

# I. MUSIC COPYRIGHT SECURITISATION IN INDIA LEGAL, FINANCIAL, AND INSTITUTIONAL PERSPECTIVES

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The creation of a Special Purpose Vehicle to generate future royalties from various songs released by David Bowie in 1997 led to Moody's assigning an A3 rating to these bonds. Due to concerns about digital privacy, they were downgraded to junk in 2004, thanks to the sound of Napster piracy. Although Bowie bonds remained unaffected, the survivability of music asset-backed security, ABS, was exposed to increased risk. Market shrinkage occurred but rebounded after 2020, mainly due to streaming services such as Spotify, Apple Music, and YouTube adopting a recurring-usage model based on micro-royalties. Notable sales, including Bruce Springsteen's catalogue valued at USD 500 million and Bob Dylan's at USD 300 million, heightened market interest. Although Bollywood films have traditionally generated greater revenue, streaming platforms such as Gaana and Spotify India are experiencing rapid growth in popularity, which could stabilise music revenues and facilitate securitisation. India, a prominent producer and consumer of music, lacks established precedents for royalty-backed securitisation, underscoring a paradox in which substantial cultural production has not been matched by corresponding financial innovation. The Insolvency and Bankruptcy Code, 2016 (IBC), is silent on the issues at the centre of royalty securitisation. This paper, therefore, follows the steps outlined by four interrelated goals. Firstly, it examines the valuation of music copyrights in the light of evolving consumption patterns and investor expectations. Secondly, it analyses the structural mechanisms of securitisation, along with its advantages and vulnerabilities. Thirdly, it evaluates India's legal and regulatory preparedness for the introduction of Music ABS. Lastly, it proposes reforms that could enable music copyright securitisation to contribute meaningfully to both the financial system and the cultural economy in India.

**Keywords:** Music bonds, Asset-backed Security, Royalty-backed securitisation, Users' rating, Collective Management Organisations, Special Purpose Distinct Entities, Copyright Act, SEBI, IBC

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## I. INTRODUCTION

The origin of music securitisation can be more clearly traced to the Bowie Bonds workings as a first example. In this structure, a Special Purpose Vehicle (“SPV”) was created and backed by the future royalty income generated from 287 songs across 25 albums released by David Bowie. Bonds were sold exclusively to Prudential Insurance Company,<sup>1</sup> which bought them in its entirety. The arrangement was made to be a genuine transaction, thus the assets of the SPV were protected against any potential insolvency of the company and from any financial risks potentially arising out of Bowie's personal sphere.<sup>2</sup>

Moody's Investors Service had given these bonds an A3 rating.<sup>3</sup> Their decision was based on three key points: (1) The stability of the catalogue, which has been selling more than a million copies a year for a long time; (2) the safety measures in the structure, such as the overcollateralization and reserve accounts; and (3) the qualitative longevity of David Bowie's fame.<sup>4</sup> The 7.9% coupon was attractive to investors, as it was comparable to corporate bonds of similar risk. For Bowie, the transaction allowed him to raise a good amount of cash without compromising his catalogue. From the perspective of

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<sup>1</sup> Dominic Bencivenga, ‘Bowie Bonds; Pioneer Deal Uses Copyright to Raise Capital’ (1997) 217 N.Y.L.J. 5; see also FJ Fabozzi and V Kothari, *Introduction to Securitization* (Wiley 2008) 3.

<sup>2</sup> Investing in French and Foreign Music Catalogues: Practices and Risks (2022) 40.

<sup>3</sup>ICRA Ratings criteria available at <https://www.icra.in/Rating/Methodology?Page=CreditRatingScale> (last assessed Sep24, 2025).

<sup>4</sup> Sam Adler, ‘Bowie Breakthrough: Structuring Music Bonds’ (1997) Ent L & Fin 6; see also Teresa N Kerr, ‘Bowie Bonds’ (2000) 7 UCLA Ent L Rev 389, 143.

the capital markets, the deal was a clear signal that intellectual property might be securitized as a receivable.<sup>5</sup>

However, the weaknesses of such an innovative model were revealed not long after. The rise of digital piracy, with Napster as its flagship, had an enormous impact on CD sales and changed the basic assumptions that artists' incomes would be stable over time.<sup>6</sup> Moody downgraded these bonds to almost junk category by 2004. Although Bowie was unaffected as he had already been paid in full, Prudential was the one that remained exposed to the increased risk.<sup>7</sup> This incident highlighted the importance of an instructive lesson: the survivability of Music Asset-Backed Securities (“ABS”) depends not only on the cleverness of the financial plan but also on the tech and legal systems being strong enough to withstand the changes.

