



## JOINT PRESS RELEASE

### GRANTING MUSIC RIGHTS SABAH BERHAD (MRS) AND MUSIC RIGHTS SARAWAK BERHAD (MRSB) A LICENSING BODY DECLARATION BY MYIPO WILL HAVE SERIOUS ADVERSE IMPLICATIONS FOR MUSIC LICENSING COLLECTIONS IN MALAYSIA - MACP, PPM AND RPM

22 June 2021, Kuala Lumpur – We refer to the webinar held by Wisdom Foundation – Malaysia entitled “Sabah Sarawak’s Musical Treasures: Returning Our Treasures Back Home” on 15 June 2021 via Zoom and Facebook Live from Wisdom Foundation – Malaysia Facebook Page and subsequent news reports published by the media. In the course of the webinar, it was stated that both MRS and MRSB will be given the green light to be declared as Licensing Bodies (LBs) subject to further discussions and conditions. If this actually takes place, it will have serious adverse implications for music licensing collections not only in East Malaysia but throughout the country.

#### Declaring MRS & MRSB as LBs will create situation of Overlapping Rights

If an LB declaration is accorded to MRS and MRSB, the multiple LBs operating in the same category of rights would cause much confusion and chaos among music users and conflicts between right holders. MACP, PPM and RPM each represents a distinct and separate category of music copyright owners - MACP represents composers, authors and publishers; PPM represents master recording owners; and RPM represents recording performers – their rights do not overlap. MRS and MRSB represents a cross section of these right holders and have even listed as members some who are already members of the existing LBs. It would be totally chaotic if all the 5 LBs were to approach music users for required licenses.

#### Music Users will be Up in Arms

Music users who invariably utilize a combination of local and international music will be confronted with multiple and conflicting licensing claims, especially in relation to local music. They will question the rights belonging to each of the 5 LBs and will most likely refuse to make payment to all 5 LBs. When MyIPO first declared RPM as a LB in 2011 and subsequently also declared PRISM as a LB in 2012, it resulted in two separate bodies representing the same category of performer rightsholders. Much turmoil in the music licensing collections market ensued. Music users were not willing to pay to two separate bodies representing the same category of rightsholders. This led to many loud protests by music users including the organizing of the ‘No Music Day’ campaign by the music user groups, as well as a legal suit by PRISM against Astro which eventually went in Astro’s favor.

#### Overwhelming Majority of Right Holders including those in East Malaysia are members of MACP, PPM and RPM



MACP represents a total of 4,402 members of which 370 members are from East Malaysia. PPM represents a total of 353 members of which 16 are from East Malaysia and RPM represents a total of 1,955 members of which 253 are from East Malaysia. In fact, two of the LBs – MACP and PPM – have been conducting its licensing operations in East Malaysia for more than 30 years with PPM supporting the recording performers for the past 20 years. Now, RPM has begun its own separate licensing activities. Therefore, each category of music copyright owners already has its own LB collectively managing their rights in issuing licences, collecting and distributing licensing fees to their respective members including those in East Malaysia. We are prepared to share the detailed distribution details with the relevant government authorities but we are not in a position to publicise such financial data due to PDPA constraints.

#### The existing operations of MACP, PPM and RPM follow global best practices

The existing LBs have been licensing East Malaysian commercial music users for many years and have devoted a significant amount of funds to develop a comprehensive database and song monitoring system to track the music used in both East & Peninsular Malaysia. This is to ensure that we accurately and equitably distribute royalties earned from licensees to our respective members. Both MACP and PPM also commission third party audio-fingerprint technology providers to monitor song usages on East Malaysian radio and television stations throughout the year. Hence, when a musical work or recording produced or performed by an East Malaysian right holder is used, the present systems will ensure that they are paid accordingly.

At one time, Malaysian LBs were held up globally as shining examples of how the collective management of rights can be properly implemented. The World Intellectual Property Organisation (WIPO) organized training courses held in Malaysia. To cite some examples, in 2016, a WIPO training course for trainees from Pakistan, and a separate training course for Macau participants were held; In 2008 and 2013, CISAC conducted very important Common Information Systems (which forms the backbone of the global CISAC collecting societies' documentation and distribution systems) training courses in Malaysia. The relevant Malaysian government authorities need to extend its full support to the existing three LBs in their work and functions to return the LBs to these global standard setting days instead of intervening and disrupting an ecosystem which have worked well for decades.

