

## CINEFIL PRODUCERS PERFORMANCE LIMITED

### Frequently Asked Questions

#### 1. What does the term "Cinematograph Film Work" mean in Copyright law?

"Cinematograph film" means any work of visual recording and includes a sound recording accompanying such visual recording and "cinematograph" shall be construed as including any work produced by any process analogous to cinematography including video films [Section 2 (f)]. Visual recording" means the recording in any medium, by any method including the storing of it by any electronic means, of moving images or of the representations thereof, from which they can be perceived, reproduced or communicated by any method [Section 2 (xxa)].

#### 2. How do I "Copyright" my Cinematograph Film Work?

The Department of Industrial Policy and Promotion of the Ministry of Commerce and Industry is home to the Copyright Office, which is run by the Registrar of Copyrights. It is responsible for carrying out the Copyright Act. To obtain the appointment of the Registrar, you should get in touch with the national government. Now let's look at the six categories.

- Section 1: Literary works other than computer Programs
- Section 2: Musical works
- Section 3: Artistic works
- Section 4: Cinematograph films Works
- Section 5: Sound recording
- Section 6: Computer programs, tables & compilations

#### 3. What does the term "Copyright" mean?

Copyright refers to the legal right of the owner of intellectual property. In simpler terms, copyright is the right to copy. This means that the original creators of products and anyone they give authorization to are the only ones with the exclusive right to reproduce the work.

#### 4. When do you need a license for "Cinematograph Film Work"?

**Copyright in cinematograph film Under s. 14(d) the author of a cinematograph film in which the copyright subsists has the following exclusive rights:**

(1) to make a copy of the film including a photograph of any image forming part thereof

(2) to sell or give on hire, or offer for sale or hire, any copy of the 'film, regardless of whether such copy has been sold or given on hire on earlier occasions

(3) to communicate the film to the public. The section does not refer to the sound recordings which forms part of the film. The sound recordings embedded in the film has a separate copyright of its own which is not affected by the copyright in the film as a whole see s. 13(4).

To communicate the film to the public means making the film available for being seen or heard or otherwise enjoyed by the public directly or by any means of diffusion regardless of whether any member of the public actually sees, hears or otherwise enjoys the film so made available. Communication includes communication through satellite or cable or any other means of simultaneous communication to more than one household or place of residence including residential rooms of any hotel or hostel. Communication to a private audience is

not included. What is prohibited is the commercial exploitation of the film without consent of the owner or without the license of the owner of the copyright.

**5. What is The CINEFIL PRODUCERS PERFORMANCE LIMITED (CINEFIL) ? How is CINEFIL authorised to grant licenses and / or collect royalties as a Copyright Society in India?**

**Cinefil Producers Performance Limited (CINEFIL)**, a Copyright Society duly registered by the Central Government under Section 33(3) of the Copyright Act, 1957 for Cinematograph Film Work (VIDEO). The Central Government granted a registration in favor of CINEFIL as a Copyright Society with effect from April 18, 2023, which was confirmed vide Certificate ([CERTIFICATE LINK](#)) CINEFIL is a non-profit entity dedicated to safeguarding, monitoring, and enforcing the rights of our esteemed members, which include Film Producers. Our Organisation currently comprises not less than 700 members and represents approximately 8000 feature films produced by noted and renowned Film Producers wherein the members and Cinematograph Films are increasing each day.

'CPPL' is applicable at all public places, such as hotel banquet halls in events, hotel rooms, coffee shops, bars, standalone restaurants etc. - wherever there is usage of Indian Cinematographic film Works and its display through TV, LED, Projector screens etc. CINEFIL is formed to help the Producers by providing a framework for the licensing and work as an important tool for Producers in India to get royalties for their Copyright works. The film producers after a long struggle achieved a historic recognition by the Central Government issuing a Copyright Certificate as a Registered Copyright Society under Section 33(3) for Cinematographic Film Works to do business and collect Royalty Fees from the Public.