The bad ride of Bowie Bonds, and later on the failures of artists like James Brown and the Isley Brothers, led to a phase of silence.<sup>8</sup> The shrinkage is accounted for by three reasons- *firstly*, piracy upset the money flow from royalties making it very difficult to predict. *Secondly*, the lack of transparency in valuations, which came from incomplete reports of collection societies and late sales data, left investors with no reliable models for planning. *Thirdly*, the trust of the investors declined as the borrowing seemed to be incompatible with the nature of cultural revenues.<sup>9</sup> Around the middle of the 2000s, music rights were turned into money by selling the total catalogues, while borrowing as a method lost prominence.

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<sup>5</sup> Bowie Bonds: A Key to Unlocking the Wealth of Intellectual Property (1999) Hastings Comm/Ent LJ 21:469.

<sup>6</sup> SFA Research Corner, ‘Music Royalty ABS—Remastered for Streaming and Beyond’ (SFA Research, 25 May 2023).

<sup>7</sup> David Bowie’s Bonds Hit Low Note, *BBC News* (23 March 2004).

<sup>8</sup> Jamaica IP Securitization Report (Capital Business Advisors LLC) 29; Fabozzi & Kothari (n 3) 3.

<sup>9</sup> Chapman and Cutler LLP, ‘Royalty-Backed Securitization’ (2015).

The substantive revival of the market commenced post-2020. The streaming services like Spotify, Apple Music, and YouTube changed the way music was used, it became a recurring, usage-based model. Every play would earn micro-royalties, which were combined into steady flows, while detailed data on location, age, and behaviour of listeners helped to solve the problem of valuation opacity.<sup>10</sup> Rating agencies reacted by coming up with new methods that would take into account the diversification of the catalogue, the possibility of sync, and platform risks. These instruments standardised risk assessment and brought back the confidence of investors.<sup>11</sup>

Nonetheless, the decisive trigger was, without a doubt, the arrival of institutional funds. Companies like Hipgnosis, Concord, KKR, and Blackstone made billion-dollar purchases, which were later turned into large-scale ABS. The USD 1.8 billion deal (2022) by Concord and the USD 1.47 billion issuance (2024) by Hipgnosis are among the most representative examples of how big the space has become.<sup>12</sup> The highly publicised sales of Bruce Springsteen's USD 500 million catalogue and Bob Dylan's USD 300 million catalogues<sup>13</sup> were two among several extraordinary valuations that further attracted market interest.

In conclusion, both legal and technological developments contributed to the stabilisation of the system. Among the various legal reforms, strengthened copyright enforcement significantly reduced the impact of piracy. Additionally, Collective Management Organisations (“CMOs”) became more digitally integrated with streaming platforms, and blockchain-based tools for

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<sup>10</sup> Reuters, ‘The Resurgence of Music Securitization’ (Thomson Reuters Attorney Analysis, 8 July 2025).

<sup>11</sup> *ibid.*

<sup>12</sup> *ibid.*; see also GlobalCapital (2025), cited in Reuters (n11).

<sup>13</sup> Bowie Bond Returns: A Resurgence in Music Royalty Investments’ (*FasterCapital*, 3 April 2025) <<https://fastercapital.com/content/Bowie-Bond-Returns--A-Resurgence-in-Music-Royalty-Investments.html#The-Future-of-Music-Royalty-Investments.html>> accessed 23 September 2025.

tracking provenance and rights ownership began to be tested.<sup>14</sup> Taken together, these measures substantially contributed to closing the gaps that lay at the core of the Bowie Bonds' shortcomings. While global markets continue to develop this innovation, India remains significantly behind in this regard. The Copyright Act, 1957, recognizes musical compositions as one of the intellectual property features, and the Insolvency and Bankruptcy Code, 2016 ("IBC") deals with the intellectual property features, but the regulatory framework for royalty-backed securitisation is not yet clear.<sup>15</sup> The CMOs are completely non-transparent and have inconsistent data practices, while the Securities and Exchange Board of India (SEBI) is yet to introduce music-specific ABS guidance.<sup>16</sup> As India stands on the threshold of a major surge in streaming consumption, it risks missing a significant opportunity to monetise cultural assets unless these regulatory and institutional gaps are addressed.

This paper, therefore, follows the steps of four interrelated goals. *Firstly*, it examines the valuation of music copyrights in the light of evolving consumption patterns and investor expectations. *Secondly*, it analyses the structural mechanisms of securitisation, along with its advantages and vulnerabilities. *Thirdly*, it evaluates India's legal and regulatory preparedness for introduction of Music ABS. *Lastly*, it proposes reforms that could enable music copyright securitisation to contribute meaningfully to both the financial system and the cultural economy in India.

## II. SECURITISATION OF MUSIC INTELLECTUAL PROPERTY IN INDIA

Intellectual property in music is not the sole category to undergo securitisation. Film earnings, mainly those from box office and distribution,

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<sup>14</sup> *ibid.*

<sup>15</sup> Copyright Act 1957 (India); Insolvency and Bankruptcy Code 2016 (India).