#### Mistakes made by the past government should not be repeated

The past government's initial mistake in the granting of a LB declaration to two separate bodies representing the same category of performer right holders which led to the subsequent mistake of forcing the set-up of Music Rights Malaysia (MRM), a single joint LB should not be repeated. These twin-mistakes caused much loss to the various right holders.

1. Before the instructions of the then Ministry of Domestic Trade and Consumer Affairs to form Music Rights Malaysia Berhad (MRM) in early 2016, with the exception of



one issue, there were no notable issues regarding the operations of the then existing LBs. Unfortunately, that one issue which roiled the market and troubled music users greatly is precisely what MRS and MRSB is currently asking for, namely, the approval by MyIPO for two additional bodies which have overlapping rights. The market upheaval created by MyIPO's initial decision to approve more than one LB in the same category of rights (performers) subsequently led to the government-forced formation of MRM.




2. Although MRM was launched on 8 December 2016, MyIPO did not grant MRM a licence to operate as a LB until 1 August 2017 and no LB was permitted to conduct normal collective licensing activities with effect from 1 January 2017. Given this backdrop, it was inevitable that the LB's experienced a sharp drop in revenues of more than 50% that financial year resulting in a corresponding drop in distributable royalties for songwriters, music publishers, recording labels and recording performers. This gap in time where licensing activities were not permitted also allowed many commercial users of music to publicly perform copyrighted music without first obtaining a licence.
3. Moreover, it took MRM a long time to license the television and radio broadcasters, which utilizes the most local musical works and recordings based on which songwriters, publishers, recording labels and recording performers derive their royalties from. This is another reason why royalties of LB's members dropped tremendously during that period.
4. Aside from the drop in revenues created by issues surrounding MRM, generally speaking, the amount of royalties received by a right holder is dependent on numerous other factors as well. Among them include the popularity of songs, frequency of airplay, whether payments are made by licensees, availability of usage reports, primary outlets of music and so on. Due to these variables, royalties received by an individual right holder will fluctuate from year to year. That is why we encourage members to register their works and for licensees to submit their program returns or playlist to ensure accurate reporting. All three existing LBs are members of their respective international confederations and governed by international standards and benchmarks which we need to adhere to in order to continue our affiliations. For example, the memberships within CISAC for IPRS in India and SGAE in Spain were suspended for failure to comply with CISAC's governing standards.
5. By no means do we deny the right of members to check on their royalties or ask questions and if needed, lodge a complaint. Each LB has its own mechanism to deal with complaints and we very much welcome feedback to improve our services and systems further. With the 2020 amendments to the Copyright Act, right holders can also bring their respective cases to the Copyright Tribunal to be heard.



**In other words, the drop in revenues for the LBs in the past few years is not due to any lack of transparency, failure to function effectively as a collecting society or abuse of power as alleged during the webinar but due to circumstances that started with the approval of more than one LB in a particular category of rights.**

We, therefore, call upon the Government not to proceed with the declaration of MRS and MRSB as LBs. To do so would be to repeat its past mistakes with the PRISM and RPM conflicting recording performer bodies' nightmare and the MRM formation debacle which in the end caused substantial losses to all right holders.

The Licensing Bodies:

	<p><b>Music Authors' Copyright Protection (MACP) Berhad</b></p> <p><i>A company limited by guarantee registered on 7 September 1989 as a not-for-profit collective management organization to administer the public performance and broadcast rights of our members, comprising of songwriters, composers and music publishers, with 4402 members to date.</i></p> <p><a href="http://www.macp.com.my">www.macp.com.my</a></p>
	<p><b>Public Performance Malaysia (PPM) Berhad</b></p> <p><i>A not-for-profit collective management organization, limited by guarantee, which represents all eligible Malaysian recording companies and International recording companies who have exclusively licensed PPM's members to control their rights in Malaysia for issuing licences to and collecting royalties from commercial users of sound, music videos and karaoke recordings for the copyright protected activities e.g. public performance, communication to the public, reproduction for the purpose of public performance and communication to the public and commercial rental.</i></p> <p><a href="http://www.ppm.my">www.ppm.my</a></p>
	<p><b>Recording Performers Malaysia Berhad</b></p> <p><i>A company limited by guarantee registered on 18 October 2011 as the licensing body representing recording performers in collective licensing matters and distribution of royalties granted to performers in respect of the public performance and broadcast of their performances embodied in sound recordings.</i></p> <p><a href="http://www.rpm.my">www.rpm.my</a></p>

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