**6. Why was CINEFIL formed?**

CINEFIL Copyright society is specifically formed to represent Film Producers (referred herein as Copyright Authors) and Other Owners (collectively referred to as "Members") across PAN-INDIA with the primary objective of collecting royalties from both India and overseas for Cinematograph Film Work (VIDEO). We achieve this by issuing and granting CINEFIL Performance Licenses (CPL), strictly in accordance with prevailing Copyright laws.

**7. What are the objectives of CINEFIL PRODUCERS PERFORMANCE LIMITED (CINEFIL)**

1. To Exercise and enforce provisions of Copyright laws on Business of Licensing on behalf of Authors (hereinafter referred the Producer) and Other Owners being entitled to the benefit of or interested in the Cinematographic films work as per Copyright Act 1957.
2. To protect the 'Copyright' (means the exclusive right) of the Producer and Other Owner of a Cinematographic film under the Copyright Act, 1957 to do or authorise the doing of any of the acts in respect of work or any substantial part thereof pursuant to provisions of Copyright Act 1957 read with Copyright Rules thereof.
3. To exercise and enforce provisions of Copyright laws on behalf of Producer Members and Other owner members or otherwise being Entitled to the benefit of or interested In the Cinematographic Film Work with Audio-Visual rights as per Copyright Act 1957 and any other act or regulation for the time being in force for granting and / or issuing Business License of Producers and Other Owners rights or otherwise in respect of any exploitation of the sound recording and / or visual recording incorporated in Cinematographic Film Work by Broadcasting and/ or by Communication to the Public.

**4.** To exercise and enforcement of such rights and remedies of Producers and Other Owners of Cinematograph Films from time to time rescind, alter or vary any arrangements and agreements with respect to any such exploitation of such rights in regards to the mode, periods of extent in for or to which and the terms on which any such exploitation of such rights may be made or employed, and to collect and receive and give effectual discharges for all royalties, fees and other monies payable under any such agreements or arrangements or otherwise in respect of any such exploitation by all necessary actions or other proceedings and to recover such royalties fees and other monies, and to restrain and recover damages for the infringement by means of any such exploitation as aforesaid of the Producer's and Other \*Altered and adopted pursuant to special resolution passed at the EOGM held on 31st July, 2019. Owner's right on their behalf in respect 'of Cinematograph Films, and to release, compromise or refer to arbitration any such proceedings or actions or any other disputes or differences in relation to the premises pursuant to Copyright Act 1957 or any other applicable statutes then time being in force.

**5.** To issue licenses of Cinematograph Films works, collect fees in pursuance of such licenses, to distribute such fees among producers and other owners of rights after making deductions for its own expenses and perform any other functions for and on behalf of Producers and Other Owners of Cinematograph films Rights as per the work as per the Copyright legislation.

**8. What Works does CINEFIL administer?**

CINEFIL administer as a Registered Copyright Society under Section 33(3) for Cinematographic Film Works to do business and collect Royalty Fees from the Public.

**9. What Rights does CINEFIL administer?**

Performance Rights of their Producer members.

**10. What is the "Right to Royalty?"**

CINEFIL also administers the author's "Right to Receive (& Claim) Royalty" as guaranteed by the Copyright Act, 1957. This "Right to Receive Royalty" or "Author's Statutory Royalty Right" is triggered upon the utilization of the Cinematograph Film work [which includes (a) the Public Performing Right, (b) Communication to the Public Right and (c) Reproduction Right (i.e., Mechanical Right") in "any form" with the only exception being the exhibition of the cinematograph film at a cinema hall. The Author's Statutory Royalty right is inalienable i.e. it cannot be waived by the author of literary works and music works and further is only assignable to a Copyright Society for collection and distribution or to the legal heir of the Author of such Cinematograph Film work and any contrary agreement will be void - clearly to safeguard vulnerable authors and music composers against predatory contracts. Thus, only CINEFIL a registered copyright society can (a) issue/grant licenses in respect of Cinematograph Film work; and/or (b) collect and distribute royalties for the utilization of the Cinematograph Film work other than for the communication to the public of a cinematograph film incorporating such work(s) in a cinema hall.

