REGIONAL DEVELOPMENT & IP

CMOs ISSUES ~ MALAYSIA EXPERIENCE & APPROACH

1

Mr. Azrul Shahreen
Legal Division and Corporate Secretary
Intellectual Property Corporation of Malaysia (MyIPO)

IMPACT AND CHANGES ON CMOs

BEFORE 2012 → **MALAYSIA COPYRIGHT ACT (AMENDMENT) 2012** → **2019**

CMOs - organized themselves

No monitoring systems by government. Consultation meeting

Fake CMOs

Excessive tariff

Regulating Licensing Bodies

Definition & Function of the Licensing Body

Licensing Body which fails to meet its obligation after being declared will be revoked

Government will monitor the Licensing Body's activities to promote Transparency, Accountability & Good Governance

Operation without declaration as licensing body is an offence – sentence not more RM500,000 (USD 125,000)

New business model

Amendment to existing provisions relates to licensing body

27A (2)

An **application** for a declaration shall be made in such form and on such medium as the **Controller may determine** which shall contain the following information:

(a)The applicant's **constituent document**, which has as its **main object**, or one of its main objects, **the negotiation or granting**, either as owner or prospective owner of copyright or as agent for him, of copyright licences, and whose objects also include the granting of licences covering works of more than one author; and

(b)The list of copyright owners or their agents who are **members of the applicant**.

27A (3)

Upon **receipt of an application**, **the Controller may declare an applicant to be a licensing body** and issue a declaration in writing to that effect to the said applicant.

27A (4)

Notwithstanding subsection (3), **the Controller** shall **refuse** an application if **the information** provided by the applicant pursuant to subsection (2) **is insufficient or unsatisfactory** to show that the applicant is **fit and proper to be a licensing body.**
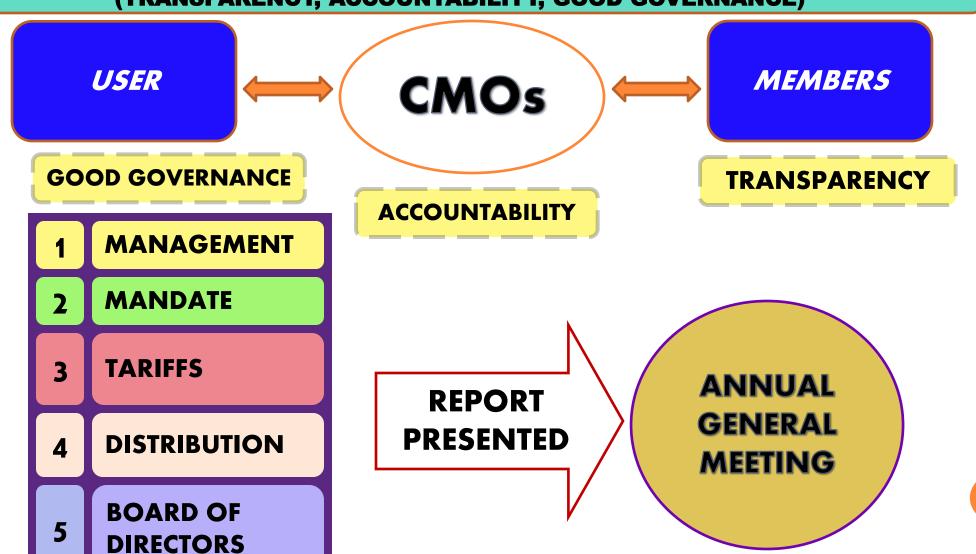
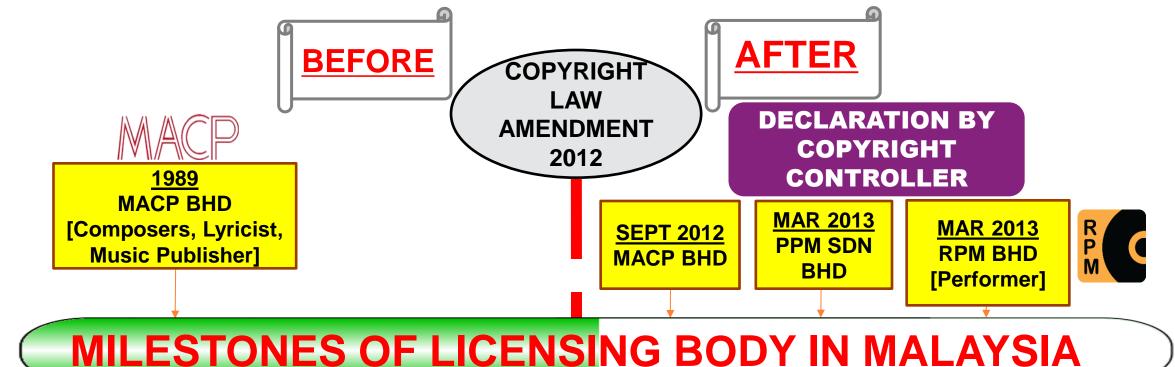**27A (5)**   **AFTER DECLARATION**

