

Rules and Regulations

Project Definition

Read Carefully as Failure to Comply with the Following Rules and Regulations shall result in rejection of your application.

The IFPI (Hong Kong Group) Limited (the “Organiser”) has managed to secure the funding support from Create Hong Kong to launch a Music Must Go On Scheme aims at providing limited subsidy support of the production cost to qualified local record companies in making new sound recordings from re-arrangement of a selected pool of past local recorded golden melodies and hit songs for commercial release in Hong Kong within a prescribed period (the “Scheme”).

The Scheme aims to encourage music creativity of Studio Practitioners; highlighting the importance of the social and economic contributions of the local recording industry to the local and overseas entertainment community. It is the industry’s initiative to relaunch Hong Kong and restore sagging confidence in Hong Kong during the pandemic period.

The application shall be considered on a rolling basis (while the project quota lasts) or the deadline of 10 November 2020, whichever is the earlier, and any late application will not be entertained. Potential applicants must read, understand, and agree to comply with the following rules and regulations before making an application for the fund.

Objectives

The Scheme supports the creativity of Hong Kong Studio Practitioners (whose majority of their incomes source from playing in recording studio sessions) such as Practitioners and sound engineers to produce new master recordings of the past local hit songs and commercial release of new products to the benefit of the community so as to enlarge the talent pool for the local recording industry.

The Scheme further provides an opportunity for the industry to expand music by making music re-arrangement to generate new meaning and present the local golden melodies in a completely new guise in Hong Kong within the short release cycle.

The Scheme is open to Qualified local record labels, and record companies to apply for the subsidy.

Eligibility Criteria

An applicant who has established a place of business and invested in producing and commercial release of the recording in Hong Kong on or before 31 December 2019 and it has a signed recording Artiste (the commencement of the contract date must be before 31 December 2019) who is willing to participate in the Scheme are welcomed to apply for the subsidy under the Scheme.

A studio musician who has established a history of being paid to play on tracks may only be eligible to apply if an applicant has agreed to engage or hire him/her and that Applicant has included his/her name in its application for the subsidy under the Scheme.

An Artiste is not eligible to apply for a subsidy unless he/she is qualified as the sole music arranger responsible for the project.

Key Features

1. The quota for subsidy: 120 title songs (chosen from the Organiser's list of approved songs).
2. Qualified Applicants, Studio Practitioners and Artistes shall have proven record of producing and commercial release of a sound recording in Hong Kong on all before 31 December 2019.
3. Qualified Applicant must be a Hong Kong-registered or incorporated company that has established a place of business in Hong Kong.
4. Studio Practitioners must be HK ID cardholders.
5. A mere licensee of commercial sound recordings is not eligible to apply.
6. Each application for the subsidy must include at least 6 Studio Practitioners, their ID card numbers, budget for each and evidence of cover version licence for the song the Applicant intends to produce the master recording of it.
7. Each Applicant may submit applications for all or any of its Artistes but for the purpose of the grant of subsidy within available quota. Therefore, the Applicant must set out the priority of the Artistes in his application that it wants the Organiser to grant subsidy given that it is unlikely that any Artistes who are placed beyond the top three Artistes of its priority list would be considered.
8. Each Artiste is limited to apply for 3 songs. He/She must set out his/her song preferences in respect of his/her 3 chosen songs. Because of the limited quota available for the Qualified Applicant, only the Artiste's first choice of song is considered during the first round of grant of subsidy (while quota lasts).

9. The first Artiste on the priority list of a Qualified Applicant will be considered for the first round of grant until all the quota is filled or on the closing deadline, whichever is earlier.
10. If there is any quota unfilled on the closing deadline, the second Artiste on the priority of that Qualified Applicant will be granted subsidy based on the timestamp of its application, and so on so forth with the third, fourth Artistes etc. on the respective priority lists of the Qualified Applicants until all the quota is filled.
11. After the first round of grant under section 10 above is completed, if there is still quota available, the second priority of the chosen songs of various Artistes will be considered for the second round of grant based on timestamps and so on so forth.
12. To ensure the better representation of the recording industry participating in the Scheme, the Organiser will adopt the widest spread of labels and Artistes of a different genre eligible for the subsidy as possible. The Artistes are divided into three groups based on their seniority in the recording industry:
 - Group 1: Those who have commercially released their respective first records in Hong Kong between 1 January 2015 and 31st December 2019.
 - Group 2: Those between 1 January 2010 and 31 December 2014.
 - Group 3: Those before 31 December 2009.Each Group has a 40-song quota.