<sup>16</sup> Chapman and Cutler LLP.

were bundled in Hollywood, roughly, in the first decade of the century.<sup>17</sup> Patents in pharmaceuticals, mainly for large-scale drugs, turned into securities to generate easy-to-predict royalties after the launch of the product.<sup>18</sup> Book publishing rights, in limited instances, have been securitised; however, such transactions have generally taken place at a comparatively modest scale.

However, there are certain benefits that music has which other types of intellectual property do not. The revenues from movies are made mostly in the first period, and after that, they diminish very fast, while the royalties in pharmaceuticals stop at the expiration of the patent protection. On the other hand, music catalogues keep providing income from various sources that include performance, synchronisation, and streaming. Also, according to Indian law, the copyright period i.e. 60 years after the death of the author, is much longer than for patents or publishing rights.<sup>19</sup>

Data availability and accuracy are equally critical considerations. Streaming platforms allow investors to be informed about the performance almost in real-time, thus, they can invest with confidence. With box office receipts or book sales, data are much less current and at times, they are even under-reported. Given the universal nature of music across languages and cultures, combined with the growing availability of reliable data, rights management has become significantly more transparent. As a result, securitisation has emerged as a comparatively more viable option for music catalogues.

The implications of this are very severe for India. Despite the fact that Bollywood movies have traditionally generated more revenue and attracted

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<sup>17</sup> H Chen, 'Don't Sell Out, Sell Bonds: The Pullman Group's Securitization of the Music Industry' (2000) Vanderbilt J Ent & Tech L, cited in Bettina Harvey, *Music Royalty Securitization: Is It Truly a Platinum Investment?* (Syracuse University Honors Thesis, 2023) 29–30.

<sup>18</sup> *Future Flows to Securitisation* (Vinod Kothari Consultants, 2023) 122–123.

<sup>19</sup> Copyright Act 1957, s 22 (India).

more global attention than music, the popularity of streaming platforms such as Gaana, JioSaavn, Wynk, and Spotify India is increasing rapidly.<sup>20</sup> Consequently, music revenues may soon be more stable than film revenues, allowing the issue of securitisation. Although India ranks among the largest global producers and consumers of music<sup>21</sup>, it lacks any precedent for royalty-backed securitisation. This reflects a paradox wherein substantial cultural output has not been matched by parallel developments in financial innovation.

Music valuation forms the foundation of music securitisation.<sup>22</sup> It operates as the mechanism through which the inherently intangible creative labour invested in musical works is assessed and expressed in financial terms. The arrival of the streaming economy has changed the market. Spotify, Apple Music, and YouTube, among others, are platforms that bring in a large amount of data: the number of streams, how much a song is played in a playlist, how many times it was skipped, how many times it was played till the end, and the geographical areas from where it was listened to. These data lead to the creation of more complex Discounted Cash Flow (“DCF”) models that can provide a better projection of the revenue than the sales-based metrics, which once constituted the sole permissible basis for valuation.<sup>23</sup>

Besides DCF, machine learning and AI-based analytics tools have also become very important. The algorithms which are fed with both historical and

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<sup>20</sup> ET Bureau, ‘Daily streams on audio streaming platforms reached 460 million in FY23: RedSeer’ (The Economic Times, 20 April 2023) <<https://economictimes.indiatimes.com/industry/media/entertainment/daily-streams-on-audio-streaming-platforms-reached-460-million-in-fy23-redseer/articleshow/99638858.cms?from=mdr>>.

<sup>21</sup> Pranav Tiwari and Garima Saxena, *Tuning into Change: Empirical Insights into India's Evolving Music Industry (Survey Report)*, The Dialogue 2025) <[https://thedialogue.co/wp-content/uploads/2025/03/The-Dialogue\\_Survey\\_Report\\_Tuning-into-Change-Empirical-Insights-into-Indias-Evolving-Music-Industry.pdf](https://thedialogue.co/wp-content/uploads/2025/03/The-Dialogue_Survey_Report_Tuning-into-Change-Empirical-Insights-into-Indias-Evolving-Music-Industry.pdf)>.

<sup>22</sup> John Cottera et al, ‘The Value of Music Royalties’ (2025) SSRN <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5958554](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5958554)>.

<sup>23</sup> J Nutting, *More Than a Feeling: Exploring the Drivers of Music Catalog Value* (Claremont McKenna College Thesis, 2021) 24-26.

real-time data can come close to the idea of permanence of catalogue performance, point out the “long-tail potential”, and even predict the chances of virality.<sup>24</sup>

However, the ability to forecast is subject to certain limitations. The attribute of virality being entirely unpredictable remains; a not-so-user-friendly track might suddenly become globally popular through TikTok or Instagram, and at the same time, the trend of listener's preference may move away from that of traditional catalogues.

