

Legality of Contracts Giving Away "All Rights"

Issue: When they are presented with contracts stating that they have no further rights to their songs after one-time payment. Are such contracts enforceable? What options do they have?

1. Assigning / Transferring copyright - basic concept

- Under Indian law, copyright assignment is the legal mechanism by which a copyright owner (assignor) transfers some or all of their rights to another (assignee). This is governed by Section 18, 19, and related provisions of the Copyright Act, 1957. (indialawoffices.com)
- For an assignment to be valid:
 - It must be in writing and signed by the assignor (or authorised agent). (indialawoffices.com)
 - The work and rights assigned, territorial extent, duration, and any royalties to be paid must be specified. (indialawoffices.com)
 - If term or territory is not specified, the law provides default rules: term = 5 years, territory = India. (indialawoffices.com).
- An assignment can be full (all rights) or partial (certain rights). The assignor may retain some rights (e.g. moral rights, future rights, rights in other media).
- Authors also have moral rights under Section 57, which survive even after assignment, unless specifically waived. (Kautilya Society, RMLNLU)

2. Are "all-rights forever" contracts enforceable?

- Legally yes — partly, but subject to conditions and possible challenge:

- If the contract is properly drafted (writing, signature, specification of rights, term, territory), courts will generally enforce it.
 - However, if the contract is grossly unfair, unconscionable, or obtained by coercion, misrepresentation, undue influence, there may be grounds to challenge it (in contract law).
 - Also, as per Sections 19(5) & 19(6): if term or territorial extent is not specified, the assignment is deemed limited (5 years, India) — so a purported "forever, worldwide" grant might not automatically hold if those terms are absent. (ACC Docket).
 - In practice, weaker parties (like individual artists) may face pressure to sign unfair agreements; courts may sometimes find unconscionability or inequitable terms, but such challenges are difficult and require legal proceedings.
- Example: In the "Pine Labs vs Gemalto" case, the Delhi High Court held that assignment documents that did not specify duration or territory would be deemed limited to 5 years and India, not perpetual, worldwide. (Wikipedia)
 - Also, Section 19A of the Copyright Act allows for revocation of assignment in certain circumstances, e.g. if the assignee fails to "exercise" the rights or comply with their terms. (indialawoffices.com)

3. Red flags to look for in contracts

Some clauses that may unfairly prejudice the artist:

- "All rights forever, worldwide" with no defined duration or territory.
- "No future claims ever" / waiver of moral rights / no credit.
- "No royalty, only one-time lump payment, no sharing of downstream revenue."
- "Exclusive rights in all media (now known or unknown) in perpetuity."
- "Artist must waive or assign all derivative rights, adaptation rights, merchandising rights, sync rights, etc."
- "No audit rights, no transparency in accounts or usage statement."
- "No reversion clause" (i.e. rights never revert to artist).
- "No termination rights" or "no recourse."
- "Artist indemnifies producer / licensee from all claims."
- "Grossly low consideration / unfair pricing."

4. What to do if pressured to sign such a contract

- Seek advice (legal counsel or trusted mentors) before signing.
- Negotiate: try to limit the rights you give, or insist on royalties, term/territory, audit, credit, reversion clause.
- Use a standard contract template that protects your interests (see next section).
- Refuse the "take-it-or-leave-it" clause: insist on carve-outs or modifications.
- Annotate (draft) your own version and ask the other party to sign that.
- Leave room for termination / reversion in the contract.
- If forced under duress, you may later argue the contract is voidable in court (if duress / undue influence / misrepresentation can be shown).

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