**11. Who runs CINEFIL?**

The Company's policy is controlled by its Membership Body which elects a Governing Council of Directors elected by the members at General Meetings. This Council comprises

equal number of Producers. The Council is answerable to the Membership of CINEFIL. Click here for ([ORGANISATIONAL BODY OF CINEFIL](#))

## **12. Who are the members of CINEFIL?**

CINEFIL members comprise of all film producers from Indian Film Industry inclusive of all regional Film Producers.

## **13. How can Producers apply to become members of CINEFIL?**

- (a) Access the membership form available on the CINEFIL website at -
- (b) Members can also choose to fill in the online membership form at -
- (c) Fill in, execute the Form and provide information and documents as detailed on -
- (d) File the application with CINEFIL;
- (e) CINEFIL Membership Committee with the membership team will scrutinize the application and details;
- (f) Completed and scrutinized forms are considered and accepted/ rejected by the Board on recommendation of the Committee and CEO;
- (g) The Board's decision on acceptance is ratified by the membership of CINEFIL at its Annual AGM.

**The membership Of CINEFIL is FREE.**

## **14. Is it compulsory to join CINEFIL for a Producer?**

No. There is no obligation on anyone to do so. But if you study these FAQs and CINEFIL website you will realize that in practice you will find individual administration quite impossible to do so. Additionally, authors royalty share cannot be collected by owners of copyright (where they are assignees of the Author) - this is a role exclusively accorded to a Copyright Society like CINEFIL. That is why the world-wide system of organizations for the collective administration of copyright was devised, which has stood the test of time having been founded in 1851.

## **15. What happens when an CINEFIL member i.e. producer member dies? Can legal heirs join CINEFIL?**

Yes. CINEFIL' policies allow for Legal Heirs of member to be brought in record in event of the passing of a member. Legal Heirs can also directly apply to join as legal heir members even if the author was not a member of CINEFIL. Members are also allowed the option of making nominations during their life time to ensure that their legal heirs continue receiving royalties pending resolution of legal formalities which can get cumbersome in India. Currently, in order to become a legal heir member, Legal heir member need to comply with the Probate laws / Succession laws, etc., however, CINEFIL has worked to further streamline this process.

## **16. How can Producers apply to become members of CINEFIL?**

If you are a Film Producer in India, it is important for you to become a member of CINEFIL to receive your performing royalty money timely. For membership apply online or contact CINEFIL office.

### **17. What does CINEFIL mean by the term “CINEFIL license”?**

The Company generally grants a “license” essentially a permission/ authorisation in writing enabling a user to exploit CINEFIL’s members cinematograph film works. The CINEFIL license is usually a blanket Licenses for a moderate annual or other charge which enables the holders thereof to comply with the provisions of the Copyright Act, 1957. These licenses authorise the public performance, communication to the public by broadcasting, streaming or any other diffusion by wire or wireless of any of the millions of works which CINEFIL controls on its member’s behalf as well as on behalf of the members of its affiliated societies throughout the world. In certain cases, ‘permits’ are issued for the use of the repertoire or of specific works at one performance or at a short series of performances. An CINEFIL license is necessary for any public performance/communication to the public of copyright music under its control regardless of the nature of the entertainment or the kind of premises at which the performance takes place and irrespective of whether a charge for admission is made. Importantly in the context of licenses it is important to note that CINEFIL does not grant licenses in respect of the collection of member Royalty Right – if the Publisher/Owner is not a member of CINEFIL – but only collects Author/music composer member share with a clearance of such payment.

