



HOUSE OF REPRESENTATIVES

*Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.*

House Bill No. **4731**

EXPLANATORY NOTE

Studies conducted by the World Intellectual Property Organization support the proposition that Copyright-based Industries (CBIs) contribute significantly to national economies.

"Various national studies have shown the significant economic impact of creative industries in both developed and developing countries. The studies have revealed the considerable contribution of the industries to GDP and national employment. xxx The activities of these industries, which include the creation, production, marketing, and distribution of products and services resulting from human creativity, deal with the interplay of various knowledge-based economic activities. The significance of copyright-related issues has become more apparent with the growing role of knowledge as the driver of productivity and economic growth¹".

Carino², in her study "Updating the 2006 WIPO Study of the Economic Contribution of Copyright-Based Industries in the Philippines", reported that

"In 2010, the total contribution of CBIs to the GDP of the Philippines was estimated at 7.34 per cent, of which 5.11 per cent was by core CBIs, 1.32 per cent by interdependent CBIs, 0.51 per cent by partial CBIs, and 0.41 per cent by non-dedicated support CBIs. CBIs employ approximately 14.14 per cent of total employment or an estimated 560,665 workers, 8.83 per cent of whom are in core CBIs, 3.27 per cent in interdependent CBIs, 1.21 per cent in partial CBIs, and 0.82 per cent in the non-dedicated CBIs. Copyright-based exports, estimated at 3.06 per cent of total exports, exceeded copyright-based imports, which made up 0.81 per cent of total imports."

These results open for the Philippines enormous opportunities to achieve its development objectives by positioning CBIs as key component of economic development strategy. "For this reason, the government and other stakeholders must ensure that CBIs get vibrant support and that all hindrances to their ability to thrive and stimulate a competitive market are removed³".

This bill seeks to respond to the challenge raised in Article XII, Section 1 of the Constitution which provides, "The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged."

¹ Belete and Tadesse, "The Economic Contribution of Copyright Industries in Ethiopia", World Intellectual Property Organization, September, 2014, 11.

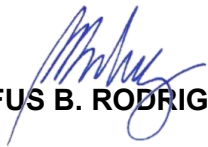
² Carino, E, "Updating the 2006 WIPO Study of the Economic Contribution of Copyright-Based Industries in the Philippines Using Methodologies Established by the World Intellectual Property Organization", World Intellectual Property Organization, November 25, 2014, 4.

³ Carino, E, op cit.

At the same time, this bill complies with the Constitutional mandates that the “State shall give priority to xxx arts, culture, xxx to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development⁴” and to “promote and popularize the nation's artistic creations⁵”, and “foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.⁶”

Predicated on the proposition that a robust Filipino Music industry, which is mostly, if not wholly, copyright-based, can serve as an engine of economic growth and development, the Bill proposes the creation of an administrative agency, Music Development Council of the Philippines (“Council”), that will develop strategic plans and programs; initiate, undertake or support activities that will a) promote the growth and development of the Filipino music industry and enhance its distribution and dissemination in both domestic and foreign markets; b) establish and implement music quotas; c) develop and implement an incentive and reward system to encourage the consistent, purposive and effective exposure and promotion of Filipino music to the public; d) establish, organize, operate and maintain Filipino music festivals and similar activities for the purpose of promoting the broadest dissemination of Filipino music as a tool of socio-cultural and economic development; e) develop and promote programs to hone local talent and enhance the skills and expertise of Filipino songwriters and performers; among other tasks and functions.

The immediate consideration and passage of this bill is earnestly requested.



RUFUS B. RODRIGUEZ



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⁴ Please see Constitution, Article II, Section 17. **The State shall give priority to education, science and technology, arts, culture, and sports to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development.** (Emphasis supplied)

⁵ Constitution, Article XIV, Section 15. Arts and letters shall enjoy the patronage of the State. The State shall conserve, promote, and popularize the nation's historical and cultural heritage and resources, as well as artistic creations.

