgh, E Jones, & A Rauh, *SoundCloud and Bandcamp as alternative music platforms*, 5(4) SOCIAL MEDIA AND SOCIETY, 1 (2019).

not have the financial backing required to create high-quality content or promote their work adequately³⁵. This can limit their ability to compete with established players and gain recognition.

F. Difficulty in Negotiating Favourable Deals

Difficulty negotiating favourable deals is another issue faced by independent artists.³⁶ They often lack the negotiating power and legal expertise necessary to secure favourable contracts with industry players. This can lead to situations where they are taken advantage of, with little recourse. Finally, copyright infringement is a challenge faced by independent artists as well.³⁷ Without the resources and legal support of established companies, it can be difficult to fight against copyright infringement and protect their intellectual property rights. Overall, these challenges create an environment in which new and independent artists struggle to succeed, which ultimately limits creativity and innovation in the industry. The result is a lack of diversity in the content produced, with a few powerful entities dominating the industry, making it difficult for new and independent artists to break through and succeed.

This has resulted in limited artistic expression and innovation in various fields such as music and film. For instance, the music industry in India is dominated by a few big players who control the majority of the music copyrights.³⁸ This has resulted in a lack of diversity in the music produced, with many new artists being pressured to create music that fits within the dominant style.³⁹ Consequently, independent artists are unable to experiment with different sounds and genres. Similarly, the film industry is also dominated by a few big players who control the majority of the copyrights.⁴⁰ This has led to a lack of innovation in Indian cinema, with many films following a formulaic approach to storytelling and cinematography. Independent filmmakers are often unable to secure the resources and support needed to create more innovative and unique films.

Furthermore, the dominance of a few players in the industry limits the availability of resources such as studios, equipment, and distribution channels. This makes it difficult for new artists to

³⁵ Vogel, *supra* note 7.

³⁶ N Kawashima, *Changing business models in the media industries*, 7(1) MEDIA INDUSTRIES JOURNAL, 69 (2020).

³⁷ T Wong, M Torsen, C Fernandini, T Wong, & G Dutfield, *Cultural diversity and the arts: Contemporary challenges for copyright law*, in INTELLECTUAL PROPERTY AND HUMAN DEVELOPMENT: CURRENT TRENDS AND FUTURE SCENARIOS, 279 (2011).

³⁸ D Hesmondhalgh, *Indie: The institutional politics and aesthetics of a popular music genre*, 13(1) CULTURAL STUDIES, 34 (1999).

³⁹ S A GROSS, & G MUSGRAVE, CAN MUSIC MAKE YOU SICK? MEASURING THE PRICE OF MUSICAL AMBITION, 121 (1st ed., 2020).

⁴⁰ D K THUSSU, THE GLOBALIZATION OF "BOLLYWOOD.: THE HYPE AND THE HOPE" 97 (A. Kavoori et al eds., 1st ed., 2008).

access the resources needed to create and distribute their work, which limits their ability to innovate and express themselves. Lastly, many new and independent artists are unable to access copyrighted materials such as samples and remixes, which limits their ability to create new and innovative works. This is especially problematic in the music industry, where the use of samples and remixes is common.

Copyright dominance in the Indian entertainment industry has resulted in limited artistic expression and innovation. It has also limited the ability of new and independent artists to express themselves and access the resources needed to create and distribute their work. The dominance of copyright in the Indian entertainment industry has had a negative impact on artistic expression and innovation. This is further evident from specific Indian case laws which illustrate the problems caused by copyright dominance. For instance, in *Tips Industries Ltd. v. Wynk Music Ltd.*⁴¹, the plaintiff, Tips Industries, accused the defendant, Wynk Music, of infringing their copyright by offering their music to users without obtaining the required license. The case highlighted the challenges faced by new and independent artists in accessing copyrighted materials, as they often cannot afford the high licensing fees demanded by big players.

Another case that sheds light on the impact of copyright dominance is *Super Cassettes Industries (P) Ltd. v. Myspace Inc.*⁴². In this case, Super Cassettes, a major music label, sued Myspace for copyright infringement. The case demonstrated the difficulty faced by independent artists in protecting their works against infringement by big players who hold significant copyright power. The Indian copyright laws themselves have also been criticized for their rigidity and their lack of support for new and independent artists. Section 31D of the Indian Copyright Act,⁴³ which allows broadcasters to use copyrighted works without obtaining the owner's consent, has been criticized for not being inclusive enough of independent artists, who may not have access to the same resources and bargaining power as big players.