In addition, the "long-tail" structure of streaming further exacerbates the issue. While niche works may yield relatively modest revenues on an individual basis, their aggregate performance can generate substantial financial returns. However, such income streams are difficult to model with precision, given their fragmented, irregular, and data-contingent nature.<sup>25</sup>

In addition, data fragmentation exacerbates the challenges associated with administration of music royalties in India. The digitalisation of systems has been identified as a priority for Collective Management Organisations (CMOs), particularly the Indian Performing Rights Society (IPRS), which only initiated its digital transition a few months ago.<sup>26</sup> Additionally, inconsistency is the norm in reporting, and it is also done in a closed manner that is often unaudited.<sup>27</sup> Indian CMOs are not equipped with the same transparent dashboards for investors as their international counterparts. If data standardisation, independent audits, and statutory reporting requirements are not put into practice, then Indian catalogues will continue to be unattractive for securitisation markets that depend on valuation precision.

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<sup>24</sup> Mark Levy and Klaas Bosteel, 'Music Recommendation and the Long Tail' (2010) *Workshop on Music Recommendation and Discovery*.

<sup>25</sup> WIPO, *Standing Committee on Copyright and Related Rights, 40th Session Report* (2021) 27.

<sup>26</sup> *Future Flows to Securitisation* (n 2) 129.

<sup>27</sup> *ibid.*



Music securitisation is largely influenced by the architecture of general structured finance but needs to be adjusted for intellectual property assets. At the centre of the Indian framework is the proposal for a Special Purpose Distinct Entity (“**SPDE**”). In this structure, the originator, whether an artist, label, or aggregator, would transfer the royalty receivables to the SPDE through a transaction that qualifies as a true sale. Such a transfer establishes bankruptcy remoteness, which would help insulate investors from the insolvency risks of the originator.<sup>28</sup>

Moreover, investors are lured by the transactions which are given credit enhancements to provide them with reinforcements. Among such measures are overcollateralization, reserve accounts, liquidity facilities, and subordinated tranches. These kinds of mechanisms create situations where uncertain cultural revenues can be turned into instruments capable of receiving investment-grade ratings.<sup>29</sup>

Since 2020 rating agencies have developed new methodologies specifically for Music ABS. These approaches no longer assess only past earnings; they also evaluate key structural features such as diversification across genres and artists, the concentration of revenues in particular hits, the potential for sync licensing, and exposure to platform-policy changes or piracy shocks. Additionally, Stress testing under adverse scenarios has also become a routine component of the assessment process.<sup>30</sup>

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<sup>28</sup> *ibid.*

<sup>29</sup> *ibid.*

<sup>30</sup> Bowie Bond Returns: A Resurgence in Music Royalty Investments (FasterCapital, 3 April 2025) <<https://fastercapital.com/content/Bowie-Bond>Returns--A-Resurgence-in-Music-Royalty-Investments.html#The-Future-of-Music-Royalty-Investments.html>> accessed 23 September 2025.

### III. DIGITAL MARKET AND LEGAL VULNERABILITIES IN INDIA MUSIC SECURITISATION

Music securitisation, although developed in an effort to reduce volatility within the inherently uncertain world of creative revenues, remains highly sensitive to technological, market-based, and legal disruptions. The most critical technological problem is the proliferation of AI-generated compositions, which undermines the foundational principles of the copyright law. Copyright protection under the Copyright Act, 1957 is heavily dependent on human authorship and a clear threshold of creativity, both of which are challenged by AI-created works.<sup>31</sup> In practice, algorithms are now capable of producing works which are visually, and probably also intellectually, indistinguishable from human ones.<sup>32</sup> Consequently, a questions arises: does the law protect these types of works, and if so, who would be the author? Unless there is a well-organized countering statutory measure, limited recognition, sui generis classification, or total elimination, the legality of the royalties coming from AI-assisted works is still doubtful.<sup>33</sup> Hence, the uncertainty for the investors turns into the problem, where the investors face the volatility of valuation which in turn leaves securitisation in the deep pit without any predictability or stable cash flows.<sup>34</sup>

Another analogous technological hazard is algorithmic governance of discoverability by digital platforms like Spotify, TikTok, and YouTube. The valuation models usually take the road of predicting the future revenues based on historical consumption. However, when playlists, recommendations, and

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<sup>31</sup> Copyright Act 1957, ss 2(d), 13–14 (India).

<sup>32</sup> T Trequattrini and others, 'Intellectual Capital and Digital Transformation: The Case of Music Industry' (2022) 30 *Meditari Accountancy Research* 1216, 1224-1226.