The licensing body shall provide the Controller with a **copy of its profit and loss account**, **balance sheet** and **auditor's report** which are **tabled at the licensing body's annual general meeting** not later than **one month** after the date of the annual general meeting.

3

APPLICATION PROCESS

ELEMENT OF TAG
(TRANSPARENCY, ACCOUNTABILITY, GOOD GOVERNANCE)

USER ⟷ **CMOs** ⟷ **MEMBERS**

GOOD GOVERNANCE

TRANSPARENCY

ACCOUNTABILITY

1	MANAGEMENT
2	MANDATE
3	TARIFFS
4	DISTRIBUTION
5	BOARD OF DIRECTORS

REPORT PRESENTED → **ANNUAL GENERAL MEETING**

COPYRIGHT LAW AMENDMENT 2012

MACP

1989
MACP BHD
[Composers, Lyricist, Music Publisher]

DECLARATION BY COPYRIGHT CONTROLLER

SEPT 2012
MACP BHD

MAR 2013
PPM SDN BHD

MAR 2013
RPM BHD
[Performer]

R P M

MILESTONES OF LICENSING BODY IN MALAYSIA

1988
PPM SDN BHD
[Recording Company]

2001
PRISM SDN BHD
[Performer]

JUL 2013
PRISM BHD
[Performer]

PPM
LINKING MUSIC WITH BUSINESS

NOTES:
MACP : Malaysia Authors' Copyright Protection
PPM   : Public Performance Malaysia
RPM   : Recording Performers Malaysia
PRISM : Performers' Rights Interest Society Malaysia

5

Music Rights Malaysia Berhad

To act as Single Collecting Licensing Bodies for

Musical Work Rights

Recording Rights

Performing Rights

(4 Directors Represent 50% of Votes)

(2 Directors) represent 25% of votes

(2 Directors) represent 25% of votes

6

Distribution Based on 2 : 1 : 1

- MEMBERSHIP – Direct with Existing CMOs
- MRM Bhd only cater USER DATA for collection

SINGLE COLLECTION BODY

PROS

One Stop Licensing
Convenience
Single Consolidated Tariff

Increased Transparency

More Cost Efficient

Improved Market Coverage

Govt. Must Support

CONS

Abrupt Disruption of Status Quo
Transition Issues

Additional Layer/Tax Issues

2 Performers CMOs Distribution Issues
Possible Withdrawal of Record Labels (Distribution Split Issue)

MULTIPLE COLLECTION BODY

PROS

Maintain Previous Status Quo

No Additional Layer

Individual Body Autonomy

Less Trust Issues

Less Back-End Issues

CONS

Inconvenience/Confusion for Users

Multiple Tariffs

Replicated Collections Costs

Poorer Market Coverage

8

PROBLEMS – ISSUES – RESOLUTION

- ❑ Unsatisfied CMOs members – unclear on membership due two CMOs covering on performers
- ❑ Unsatisfied Users – tariff scheme imposed… e.g use of music/songs at village wedding festive
- ❑ Unresolved dissatisfaction between CMOs – RPM v PRISM
- ❑ Distribution & royalty issues among CMOs

- ❑ Way forward and resolution by Task Force on CMOs concerning collection of royalties issue;
- ❑ Government way forward approach based on Task Force's findings & report.