However, the broadcasters are required to adhere to Rule 29 of the Copyright Rules, 2013, which mandates them to obtain a statutory license from music companies. In order to obtain this license, broadcasters must provide advance notice to the copyright owner, along with an advance payment calculated according to the royalty rates specified in the rule, effective from 01.02.2021. Additionally, a copy of the notice must also be sent to the Registrar of Copyrights for record-

⁴¹ Notice of Motion (L) No. 197 of 2018 in Commercial Suit IP (L) No. 114 of 2018, decided on 23-04-2019.

⁴² *Super Cassettes Industries (P) Ltd. v. Myspace Inc* 2011(47) PTC 49 (Del.) (Ind.).

⁴³ Copyright Act, 1957 s.31D.

keeping purposes.⁴⁴ It is emphasized that for Section 31D of the Act, there is a requirement to adhere to the terms and conditions outlined in both the Statute and its corresponding Rules.⁴⁵

The prevalence of copyright in the Indian entertainment sector has led to adverse effects on artistic expression and creativity, as evidenced by various Indian legal cases. The obstacles encountered by emerging and autonomous artists in obtaining access to copyrighted content, and the challenges they face in safeguarding their own creations against infringement by larger entities, underscore the necessity for more accommodating copyright regulations that promote growth and originality within the industry.

IV. LEGAL AND ETHICAL IMPLICATIONS

One of the main legal issues is the abuse of copyright power by big players, who often use their dominance to stifle competition and prevent new entrants from accessing copyrighted materials.⁴⁶ This not only limits artistic expression and innovation but also violates the principles of fair competition and anti-trust laws. Another legal issue is the lack of adequate copyright laws that support independent artists and promote innovation in the industry.⁴⁷ The existing copyright laws are often criticized for their inflexibility and perceived lack of inclusivity, particularly when it comes to accommodating the needs and challenges faced by new and independent artists.⁴⁸ These emerging talents may not possess the same level of resources and bargaining leverage as established industry giants. Consequently, doubts arise regarding the efficacy of the current legal framework in fostering creativity and innovation within the entertainment industry.

From an ethical standpoint, copyright dominance raises concerns about the fair distribution of benefits among artists, content creators, and the public. The concentration of copyright power in the hands of a few big players means that they have greater control over the distribution and monetization of content.⁴⁹ This may result in a situation where only a small fraction of the profits generated by the industry goes to the actual creators of the content, while the rest goes to the copyright holders. This raises questions about the fairness and equity of the distribution of benefits within the industry.

⁴⁴ Saregama India Ltd. v. Next Radio Limited & Ors., 2021 SCC OnLine SC 817 (Ind.).

⁴⁵ Super Cassettes Industries Pvt. Ltd. v. Music Broadcast Limited & Ors., 2021 SCC OnLine Del 4900 (Ind.).

⁴⁶ Cross, J. T., & Yu, P. K. Competition Law and Copyright Misuse. *Drake l. rev.*, 56 (2007).

⁴⁷ H Hovenkamp, *Competition for innovation*, *COLUM. BUS. L. REV.*, 799 (2012).

⁴⁸ N Elkin-Koren, & O Fischman-Afori, *Rulifying fair use*, *ARIZ. L. REV.*, 59 (2017).

⁴⁹ D WINSECK, *THE POLITICAL ECONOMIES OF MEDIA AND THE TRANSFORMATION OF THE GLOBAL MEDIA INDUSTRIES*, 3 (Dal Young Jin et al eds., 1st ed., 2011).

Moreover, copyright dominance may also limit the availability of content to the general public,⁵⁰ particularly those who cannot afford to pay high licensing fees or access copyrighted materials through exclusive channels. This raises ethical concerns about the accessibility of content and the extent to which copyright dominance may create artificial barriers to the enjoyment of cultural and artistic works. The dominance of copyright in the Indian entertainment industry has raised several legal and ethical issues that need to be addressed.⁵¹ These include concerns about fair competition, the need for more inclusive and supportive copyright laws, and the fair distribution of benefits among artists, content creators, and the public.