⁶ Constitution, Article XIV, Section 14. The State shall foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.

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AN ACT

CREATING THE MUSIC DEVELOPMENT COUNCIL OF THE PHILIPPINES, DEFINING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR, PROVIDING FOR PENALTIES FOR CERTAIN ACTS, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* - This Act shall be known as the "Patronize Filipino Music Act".

SECTION 2. *Declaration of Policy.* – Consistent with the constitutional mandates to give priority to arts and culture to foster patriotism and nationalism; to promote and popularize the nation's cultural heritage and resources, as well as artistic creations; to stimulate the enrichment and dynamic evolution of a Filipino national culture based on the principle of unity in diversity, the State shall build institutions to boost Filipino music creativity, not only to raise national identity, pride, and prestige, but also to develop a robust music industry that can serve as an engine of national economic growth.

SECTION 3. *Definition of Terms.* -

(1) "Council" refers to the Music Development Council of the Philippines created by virtue of this Act;

(2) "Filipino song", or "Filipino music", as used hereafter, shall be understood as a musical composition, whether performed live or fixed in a sound or audio-visual recording, that meets any two of the following conditions, namely:

(i) the melody is composed entirely by one or more Filipino citizens;

(ii) the lyrics are written entirely by one or more Filipino citizens;

(iii) the original lyrics, if any, are substantially in the Filipino language or any of the Philippine dialects, or

(iv) the musical composition is performed principally by one or more Filipino citizens.

(3) "Public performance" is understood as defined under Section 171.6 of Rep Act No. 8293;

(4) "Broadcasting" is understood as defined under Section 202.7 of the IP Code;

(5) "Communication to the public" or "communicate to the public" is understood as defined under Section 171.3 of Rep Act No. 8293;

(6) "Covered establishment" refers to any person, whether juridical or natural, who engages in the business of broadcasting, publicly performing and/or any similar form and manner of communicating music to the public, now known or hereafter to be known, including, but not limited to, radio stations, television stations, internet radios, New Media outlets, and other music users, establishments or entities, as may be so classified by competent authority pursuant to this Act.

(7) "Program Playlist", as understood under this Act, shall mean the list of songs that a television, radio or New media outlet broadcasts as part of its programming, if any, the preparation of which is dependent on the will, discretion or control of the producer, not on some algorithm, survey results, public preference or third-party influence.

(8) "New Media" shall refer to forms of mass communication using digital technologies, including, but not limited to, digital service providers, internet radios and similar Internet outlets, whether or not offering interactive or non-interactive services.

SECTION 4. *Creation of the Music Development Council of the Philippines.* – To carry out the provisions of this Act, there is hereby created a Music Development Council of the Philippines, hereinafter referred to as the Council, under the Office of the President.

SECTION 5. *Powers and Functions.* - The Council shall have the following powers and functions:

1. To develop strategic plans and programs and to initiate, undertake or support activities that will promote the growth and development of the Filipino music industry and enhance its distribution and dissemination in both domestic and foreign markets;

2. To establish and implement music quotas in accordance with the criteria set forth in this Act. For this purpose, the Council shall conduct periodic assessments, review and revision of music quotas in effect and promulgate, as the Council may deem appropriate, rules providing for additional music quotas or covered establishments to better achieve the objectives of this Act, after public consultations with stakeholders and industries. Provided that, such music quotas shall not diminish those provided under this Act.

3. To develop and implement an incentive and reward system for the covered establishments to encourage the consistent, purposive and effective exposure and promotion of Filipino music to the public;

4. To establish, organize, operate and maintain Filipino music festivals and similar activities for the purpose of promoting the broadest dissemination of Filipino music as a tool of socio-cultural and economic development;

5. To develop and promote programs to hone local talent and enhance the skills and expertise of Filipino songwriters and performers;

6. To receive complaints, institute administrative investigations *motu proprio*, hear and adjudicate administrative cases and matters; to suspend or impose fines, as evidence may warrant; cause, initiate or endorse the criminal prosecution of violators of this Act and its implementing rules and regulations. For this purpose, the Council shall have the power to issue subpoena or subpoena duces tecum to compel the attendance of witnesses and production of documents and other effects, to cite any person for direct or indirect contempt in accordance with Rule 71 of the Rules of Court and to enlist the assistance or services of the Department of Justice or the Office of the Solicitor General;

7. To call upon and create institutional linkages with representatives of different government agencies and other various associations in the music industry to help ensure compliance with the provisions of this Act and its implementing rules and regulations.