### **18. Who is required to secure/ obtain an CINEFIL license?**

Generally any individual/entity exploiting CINEFIL’s member’s cinematograph film works is required to secure a license from CINEFIL. In terms of the Copyright Act, 1957, the owner of a commercial premises at which the cinematograph film works performance takes place. CINEFIL license is also required for the performance/ communication to the public of cinematograph film works during live events as well. Additionally, platforms which utilise cinematograph film works such as television broadcasters, online streaming/OTT platforms, telecom/mobile players, airlines are required to secure a license from CINEFIL in respect of its repertoire and/or pay Author’s royalty share to CINEFIL in respect of CINEFIL author members only. The Company’s licenses cover both ‘live’ performances and performances by mechanical means, e.g. Projectors and Television sets, and so on. They are issued for numerous categories of premises, including private Hotels, Hospitals, home theatres, clubs, auditoriums, town halls, church halls, public houses, restaurants, shops, factories, universities, ships, aero planes, sports stadium and many others.

### **19. How can one confirm if a Cinematograph Film work is within the CINEFIL repertoire?**

CINEFIL has made its Films repertoire available to search by the general public at - <https://CINEFIL.com/films/>. In excess of 7,500 films titles are available for search on the CINEFIL film database. The film database is being updated constantly and consequently may not be exhaustive. If the film is not available on the film database, prospective licensee can right to CINEFIL to secure feedback and information.

### **20. How can a license be secured from CINEFIL?**

Licensing forms are downloadable from the CINEFIL website at ( ). One can download a form either for Licensing Form’. Alternately, one can also contact CINEFIL directly to discuss the form of license required for any specific purpose.

**21. If a license has already been obtained a license from the owner of the Sound Recording Phonographic Performance Limited (PPL)/ or from Novex Communications. So why is license required from CINEFIL?**

Distinction between Audio and Video Content: While acknowledging your existing licensing arrangement with CINEFIL, PPL, CINEFIL, and Novex for audio content in hotel rooms, our primary concern pertains to video content. (Note: Copyright law treats audio and video content similarly under the same sections.) As public performance of video content in public areas involves a distinct licensing framework, we anticipate collaboratively addressing video content licensing within the Copyright Act's provisions. We commend your efforts in securing audio content licenses and eagerly look forward to addressing video content licensing requirements.

**22. How are the CINEFIL license fee/ Tariff rates fixed?**

The royalty charges payable by licensees (which are normally payable annually in advance) are calculated by CINEFIL under a series of carefully devised tariffs which take account of the different circumstances in which Film is performed in the various categories of premises and classes of entertainment, the value of Film to such venues or platforms, comparable license fees and other applicable parameters. The CINEFIL Tariff Scheme is available at Cinefil website.

**23. Can a film producer directly collect his share of royalties from its licensees?**

No! This will be illegal. The third and fourth provisos to Section 18 of the Copyright Act, 1957, which were inserted into the Act by the Amendment of 2012, clearly state that authors of Cinematograph film works may not assign their royalty rights to anyone except their legal heirs OR to a copyright society for collection and distribution (CINEFIL). It further states that any such agreement by an author to assign his/her royalty right to any other entity shall be void. Therefore, no other entity other than the author member's legal heir or CINEFIL, may collect the author's royalty share.

**24. How are royalties distributed by CINEFIL?**

As the Company is a non-profit making body, all the royalties it collects are distributed to its members and affiliated societies after deduction only of its administration costs as allowed by law. The net royalties will be distributed to the members as far as possible in accordance with the extent to which their particular works have been broadcast or publicly performed and as per the CINEFIL Distribution Rules/Scheme. The royalties apportioned to each work are then distributed among the interested members and affiliated societies in accordance with their contracts and with the Company's Rules.

**25. When does CINEFIL distribute royalties to its membership?**

In line with the Copyright Rules, 2013, CINEFIL will distribute royalties on a yearly basis for first year and then after quarterly basis to its members.