The copyright laws in India are governed by the Indian Copyright Act, which was last amended in 2012. The Act lays down the various provisions related to copyright ownership, control, and infringement. It defines copyright as a set of exclusive rights granted to the owner of the work, including the right to reproduce, distribute, and display the work. However, the Act has been criticized for its rigidity and lack of support for new and independent artists. Section 31D of the Act, for instance, which allows broadcasters to use copyrighted works without obtaining the owner's consent, has been criticized for not being inclusive enough of independent artists who may not have access to the same resources and bargaining power as established players.⁵²

There are also ethical issues surrounding copyright dominance in the Indian entertainment industry.⁵³ A significant concern revolves around the exploitation of artists and their creative works by powerful entities that wield substantial copyright authority. This exploitation ultimately leads to the concentration of power in the hands of a select few, effectively curtailing the opportunities for emerging and independent artists to secure the exposure and recognition they deserve.⁵⁴ Another ethical issue is the impact of copyright dominance on cultural expression and diversity.⁵⁵ The Indian entertainment industry reflects the diverse cultural heritage of the country, and copyright dominance can limit the representation and expression of this diversity. This can lead to a homogenization of cultural expression and a loss of the unique identity of different communities.

⁵⁰ L Edwards, B Klein, D Lee, G Moss, & F Philip, *Framing the consumer: Copyright regulation and the public*, 19(1) CONVERGENCES: INT. RSCH. NEW MEDIA & TECH., 9, 24 (2013).

⁵¹ P Khanna, *Abuse of Dominant Position by Refusing to Issue Copyright Licenses*, CHRIST ULJ, 8 (2019).

⁵² N R Chandy, *Recognition of Online Streaming Platforms as 'Broadcasting Organisation' under Section 31d of the Copyright Act, 1957: An Analytical Study*, 4(2) INT'L J. L. MGMT. & HUMAN., 1525 (2021).

⁵³ L Liang, *Beyond Representation*, in POSTCOLONIAL PIRACY MEDIA DISTRIBUTION AND CULTURAL PRODUCTION IN GLOBAL SOUTH 49 (Lars Eckstein, eds., 1st ed., 2014).

⁵⁴ B Andersen, R Kozul-Wright, & Z Kozul-Wright, *Rents, rights n'rhythm: cooperation, conflict and capabilities in the music industry*, 14(5) INDUSTRY AND INNOVATION, TAYLOR & FRANCIS JOURNALS 513 (2007).

⁵⁵ M F Brown, *Can culture be copyrighted?* 39(2) CURRENT ANTHROPOLOGY, 193 (1998).

Furthermore, the enforcement of copyright laws can also raise ethical concerns.⁵⁶ The strict enforcement of copyright laws can sometimes lead to the harassment and intimidation of individuals who may inadvertently infringe on someone's copyright, leading to a chilling effect on creativity and innovation. In summary, the legal and ethical implications of copyright dominance in the Indian entertainment industry are complex and multifaceted. While copyright protection is necessary to incentivize creativity and innovation, there is a need for a balanced approach that supports both established players and new and independent artists, while also promoting cultural diversity and expression.

V. POTENTIAL CONSEQUENCES

Maintaining the current system of copyright dominance in the Indian entertainment industry could have several potential consequences.⁵⁷ Firstly, it could stifle innovation and creativity, as new and independent artists may be deterred from entering the industry due to the high cost of obtaining licenses and the difficulty of protecting their own works against infringement.⁵⁸ This could result in a lack of diversity in the entertainment industry and limit the range of artistic expression available to consumers.

Secondly, it could lead to a concentration of power and influence in the hands of a few large companies or individuals, who could use their copyright dominance to stifle competition and limit the growth of new players in the industry.⁵⁹ This could result in a lack of competition and further entrench the dominance of established players. Thirdly, it could have ethical implications, as copyright dominance could be seen as a form of monopolistic behaviour that harms the interests of consumers and independent artists.⁶⁰ This could result in negative publicity for the industry and damage its reputation, leading to a loss of public trust.

Finally, maintaining the current system of copyright dominance could also lead to legal challenges and disputes, as more artists and consumers become aware of the issues surrounding copyright ownership and control.⁶¹ This could result in increased litigation and costs for all parties involved, further entrenching the dominance of established players who have the resources to navigate the

⁵⁶ A Muir, *Online copyright enforcement by Internet service providers*, 39(2) J.INFO.SCI., 256 (2013).

⁵⁷ J Parc, *Evaluating the effects of protectionism on the film industry: A case study analysis of Korea*, in HANDBOOK OF STATE AID FOR FILM: FINANCE, INDUSTRIES AND REGULATION, 349 (2018).

⁵⁸ R R FAULKNER, & S FRED, 14 MUSIC ON DEMAND: COMPOSERS AND CAREERS IN THE HOLLYWOOD FILM INDUSTRY (Shmuel N. Eisenstadt, eds., 1st ed., 2017).

⁵⁹ J STIGLITZ, PEOPLE, POWER, AND PROFITS: PROGRESSIVE CAPITALISM FOR AN AGE OF DISCONTENT (1st ed., 2019).