8. To deputize any law enforcement agency and instrumentality of the government for assistance in the implementation and enforcement of its functions and orders.

9. To prescribe the procedures for the exercise of its powers and functions as well as the performance of its duties and responsibilities;

10. To determine the Council's organizational structure and staffing pattern and appoint officers and employees of the Council in accordance with Civil Service laws, rules and regulations;

11. To acquire, manage and hold such real and personal property as may be necessary to carry out the purposes and objectives of this Act;

12. To invest funds and other assets in such activities or undertakings that shall directly and indirectly promote the development of the Filipino music industry under such terms and conditions as it may deem wise and desirable;

13. To perform such other functions as may be necessary to carry out the provisions of this Act.

SECTION 6. *Composition of the Council.* - The Council shall be composed of four (4) *ex officio* members and five (5) regular members to be appointed by the President. The Chairperson shall be appointed by the President from among the five (5) regular members.

The *ex officio* members of the Council shall be composed of the Secretary of the Department of Trade and Industry (DTI), or his duly authorized representative; the Secretary of the Department of the Interior and Local Government (DILG), or his duly authorized representative; the Secretary of the Department of Justice (DOJ), or his duly authorized representative; and the Chairperson of the National Commission for Culture and the Arts, or his duly authorized representative; Provided, That the authorized representatives shall have a rank not lower than the Assistant Secretary.

The five (5) regular members shall be appointed from the following segments of the private sector, namely, (a) Songwriters; (b) Performers; (c) Sound recording producers; (d) Broadcasters and New Media and (e) the Academe. The regular members shall be nominated by their nationally recognized associations or organizations.

The members of the Council shall elect from among themselves a Vice-Chairperson.

SECTION 7. *Term of Office.* The Chairperson and the regular members of the Council shall hold office for a term of three (3) years, unless sooner removed by the President for cause; Provided, That the Chairperson and the Regular members may not serve for more than two (2) consecutive terms: Provided, further, That if any member fails to complete his or her term, the person appointed to fill the vacancy shall serve only for the unexpired portion of the term. Provided, finally, That such service of the unexpired portion shall not be counted as a term.

SECTION 8. *Qualifications.* - The regular members of the Council shall be Filipino citizens, at least twenty-one (21) years old, of good moral character and standing in the community, and with proven ties and competence in the industry they represent; Provided, that the Chairperson shall be at least thirty-five (35) years old, of known probity and managerial and administrative competence.

SECTION 9. *Meetings.* - The Council shall meet regularly at least once a month or as often as necessary at the call of the Chairperson or a majority of the members. A majority of the members of the Council shall constitute a quorum to do business.

SECTION 10. *Compensation.* - The Chairperson shall receive a salary and allowances based on current approved standardized government compensation.

The Vice-Chairperson and members of the Council shall receive honoraria and allowances based on existing government accounting and auditing rules and regulations.

SECTION 11. *Chief Executive Officer.* - The Chairperson shall be the Chief Executive Officer and shall exercise overall administrative supervision to ensure the effective and efficient implementation of the policies laid down by the Council. The Chairperson shall have the same rank and salary of an Undersecretary of a Department. The Chairperson shall have the following functions:

1. Execute and administer the policies, plans and programs approved by the Council;

2. Direct and supervise the operations and internal affairs of the Council;
3. Establish the internal organization and administrative procedures of the Council;
4. Recommend to the Council the appointment, transfer or detail suspension, dismissal for cause of its subordinate officials and employees;
5. Submit an annual budget to the Council for its approval;
6. Delegate his or her authority, in whole or in part, to other members of the Council, in accordance with the rules and regulations of the Council; and
7. Sign and approve recommendations and resolutions imposing administrative penalties and other sanctions against persons found to have violated provisions of this Act and its implementing rules and regulations;
8. Perform such other powers and functions as may be authorized by the Council or the President.