<sup>33</sup> S Gaon, *Music ABS: Pool Variations Emerge Amid Constructive Sector View* (Academy Securities, 9 December 2024) 2-3

<sup>34</sup> WIPO, *Standing Committee on Copyright and Related Rights, 40th Session Report* (2021) 27.

viral amplification are governed by undisclosed algorithms, the consumption ceases to be organic and becomes dependent on the platform policy.<sup>35</sup> A catalogue may rise to prominence through a viral trend, only to decline just as rapidly when algorithmic priorities shift. In India, where local platforms compete alongside global services, the opacity of algorithmic decision-making constitutes a significant barrier to establishing reliable valuation norms for Music ABS.<sup>36</sup>

The streaming industry is already facing risks of technological uncertainties. The streaming market power resides in the few global platforms that have the control of the revenues and the licensing policies on which the catalogues depend. Any reduction, that is done unilaterally, in per-stream pay outs or a change from pro-rata to user-centric distribution can not only reduce the expected cash flows but also cause a domino effect of credit-rating downgrades. For instance-in India, where average revenue per user is one of the lowest in the world, these kinds of changes may become a milestone for the economics of Music ABS.<sup>37</sup>

Another source of weakness is consumer behaviour which is constantly changing. Traditional securitisation relies on the existence of “evergreen” works from which artists get steady annuity-like returns. However, the digital culture tends to reward the popularity of the short-form. TikTok and Instagram Reels are examples of such platforms that profit from snippets rather than from the full recording of works. In this way, they separate the engagement from

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<sup>35</sup> J Galuszka and A Legiedz, ‘Financialisation of Music, Song Management Firms and Fractionalised Copyright’ (2024, preprint) 14-16.

<sup>36</sup> Bowie Bond Returns: A Resurgence in Music Royalty Investments (FasterCapital, 3 April 2025) <<https://fastercapital.com/content/Bowie-Bond>Returns--A-Resurgence-in-Music-Royalty-Investments.html#The-Future-of-Music-Royalty-Investments.html>> accessed 23 September 2025.

<sup>37</sup> Trading Bowie Bonds: A Guide to Investing in Music Royalties (FasterCapital, 7 April 2025) <<https://fastercapital.com/content/Trading-Bowie-Bonds--A-Guide-to-Investing-in-Music-Royalties.html#Understanding-the-Music-Royalty-Ecosystem.html>> accessed 23 September 2025.

the way royalties are traditionally accumulated.<sup>38</sup> The paradox is quite prominent: the aforementioned platforms that make Indian music accessible worldwide are the ones that inject the instability, due to which its securitisation is undermined.

Nonetheless, the most deeply-rooted weak points are of legal nature. Copyright ownership in India is still highly decentralized, spread over the writers, lyricists, performers, producers, and labels. Under-registration, completely informal assignments, and ambiguous contractual clauses worsen uncertainty. In the context of securitisation, the absence of a clearly provable ownership title can lead to disputes that are ultimately fatal to the transaction structure. Without reforms mandating transparent registration, centralised recordation, and rigorous verification mechanisms, Indian catalogues will continue to remain insecure as collateral.<sup>39</sup>

Moreover, the non-performance of contractual obligations by an insolvent party exposes a doctrinal gap of significant concern. Music licences typically involve continuing obligations on the part of the musician or rights holder, and disruption of these obligations can undermine the commercial arrangement. Under U.S. bankruptcy law, licensees are afforded robust protection against the licensor's insolvency, ensuring continuity of rights and preventing transactional interruption.<sup>40</sup> In contrast, the Indian Insolvency and Bankruptcy Code, 2016, deliver no comparable protection. In the absence of statutory clarity confirming that true-sale transfers to Special Purpose Distinct Entities (SPDEs) are excluded from the insolvency estate, the principle of bankruptcy

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<sup>38</sup> Rahmah, 'Promoting Intellectual Property Securitization for Financing Creative Industry in Indonesia' (2019) 17 *Journal of Indonesian Creative Economy* 33-34.

<sup>39</sup> F Aarons, 'Intellectual Property Securitisation: The Jamaican Experience' (2018) *JIPO Journal* 41.

<sup>40</sup> US Bankruptcy Code, 11 USC § 365(n) (1994).

remoteness, central to securitisation structures remains vulnerable.<sup>41</sup> Until these gaps are addressed, Music ABS will be difficult to implement in India as institutional capital will be unlikely to participate at scale.

#### IV. JUDICIAL APPROACH OF MUSIC ROYALTY ENTITLEMENTS IN INDIA

The Courts of India have recently been involved in cases where the question of who should receive the music royalties and under what terms were the subject of a conflict. The Hon'ble Supreme Court held that, under the pre-2012 statutory regime, a broadcaster was required to pay royalties to the sound recording copyright owner only and not separately to writers or composers of the work.<sup>42</sup> Nevertheless, by virtue of the 2012 Amendment to the Copyright Act, the authors of music and literary works were explicitly guaranteed the right to share in the royalties arising from the use of their works in sound recordings, which changed the whole scenario of exclusivity in the mutual context.<sup>43</sup>

Moreover, the decision of the Hon'ble Bombay High Court<sup>44</sup> is worth mentioning, where the judge concluded that FM radio stations should pay royalties to the authors of the original musical works, even if they had already made a payment for the sound recordings. The court noted that 2012 amendments had created a '*substantial property right*' for songwriters and composers, therefore, the old practice of total transfer was overruled.<sup>45</sup> Practically, the authors' right to share in each public performance of a song now exists irrespective of the recording owner's license.