⁶⁰ L Zingales, *Towards a political theory of the firm*, 31(3) J. ECON. PERSPECTIVES, 113 (2017).

⁶¹ Jaszi, *supra* note 23.

legal system.⁶² Overall, the consequences of maintaining the current system of copyright dominance in the Indian entertainment industry could be significant and far-reaching, impacting not only the industry itself but also consumers, independent artists, and the broader public.

VI. POSSIBLE SOLUTIONS

To address the issue of copyright dominance in the Indian entertainment industry, several potential solutions can be considered. One approach is to encourage collaboration between copyright holders and new or independent artists, which can create opportunities for innovation and creative expression.⁶³ This collaboration could involve licensing agreements, joint ventures, or other types of partnerships that allow for greater access to copyrighted materials and support the development of new works.⁶⁴ Another potential solution is to promote the concept of fair use, which allows for the limited use of copyrighted materials for purposes such as commentary, criticism, or education. This approach can help to balance the interests of copyright holders with the need for creativity and innovation, while also providing greater flexibility for artists and creators.

Open access is also an important consideration for promoting creativity and innovation in the entertainment industry.⁶⁵ This involves making copyrighted materials freely available for use and modification by others, which can support the development of new works and ideas. This approach has been successful in other fields, such as science and technology, and could be adapted to the Indian context. One example of a successful model for promoting collaboration and open access is the Creative Commons license.⁶⁶ This license allows copyright holders to share their works with others under specific terms and conditions, such as requiring attribution or limiting commercial use. This approach has been widely adopted in the international community and could be adapted for use in the Indian entertainment industry.

Another successful approach is the use of crowdfunding and crowdsourcing to support new and independent artists.⁶⁷ Platforms such as Kickstarter and Patreon allow artists to raise funds from a wide range of supporters, which can help to reduce their reliance on copyright holders and

⁶² M Perel & N Elkin-Koren, *Accountability in algorithmic copyright enforcement*, 19 STAN. TECH. L. REV., 473 (2015).

⁶³ Kjus, Y. *The use of copyright in digital times: A study of how artists exercise their rights in Norway*. 44(3) POPULAR MUSIC AND SOCIETY, 241 (2021), <https://doi.org/10.1080/03007766.2019.1698206>.

⁶⁴ S T Piper, *An 'Independent' View of Bill C-32's Copyright Reform*, in CANADIAN COPYRIGHT AND THE DIGITAL AGENDA, IRWIN LAW. 423 (2010).

⁶⁵ S Nambisan, D Siegel, & M Kenney, *On open innovation, platforms, and entrepreneurship*, STRATEGIC ENTREPRENEURSHIP JOURNAL, 12(3), 354 (2018).

⁶⁶ Z Mi & D M Coffman, *The sharing economy promotes sustainable societies*, 10(1) NATURE COMMUNICATIONS, 1214 (2019).

⁶⁷ Tyni, H. *Double duty: Crowdfunding and the evolving game production network*. 15(2) GAMES AND CULTURE, 114 (2020).

increase their independence.⁶⁸ The issue of copyright dominance in the Indian entertainment industry requires a multifaceted approach that balances the interests of copyright holders with the need for creativity and innovation. Encouraging collaboration, promoting fair use and open access, and adopting successful models from other fields can all contribute to a more equitable and vibrant entertainment industry in India.

VII. CONCLUDING REMARKS

The predominance of copyright control within the Indian entertainment industry constitutes a significant impediment to creativity and innovation. A select few corporations and individuals exert substantial influence, thereby limiting the resources available to emerging and independent artists. This issue necessitates a thorough examination of both the legal and ethical ramifications it entails, prompting a re-evaluation of the current copyright ownership and control regulations. To progress, it is imperative to prioritize collaboration, embrace fair use principles, and advocate for open access to foster a more equitable environment. Drawing inspiration from successful models and strategies implemented in other industries and countries can provide valuable insights, stimulating innovation and creativity while concurrently safeguarding the rights of creators. Addressing the issue of copyright dominance is pivotal for the future trajectory of the Indian entertainment industry, ensuring its potential for growth and prosperity. By proactively tackling copyright dominance and promoting inclusivity and accessibility within the industry, we can cultivate a more dynamic and diverse creative landscape, fostering innovation and artistic expression.

⁶⁸ M Knott, F Strich, K Strunk, & A S Mayer, *Uncovering potential barriers of using initial coin offerings to finance artistic projects*, 46(2) J. CULTURAL. ECON., 317 (2022).