Application Check List

- 1) Certificate of Incorporation and Business Registration for non-member applicants.
- 2) Date of 1st commercial release of a music sound recording by the named Artiste, including sound recording title, composer/lyricist, name of the record label for ISRC check, recording sample.
- 3) For non-member applicant, recommendation letter from 2 Full Members of the Organiser.
- 4) Studio Practitioner's brief biography and evidence of past professional service rendered to a music label or recording company.
- 5) A copy of the lyrics.
- 6) Evidence of cover version licence from the right grantor.
- 7) The completed Application Form, including selection priority set for the Artiste, song choice preference order and the budget for producing the cover version under application with the budget agreed with each studio Practitioner (not less than 6).
- 8) Any other documents and information as may be required by the Organiser.
- 9) A signed copy of Application Form and the Undertaking to abide by the Rules and Regulations listed below.

Terms and Conditions of the Application

The Scheme is known as “The MUSIC MUST GO ON 2020.” Hereinafter referred to as “the Scheme”

Other Definitions

Artiste: The featured performer(s) who has recorded and released music for Hong Kong recording industry before 31st December 2019, be a solo singer, a duet, a band, an instrumentalist, often billed as the main attraction for the recording. He/she must be a signed recording Artiste (and will remain so) with the Qualified Applicant on or before 31 December 2019.

Commercial Release means the issuance of copies of a song for sale to the public (publishing) and/or making available copies of a song to the public on the Internet for payment in Hong Kong

Any making available and/or distribution of recordings irrespective of promotional use uploaded to UGC and Social Media Network free of charge and not getting any compensation from the Network shall not be considered as a commercial release

Studio Practitioner A person whose majority of income comes from playing music in recording studio sessions and has established a history of being paid to play on tracks on or before 31 December 2019. He/she must be a musician, music arranger, vocalist, record producer, and sound engineer who have provided professional services in producing music sound recordings for Hong Kong record companies with a recommendation from a Hong Kong Record company that he has indeed provided competent professional services to it in making its music sound recording.

Qualified Applicant: A Hong Kong-registered or incorporated company with a place of business in Hong Kong that usually invests and conducts record business in Hong Kong, pre-existing on or before 31 December 2019 Provided that the Applicant must be a company that

- (i) has a proven sale record of the commercial release of music sound recordings before between 1 January 2009 and 31 December 2019, or

- (ii) it is the original producer of any musical sound listed in the Selected Pool of songs, or
- (iii) is a non-member of the Organiser, it has a proven sale record of the commercial release of music sound recordings between 1 January 2009 and 31 December 2019 and has duly secured the written recommendation from 2 Full Members of the Organiser.

Selected Pool The list of past popular Chinese repertoire recordings as selected by the Organising Committee.

The scope

- i) The Organiser will consider receiving an application and approving up to 120 projects depending on the operational performance management requirements of the Scheme. The consideration and approval to a Qualified Applicant will be made on a rolling basis within each quota set for each group of the Artistes based on their respective seniority in the recording industry (so early application is encouraged). It will continue accepting applications during the application period up to when all the 120-recording project quota are approved and filled.
- ii) The aim of the Funding Scheme requires the successful Applicant to use the subsidy to engage not less than six Studio Practitioners for producing a master of a music sound recording of a cover version of Hong Kong golden oldies.
- iii) The level of subsidy support for the production of a musical sound recording shall be limited to or capped at 90% based on an average industrial norm for a production budget of HK\$68,000.00 per music sound recordings, i.e. the Organiser would only be reimbursed 90% of the allowable cost up to HK\$61,200.00 (the Applicant shall bear any extra costs of production beyond that amount) on a precondition that at least 80% of the reimbursement of the capped production cost must be used for the purpose of employing or engaging at least 6 Studio Practitioners per the title of the recording.
- iv) For illustration, HK\$ 48,960 out of the capped reimbursed portion of HK\$61,200.00 must be used to pay the salaries of or professional fees for at least six Studio Practitioners.
- v) The overall limit on total disbursements to be made to a Studio Practitioner shall be capped at HK\$80,000.00 under the Scheme irrespective of how many projects that Studio Practitioner has participated.