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<sup>41</sup> Insolvency and Bankruptcy Code 2016 (India), ss 18, 36; see also *Future Flows to Securitisation* (Vinod Kothari Consultants, 2023) 126–127

<sup>42</sup> (2016) 11 SCC 671 (SC).

<sup>43</sup> Copyright (Amendment) Act 2012, ss 18, 19, 19A and 33.

<sup>44</sup> 2023 SCC OnLine Bom 1264 (Bom).

<sup>45</sup> *ibid.*

Similarly, the Hon'ble Calcutta High Court<sup>46</sup> affirmed the same principle. The court, in the decision, merged the action filed by IPRS and a few music companies, holding that a telecom provider should definitely get permission separately from IPRS and pay the required royalties for the use of the musical and literary works in its Caller Ring-Back-Tone service. In addition to Vodafone's arguments, the court decided that a license only from the sound-recording owner will not be sufficient to discharge the authors from their rights.

## V. THE U.S. FRAMEWORK AND REGULATORY POSITION

Music securitization in the USA is the outcome of a somewhat complex system consisting of provisions of the bankruptcy code, securities regulation, and market practice. Venturing into the details of the protection of IP licenses is a concept arising in Section 365(n) of the Bankruptcy Code, introduced in 1994, which defines a scenario, where the licensee may continue the use of the bankrupt licensor's patents or copyrights even though the executory contract has been rejected.<sup>47</sup> More precisely, Section 365(n) declares that upon the rejection of an IP license by a debtor-licensor, the licensee shall have the power to choose the option of retaining his rights and, therefore, continue paying the royalties that were agreed upon.<sup>48</sup>

Similar to the tenant under a rejected lease, the U.S. Supreme Court in *Mission Product Holdings, Inc. v. Tempnology, LLC*<sup>49</sup> considered the treatment in bankruptcy as the one of the licensees who can "stay and pay rent." The Hon'ble U.S. Supreme Court stated that the non-termination of the licensee's rights was the result of rejection of a trademark license. Further,

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<sup>46</sup> 2024 SCC OnLine Cal 1262 (Cal).

<sup>47</sup> US Bankruptcy Code, 11 USC § 365(n) (1994).

<sup>48</sup> *ibid.*

<sup>49</sup> 139 S Ct 1652 (USSC)

Section 365(n) strictly speaking does not extend to trademarks, however, the reasoning is that rejection normally means breach, rather than the immediate revocation of rights granted.<sup>50</sup> Accordingly, the U.S. law ensures royalty-in-pay streams by permitting licensees (and therefore investors who have purchased the royalties) to continue the exploitation of the IP in consequence of the bankruptcy.

The regulatory frameworks in the U.S. have a significant effect on the way IP is securitized. Securitizations of any assets are in accordance with the securities laws: the issuers usually file for registration of asset-backed securities offerings or use the exemption for private placements. The SEC's Regulation AB (and its successor Reg AB II) establishes the standards of disclosure for asset-backed deals, which are also applicable to music royalty bonds as those in mortgage or franchise ABS.<sup>51</sup> Besides that, credit rating agencies and market participants also provide the public with information. For instance, the industry reports (e.g. by Fitch or KBRA) give an overview of structuring issues like license compliance, renewal risk, and “most favoured nation” clauses.<sup>52</sup>

On a practical level, issuers could use data from a historical royalty collection and insurance/guarantees as a way of attracting investors just like the securitized streaming revenues in the tech media industry.<sup>53</sup>

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<sup>50</sup> *ibid.*

<sup>51</sup> SEC, ‘Asset-Backed Securities’ Regulation AB, 17 CFR Parts 229, 232, 239, 240, 1100, 1103, and 1105 (first adopted 2004; updated as Reg AB II, 2014).

<sup>52</sup> Fitch Ratings, *Global Structured Finance Rating Criteria* (2023); KBRA, *Music ABS Methodology* (2022).

<sup>53</sup> Academy Securities, *Music ABS: Pool Variations Emerge Amid Constructive Sector View* (Academy Securities, 9 December 2024) 2-3

## VI. TOWARDS A REGULATORY FRAMEWORK FOR MUSICAL SECURITIZATION IN INDIA

India possesses a statutory and institutional architecture that, at first glance, appears capable of accommodating royalty-backed securities. However, on closer scrutiny, it becomes clear that the framework is fragmented, doctrinally underdeveloped, and pragmatically ill-suited to the peculiarities of music copyright securitisation. A credible roadmap for reform must therefore diagnose deficiencies across copyright law, insolvency jurisprudence, capital markets regulation, and rights-management practice, before prescribing targeted interventions that reconcile financial innovation with cultural policy.