SECTION 12. *The Council Secretariat.* - The Council shall have a Secretariat, herein created, headed by an Executive Director who shall assist the Chairperson in the day-to-day operations of the Council.

The Executive Director shall be appointed by the Chairperson subject to the approval of the Council. His term shall be coterminous with the Chairperson.

SECTION 13. *Registration of Covered Establishments.* Any person, establishment or entity which intends to engage in the activities of a covered establishment, as defined in Section 3 (5), above, shall register with the Council for statistical purposes; Provided, that all existing establishments or entities so engaged in the above activities shall, within sixty (60) calendar days from the effectivity of the rules and regulations implementing this Act, likewise register with the Council.

SECTION 14. From the effectivity of this Act, all permits to operate issued by relevant agencies of the national government and by local government units, as well as legislative franchises issued by Congress to covered establishments shall carry the condition that the grantee shall comply with music quotas, as provided in this Act.

SECTION 15. *Duty to Comply with Filipino music quotas.* All covered establishments shall comply with the music quotas, as provided herein, or as may be revised by the Council in accordance with this Act.

- i. Television, radio broadcasting stations and New Media outlets offering non-interactive services shall broadcast an all-Filipino music program playlist during the observance of *Araw ng Kalayaan* or on the entire day of June 12th of each year.
- ii. New Media outlets offering interactive or on-demand services shall feature and make available to the public an all-Filipino music program playlist during the day-long observance of *Araw ng Kalayaan* or June 12th of each year.
- iii. On other days of the year, television, radio broadcasting stations and New Media outlets offering non-interactive services shall include in their daily program playlists from Monday to Sunday of every broadcast week, Filipino songs of their choice at least two (2) of which shall be played in their entirety every clockhour.
- iv. New Media outlets offering interactive or on-demand services shall feature and make available to the public a daily program playlist from Monday to Sunday of every broadcast week, which shall contain at least two (2) Filipino songs of their choice.
- v. The number of Filipino songs prescribed in Sections 14.3 and 15.4 shall be three (3) and four (4) on the third and fourth year, respectively, from the date of implementation of this Act.
- vi. Compliance with the music quotas shall be reckoned on a weekly basis.

SECTION 16. *Reportorial Requirements.* All covered establishments shall preserve actual recordings of their broadcasts for a period of fifteen (15) days from the date of recording to be submitted to the Council upon demand. Covered establishments shall file a sworn statement

of compliance with the applicable music quotas provided under this Act and its implementing rules and regulations within such periods and in such form and manner as prescribed by the Council.

SECTION 17. Administrative Sanctions.

a) *Failure to Register.* Any covered establishment which shall fail to register, as required under Section 12 shall be fined in an amount of not less than Five Thousand Pesos (5,000.00), but not more than Ten Thousand Pesos (Php 10,000.00).

b) *Failure to Produce Actual Recordings Upon Demand or to File Sworn Statement of Compliance.* Any covered establishment which shall fail to produce actual recordings upon demand or to file the Sworn Statement of Compliance shall be fined in an amount of not less than Ten Thousand Pesos (10,000.00), but not more than Twenty Thousand Pesos (Php 20,000.00) per violation.

c) *Filing of a Falsified Sworn Statement of Compliance.* Any covered establishment which shall file a falsified Sworn Statement of Compliance shall be imposed the penalty of suspension from five (5) days to twenty (20) days or a fine in the amount of not less than Twenty-Five Thousand Pesos (25,000.00), but not more than Fifty Thousand Pesos (Php 50,000.00) per violation, or both.