Key points

- i) The Selected Pool of songs available for the Scheme is published under the official website www.the-music-must-go-on.com
- ii) The relevant music publisher(s) have granted the mechanical reproduction licences as cover version recording for the above-Selected Pool of songs.
- iii) It is the Applicant's responsibility to secure a relevant cover licence from the right owner or licensee for the purpose of producing a master recording of a cover version of that song before making an application for subsidy.
- iv) No adaption or alteration of lyrics is allowed although the differences may be in vocal or instrumentation, and purely instrumental music only cover version is accepted.
- v) Where relevant, re-recording rights by the original Artiste has been attained from the ex-label.
- vi) These restrictions apply to Medley (the relevant cover version licences for all the works in the Medley must be secured first) and are counted as one application.
- vii) Upon completion of the production of the funded master recording, the Applicant must submit Metadata as well as a copy of the cover version of the song at its own expense to the Organiser for record-keeping.
- viii) It is important to note that, as the source of the subsidies are not coming from the Anti-Epidemic Fund, the subsidies granted under the Scheme may not be exempted under the Exemption Order (comes into operation 29 May 2020) and are therefore in principle taxable. Please consult your own tax advisor accordingly.

The Allowable costs

Studio Practitioners (excluding personal assistants) may be reimbursed according to the following scale:-

- i) Producer, conductor, music arranger one per each project,
- ii) studio musician(s) and chorus.
- iii) Recording engineer and mastering engineer.
- iv) As an exception, the cost for the Artiste's own personal assistant(s) shall be limited to HK\$4,000 for a solo Artiste, and at HK\$6,000 for a group/band per title.

- v) The Artiste is not considered as a Studio Practitioner and is not eligible for subsidy save and except if he/she also acts as the sole music arranger for the funded cover version of the song and in such event, the Artiste's disbursement (counted as one of the Studio Practitioners) shall be limited up to HK\$15,000 per title (and also subject to the overall limit on disbursements of HK\$80,000.00 under the Scheme).

Allowable Expenditures within the meaning of HK\$68,000 production cost

- i) Royalty advance/guarantee payable to musical works rights (composer(s), lyricist(s), music publisher(s), and collective licensing bodies.
- ii) Re-recording rights to be charged by the labels that hold the exclusive recording right of the title by the same Artiste.
- iii) Licence fees for new recording technology.
- iv) Cover designer, photographer, and critical art designer.

Non-allowable costs (Applicant bears its own costs)

Excluding from the HK\$68,000 cap: -

- i) Advertising
- ii) Manufacturing
- iii) Qualified Applicant and its employee staff members (even though took part in the production and running of the funded project for the Applicant).
- iv) Disbursement items such as photocopying, Travelling, meals, insurance, and purchases of materials for the production of the master of the selected title of a song.
- v) Except as provided herein, the cost of an Artiste is excluded from the Scheme.
- vi) Qualified Applicant's own business/operational cost (whether it relates to the project or not).

The Recording Artiste

- i) It is the policy of the Scheme to ensure the widest spread of labels and Artistes of a different genre in Hong Kong recording industry and to encourage as many Artistes as possible to participate in the Scheme. Each Applicant may submit applications for all or any of its Artistes. However, owing to the limited number of quota, it is unlikely that any Artistes who are placed beyond the top three Artistes of its priority list would be considered for the first round of grant of the subsidy. Therefore, the Applicant must set out the priority of its Artistes in its application.
- ii) Also, each recording Artistes shall only be entitled to no more than 3 titles under this Scheme, he/she must indicate his/her song preferences in respect of his/her chosen songs, Owing to the limited quota, only the first selected song of each eligible Artiste may be considered for the first round of grant of subsidy under the Scheme (while the quota lasts). The first Artiste on the priority list of a Qualified Applicant will be considered for the first round of grant until all the quota is filled or on the closing deadline, whichever is earlier.
- iii) Suppose there is any quota unfilled on the closing deadline; in that case, the second Artiste on the priority list of that Qualified Applicant will be granted subsidy based on the timestamp of its application, until all the quota is filled.
- iv) If there is any quota left, then the Organiser will move on to the third, fourth etc. Artistes on the priority lists of the Applicants and so on so forth until all the quota is filled.
- v) If there is still unfilled quota after the above rounds of the grant and all the Artistes first song named in all the duly completed applications received before closing deadline have been granted, then the second song of the first Artistes on the respective priority lists of the Applicants would be considered for the second round of grant based on the timestamp and so on so forth extended to the third song until all the quota is filled.
- vi) If there is still quota remain open in any particular artist group; still, there remain qualified applications un-filled by other groups, the available quota will be made available to the other groups for granting based on highest priority application remaining, irrespective of seniority grouping setout hereunder.
- vii) The Artistes shall be divided into three groups based on their seniority in the recording industry when considering their applications as follows:

Group 1: Those who have commercially released their respective first records in Hong Kong between 1 January 2015 and 31st December 2019.