### *A. Statutory and Institutional Deficiencies*

The Copyright Act, 1957 is still the main law that regulates the rights of the authors, the transfer, and the bundle of rights in the works, texts, and sound recordings. Gradual changes have expanded the scope of the rights of artists as well as the digital exploitation of the rights.<sup>54</sup> However, the Act was still not created with the idea of securitisation. The Act does not contain any particular conditions for the temporary but irrevocable transfer of future royalties in a way that demonstrates a true sale with certainty. The same kind of legal certainty is essential in securitisation as investors want structures that are remote from bankruptcy and are thus protected from the insolvency risk of the originator.<sup>55</sup>

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<sup>54</sup> Copyright (Amendment) Act 2012 (India), ss 18-19A.

<sup>55</sup> Teresa N Kerr, 'Bowie Bonding in the Music Biz: Will Music Royalty Securitization Be the Key to the Gold for Music Industry Participants?' (2000) 7 UCLA Ent L Rev 389, 392-393.



The Insolvency and Bankruptcy Code, 2016 (IBC), while is very detailed in its handling of the corporate rescue and the distribution of assets, is silent on three issues that are at the centre of royalty securitisation-driving: (i) the option of assigning receivables during moratorium, (ii) the treatment of executory licences like synchronisation or performance rights, and (iii) the rationale behind the avoidance of security claims on transfers to SPDEs. The issue of bankruptcy remoteness, which is at the very core of securitisation, still remains uncertain without statutory clarifications.<sup>56</sup>

The SEBI has set out the frameworks that are applicable to traditional ABS, which include mortgages, auto loans, and leases. However, no guidelines exist in the case of intellectual property receivables.<sup>57</sup> Due to this omission in the regulations, issuers, trustees, and investors are unsure of how music-backed securities will be classified and whether they will be enforceable. Besides statutory gaps, there are practical barriers that are difficult to overcome. CMOs, in particular, the IPRS are the main intermediaries through which royalties are collected and distributed.<sup>58</sup> Nevertheless, their digitisation initiatives are quite recent, reporting protocols are inconsistent, and audit practices are sporadic.<sup>59</sup> For investors who are used to real-time, machine-readable dashboards, such lack of transparency is out of the question.

Valuation practices add to this uncertainty: while international markets use a combination of methods discounted cash flow, streaming analytics, and multiples benchmarked against comparable sales, Indian valuations are still

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<sup>56</sup> Insolvency and Bankruptcy Code 2016 (India), ss 18, 36; see also *Future Flows to Securitisation* (Vinod Kothari Consultants, 2023) 126-127.

<sup>57</sup> SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations 2008 (India).

<sup>58</sup> Indian Performing Right Society (IPRS), 'Annual Report 2023-24' (IPRS, 2024).

<sup>59</sup> Rahmah, 'Promoting Intellectual Property Securitization for Financing Creative Industry in Indonesia' (2019) 17 *Journal of Indonesian Creative Economy* 33-34.

done on a case-by-case basis, relying on bespoke expert reports with no supervisory validation.<sup>60</sup>

To sum up, title fragmentation is the most critical problem. The rights to the music are scattered among composers, lyricists, performers, producers, and labels, and there are a lot of historical copyright assignments that have not been documented or have been informally recorded.<sup>61</sup> In securitisation, indefeasible title is the most important thing. Without a centralised registry, any alleged transfer to an SPDE can be the cause of competing claims.<sup>62</sup>

### ***B. Reform Imperatives***

It is important to have a reliable framework to legally identify royalty receivables as financial assets under SEBI's ABS framework, while also integrating them with SARFAESI-type enforcement mechanisms.<sup>63</sup> This type of acknowledgment should come with specific safety features, including disclosure schedules, servicer audits, and trustee duties unique to intellectual property income streams.

The Copyright Office should be a functional repository capable of time-stamped, machine-readable recordation of assignments and licences.<sup>64</sup> By this approach, records would have presumptive priority, thus reducing transaction costs and resolving title disputes.

The IBC must operate in harmony with the principles of securitisation. It is essential to incorporate a framework for executory licences, while ensuring

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<sup>60</sup> J Nutting, *More Than a Feeling: Exploring the Drivers of Music Catalog Value* (Claremont McKenna College Thesis, 2021) 24-26.

<sup>61</sup> F Aarons, 'Intellectual Property Securitisation: The Jamaican Experience' (2018) *JIPO Journal* 41.

<sup>62</sup> Chapman and Cutler LLP, 'Royalty-Backed Securitization' (2015) 4-6.

<sup>63</sup> Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SARFAESI), s 13.

<sup>64</sup> Copyright Act 1957, s 30 and Copyright Rules 2013, rr 56–60 (provisions on registration of assignments).

that bona fide SPDEs are insulated from avoidance claims, subject to appropriate anti-fraud safeguards.<sup>65</sup> This would give practical effect to the principle of bankruptcy remoteness, a feature that is critical to the viability of Music ABS.