d) *Prima facie Presumption.* Failure to produce the actual recordings upon demand or to file the Sworn Statement of Compliance under subsection a) or the filing of a falsified Sworn Statement of Compliance under subsection b) of this Section shall give rise to a prima facie presumption that the covered establishment failed to comply with the applicable music quotas.

e) *Failure to Comply with Music Quotas.* Any covered establishment which shall fail to comply with music quotas shall be imposed the penalty of suspension from ten (10) days to sixty (60) days or a fine in the amount of not less than Forty Thousand Pesos (P40,000.00), but more than Eighty Thousand Pesos (80,000.00) per violation, or both.

SECTION. 18. Criminal Action for Repetition of Failure to Comply with Music Quotas. - Any covered establishment, having been administratively sanctioned at least two (2) times by final order for failure to comply with music quotas shall suffer imprisonment for a period of not less than six (6) months but not more than three (3) years or a fine of not less than One Hundred Thousand Pesos (P100,000) but not more than Three Hundred Thousand Pesos (P300,000), or both, at the discretion of the court.

SECTION 19. Persons Liable. - If the offender is an alien, the person shall immediately be deported after serving his sentence, and shall, thereafter, be refused entry into the country.

If the offender is a government official or employee, he shall suffer perpetual disqualification from public office.

Should the offense be committed by a juridical person, the stockholders, chairperson, president, officer, director, trustee, partner or manager responsible for such violation shall be liable.

SECTION. 20. Funding. —The Executive Secretary shall immediately include in the Office of the President's program the implementation of this Act, the funding of which shall be included in the annual General Appropriations Act.

To augment the operational expenses of the Council, the Council may impose reasonable fees and charges for services rendered; Provided, That the amount actually collected shall be deposited with the National Treasury as a special account in the General Fund and may be used to augment its maintenance and other operating expenses, and capital outlays except the purchase of motor vehicles, subject to existing accounting and budgeting rules and regulations.

SECTION 21. Authority to Accept Donations. - The Council may accept donations, contributions, grants, bequests or gifts, in cash or in kind, from various sources, domestic or foreign, for purposes relevant to its functions. Said donations shall be deemed automatically appropriated for purposes specified by the donor or in the absence thereof, for the programs and projects as may be approved by the Council subject to the usual government accounting and auditing rules and regulations; Provided, That cash donations shall not be used to fund the personal services requirements of the Council.

Any donation, contribution, subsidy or financial aid which may be made to the Council shall be exempt from taxes of any kind and shall constitute allowable deductions in full from the income of the donors, contributors or givers for income tax purposes.

SECTION 22. Assistance from Other Government Agencies. – The Council may request any department, bureau, office, agency or instrumentality of the government for such assistance as may be needed in the performance of its functions.

SECTION 23. Annual Report. - The Council shall, within ninety (90) days for the end of each fiscal year, include in its annual report to the President and to Congress its accomplishments under this Act, together with its plans and recommendations to further achieve the objectives of this Act.

SECTION 24. Joint Congressional Oversight Committee. - A Joint Congressional oversight committee shall be composed of the chairs of the Senate Committee on mass media and the House of Representatives committee on public information, and two members each from the Senate and House of Representatives who shall be designated by the Senate President and the Speaker of the House of Representatives, respectively. The Oversight Committee shall monitor and ensure the proper implementation of this Act.

SECTION 25. Implementing Rules and Regulations. - The Council shall within three months from the effectivity of this Act submit to the COC, the implementing rules and regulations (IRR) governing this Act. The COC shall approve the IRR within thirty days from its receipt.

SECTION 26. Separability Clause. - If, for any reason, any provision of this Act is declared invalid or unconstitutional, the other sections or provisions not so declared shall remain in full force and effect.

SECTION 27. Repealing Clause. – All other laws, acts, executive orders, issuances, presidential proclamations, rules and regulations or parts thereof which are contrary to and inconsistent with any provision of this Act are hereby repealed, amended or modified accordingly.

SECTION 28. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,