Group 2: Those between 1 January 2010 and 31 December 2014.

Group 3: Those before 31 December 2009.

Each Group has a 40-song quota.

- viii) The Artiste shall be Hong Kong Qualified Applicant's signed Artiste who may not be an HKID holder. Still, the entire production of the master recording of the cover version of his/her chosen song must be completed in Hong Kong. The non-Hong Kong Artiste must have the relevant working visa in Hong Kong if his/her vocal part is to be recorded and done in Hong Kong.
- ix) The service company must be a Hong Kong incorporated company.
- x) The Applications and approval process for a place shall be considered on a rolling basis (while quota lasts) based on the timestamp of the Organiser's receipt of the duly completed valid application.

The Application

- i) Applicant must use the Application Form available on www.the-music-must-go-on.com
- ii) The application shall be open from 20 October 2020, and be approved on a rolling basis. The Organiser will continue considering applications until all the projects quota is filled or the deadline of 10 November 2020, whichever is the earlier.
- iii) The Applicant should first consider and ensure that it has the means and ability to comply with the terms and conditions including the commercial release of the cover version of the approved title on or before 30 January 2021 in HK, before applying.
- iv) An Applicant must sign both the duly completed Application Form and the Rules and Regulations that shall be a binding agreement as between the Organiser and the Applicant for its selected title under the Scheme.
- v) Every application shall be examined inspected and approved by the Liaison; those applications that do not meet with the criteria of the Scheme will be returned to the Applicant. An Applicant may choose to submit a fresh application, Only those applications that have duly complied with the eligibility criteria and accepted by the Liaison Officer will be assigned with the timestamp based on the time and date on which the completed application form is received by the Liaison Officer.

- vi) The written confirmation of the grant of subsidy from the Organiser is a condition one. It will only take effect if the Qualified Applicant submits a copy of the relevant mechanical licence for the cover version of the song issued by the relevant music publishers or right owners (OP/SP) within seven days of the receipt of the confirmation of the grant.

Reimbursements

- i) The Qualified Applicant must use the Reimbursement Form available on www.the-music-must-go-on.com filing its claims for reimbursement.
- ii) The duly completed Reimbursement Form must be accompanied by supporting materials and documents for the Liaison Manager's inspection and review. The supporting materials and documents for reimbursement include but not limited to:
 - a. The finished recording
 - b. Recording log
 - c. Release proof
 - d. Music publishing licence
 - e. Re-recording licence if relevant
 - f. Final lyrics if the recording contains vocals
 - g. Copies of HKID cards and the invoice from each Studio Practitioner engaged for the production of the finished recording
 - h. Copies of the BR and the invoice of each service company
 - i. Cover design
 - j. Artiste publicity photo for the release
 - k. Publicity materials used in the release process, if any.
- iii) The Liaison Manager shall verify and determine if the claim for reimbursement is valid by way of inspecting and reviewing the supporting materials and documents supplied and satisfying the Qualified Applicant has fulfilled the project terms and conditions including their fulfillment of the undertaking.
- iv) The Liaison Manager will confirm (or adjust as the case may be) the amount of reimbursement according to the Rules and Regulations, such amount (including those restrictions imposed on each Studio Practitioner) will be notified to and to be acknowledged by the Qualified Applicant before making payment. Any shortfall shall be borne by the Qualified Applicant.
- v) The deadline for submission of the completed Reimbursement Form, including all supporting materials and documents shall be 22 February 2021.

- vi) The Project Accountant will handle and process all payments directly to the Studio Practitioner (s) and the services / Qualified Applicant by cross-cheques. The Studio Practitioner (s) may authorise, by written instructions to the Organiser, any payment to them directly to a company.
- vii) Under the subsidy rules, the reimbursement shall be payable by two instalments. The first instalment of up to 80% of the agreed sums will be settled as soon as practicable provided that funds are readily available from the government.