Besides, that, cultural and distributive safeguards are a must. Without regulation, the process of securitisation may result in the concentration of ownership in institutional hands at the expense of creators. For that reason, protective measures should ensure that residual entitlements exist, the transfers of contracts are made transparently, and there are consent-based regimes for the transactions which affect the economic interests of artists.<sup>66</sup>

At last, data infrastructure has to be improved. CMOs should be required to implement interoperable metadata standards, real-time reconciliation with digital platforms, and independent audits.<sup>67</sup> SEBI may permit a category of “IP servicers” who hold a license to carry out the enforcement of these standards and report to the trustees, thereby ensuring the necessary data integrity for the investor to be confident.

### ***C. Policy and Regulatory Roadmap***

The reform path should be multidimensional. *Firstly*, SEBI needs to change the SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008 to explicitly include royalty receivables as eligible assets, make it mandatory for independent true-sale and non-consolidation opinions to be obtained and also clarify that duly registered

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<sup>65</sup> Insolvency and Bankruptcy Code 2016 (India), ss 18, 36; see also *Future Flows to Securitisation* (Vinod Kothari Consultants, 2023) 126-127.

<sup>66</sup> Rahmah, ‘Promoting Intellectual Property Securitization for Financing Creative Industry in Indonesia’ (2019) 17 *Journal of Indonesian Creative Economy* 33-34.

<sup>67</sup> Indian Performing Right Society (IPRS), ‘Annual Report 2023-24’ (IPRS, 2024).

transfers to SPDEs are not insolvency estates.<sup>68</sup> *Secondly*, the Copyright Office can be a centrally located registry of all assignments with statutory presumptions of validity.<sup>69</sup> *Thirdly*, the IBC ought to legally sanction the continuation of executory contracts and protect the securitised assets from the claw back of insolvency.<sup>70</sup> *Lastly*, SEBI needs to set out the disclosure duties that are specifically related to Music ABS, which may include stress-testing for platform-risk and AI-risk scenarios, and also dual rating requirements for public issuances.<sup>71</sup>

Further, regulations must be introduced by SEBI to address future risks arising from new developments. Valuation is gradually becoming reliant on algorithmic discoverability and the ambiguous status of AI-generated works. SEBI should require disclosure of significant changes in platform-pay out models, mandate that AI-assisted works in the collateral pool be identified, and require rating agencies to factor in platform and AI scenarios in their rating methodologies.<sup>72</sup>

## VII. CONCLUSION

On one hand, the music copyright securitisation is a financial innovation, on the other hand, it is a distinctively cultural change. The journey of global markets from the initial hope and final collapse of Bowie Bonds to the coming back to life of large-scale catalogue securitisations in the streaming era teaches the markets that intellectual property is capable of being a steady asset class if the legal and technological framework are thorough. However, this remains a

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<sup>68</sup> SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations 2008 (India).

<sup>69</sup> Copyright Office, 'Handbook on Copyright Registration' (Government of India, 2022).

<sup>70</sup> Insolvency and Bankruptcy Code 2016 (India), ss 14, 36.

<sup>71</sup> Academy Securities, *Music ABS: Pool Variations Emerge Amid Constructive Sector View* (Academy Securities, 9 December 2024) 3-4.

<sup>72</sup> Bowie Bond Returns: A Resurgence in Music Royalty Investments (FasterCapital, 3 April 2025) <<https://fastercapital.com/content/Bowie-Bond-Returns--A-Resurgence-in-Music-Royalty-Investments.html#The-Future-of-Music-Royalty-Investments.html>> accessed 23 September 2025.

significant “if” in India, where the market opportunity is largely overlooked. Although several court rulings since the 2012 Copyright Amendment have affirmed that authors possess an independent right to royalties, the legal and policy framework necessary to govern the securitisation of music assets remains fragmented and underdeveloped. The Copyright Act, the Insolvency and Bankruptcy Code, and SEBI’s ABS guidelines are not yet harmonised to provide features of genuine sale, bankruptcy remoteness, and enforceability that investors require. Moreover, opaque data practices within CMOs and inadequate clarity regarding ownership interests significantly undermine the reliability of valuation assessments.

If India wants to make use of this opportunity, the reform must be multi-faceted. Firstly, there should be statutory recognition of royalty receivables as securitisable assets; secondly, there should be harmonisation of insolvency law with structured finance; thirdly, a transparent and reliable data infrastructure should be established; lastly, distributive safeguards for creators must be ensured so that the interests of authors and performers are not compromised. If properly implemented, music securitization could unlock cultural capital, providing the artists and the labels with liquidity, and also making India’s financial markets larger and deeper; while still preserving the constitutional commitments to property rights, freedom of expression, and the promotion of cultural development.