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### **ADR Option for Copyright Owners Involving Royalty Disputes**

Last month, the Copyright (Amendment) Act 2019 (**Amendment**) was tabled for its first reading in the Dewan Rakyat.

The Amendment seeks to introduce a new provision, section 59C, to the Copyright Act 1987, which extends the Copyright Tribunal's (**Tribunal**) jurisdiction to include disputes relating to royalties arising

[\[1\]](#)

between a licensing body and its members.

However, the Tribunal's jurisdiction to hear and determine royalty disputes may be excluded by the agreement between the licensing body and the members. The Amendment further provides that an order by the Tribunal on royalties may be in perpetuity or for such period as the Tribunal may determine.

The Amendment is a welcomed one, as it expands the jurisdiction of the Tribunal much like what our common law neighbours, Singapore and Hong Kong have done. Further, the Amendment seems to be in line with recent judicial trends to accord more power and jurisdiction to

[\[2\]](#)

the Tribunal.

That being said, the Amendment provides for a specific forum for aggrieved members to raise royalty disputes, i.e. before the Tribunal. The Tribunal's orders are deemed to be an order of a Sessions Court and may be referred to the High Court, where it shall be treated as an appeal. A decision of the High Court shall be final and conclusive, and no such decision may be challenged, appealed against, reviewed, quashed or called in question. Consequently, this may mean that the right of an "appeal" by a member of a licensing body concerning a royalty dispute that originates from the Tribunal may stop at the High Court.

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[1]

A licensing body is an agency authorised by the copyright holder to conduct collections of royalties on behalf of them. For musical works, there were four licensing bodies, which were Music Authors' Copyright Protection Berhad (MACP), Public Performance Malaysia Sdn Bhd (PPM), Recording Performers Malaysia Berhad (RPM) and Performer's Rights and Interest Society Malaysia Berhad (PRISM) pre-2017. Starting 1 January 2017, Music Rights Malaysia (MRM) was declared the single licensing body for the collection of royalty for musical works.

[2]

In *Sheikh Abdullah bin Ahmad v Universal Music (M) Sdn Bhd* [2017] 11 MLJ 616, the High Court described the Tribunal as a "specialised body to look into these disputes on equitable remuneration".