Disbursement of a Studio Practitioner

- i) Under no circumstances shall a Studio Practitioner receive more than an aggregate sum of HK\$80,000 from the subsidy Scheme irrespective of how many approved projects he/she has participated. Studio Practitioner means a natural person and/or the natural person providing service via a company.
- ii) Any change of Studio Practitioner shall be only be made after having obtained a written approval by the Organiser. Any application indicating that a new replacement of a Studio Practitioner who has accrued or will receive an aggregate sum of HK\$80,000.00 from the Scheme may be allowed on a condition that the Organiser shall refuse any reimbursement claim for the engagement of the replaced Studio Practitioner if the final disbursements for that Studio Practitioner have received or accrued an aggregate sum of HK\$80,000.00 or if such Studio Practitioner has received less than HK\$80,000.00, only the difference between his/her previously claims portion and the present claim as a replaced Studio Practitioner for that project (capped up to HK\$80,000.00) may be reimbursed.
- iii) The amount stated in invoice of services rendered to the project from a Studio Practitioner shall not be higher than the amount stated in the Application Form subject, however, to the capped aggregate sum of HK\$80,000 per each Studio Practitioner for services rendered for all the projects under the Scheme, as well as the maximum subsidy allowed per project, the Qualified Applicant in the capacity as the ultimate controller of project cost shall bear any excess due to the Studio Practitioner(s).
- iv) The Organiser will pay the invoice(s) accordingly as long as the Studio Practitioner has duly complied with the rules and regulations governing the engagement and disbursements of a Studio Practitioner.

- v) A Studio Practitioner providing service via a corporate vehicle is required to produce to the Organiser with authorisation from the board of directors, the name of the company and the valid BR details.
- vi) The wage or engagement fees to be charged by the Studio Practitioner (s) shall be within the norm of music industry rate and practice. The Organiser shall have the final say on whether the proposed amounts on such wages or engagement fees are within the norm, and its decision shall be final and binding on the Qualified Applicant.

Undertakings by the Qualified Applicant:

- i) The production shall be a new recording of a cover version of a song selected from the Selected Pool of songs and engage or employ at least 6 Studio Practitioner(s) for the production of that new recording of the song chosen.
- ii) The mechanical reproduction licences (with no alteration of lyrics or adaption be allowed) for a cover version of the selected song must be secured from the music publisher before making an application to the Scheme.
- iii) The production of the cover version of the selected song does not receive or otherwise subject to any other Government funding scheme.
- iv) Upon the completion of the project, the Qualified Applicant's claim for disbursement must be supported by documents, including but not limited to, the original invoice to release cycle and agree to be solely responsible for any loss if the final product of its project does not meet the reimbursement conditions. Further, the Qualified Applicant shall keep the Organising Committee, the Organiser and its employees harmless and indemnified against any losses by them as a result of any dispute or matters related to or arising from its application to the Scheme.
- v) The finished recording shall not promote inequality, racism, hatred, political agenda, offensiveness to religions, social bias, sexual harassment, child pornography, violence, terrorism, and other forms of excessive anti-social behaviour or otherwise unlawful according to Hong Kong Laws.
- vi) The Qualified Applicant must ensure its claims for the reimbursement Form must be genuinely and exclusively incurred to produce the master recording of the music sound recording of the selected song. Any misleading or fraudulent claims may attract civil and criminal liabilities.

- vii) The Qualified Applicant shall grant the Organiser with a nonexclusive and royalty-free licence of the cover version of the master recording of the selected song together with the Artiste photo/cover design for marketing and promotion of the Funding Scheme on a non-commercial basis.
- viii) The Qualified Applicant acknowledges, accepts and covenants with the Organiser that it is a project-based agreement (no reimbursement until the completion of the production of the master recording of the selected song) and the Organiser operating the Funding Scheme serves as a neutral platform for the purpose of promoting harmony in Hong Kong music recording industry. As such, the Qualified Applicant hereby further undertakes to maintain the integrity and the goodwill of this project. It must work with the Organiser for any clarifications on matters related to the Scheme and strive hard to avoid causing public disrepute and/or embarrassment to the Organiser and its supporters.
- ix) If the Qualified Applicant commits a material breach of the terms and conditions of the obligation as may be imposed in the Scheme and cannot be rectified within a reasonable period (7 days), the Organiser shall be entitled to disqualify or terminate the project. In such event, the Qualified Applicant shall not be entitled to any claim on disbursement under the Scheme. The Organiser shall remove the Qualified Applicant from the Funding Scheme and its title, name, logo, likeness, and promotion associated with the Scheme from public record. The Organiser reserves all rights to pursue remedies and compensations for damage caused.
- x) In the event of a Force Majeure that prevents the completion of the production of the approved title song within the stipulated time; the Organiser may, at its own discretion, extend the date of the deadline for completion of the project or cancel the contract; and suspend performance of the contract. The Organiser might, at its own discretion, consider reimbursing part of the production costs subject, however, as to the approval of the CreatHK and the availability of the fund. Any decision for reimbursements made by the Organiser shall be final and conclusive.
- xi) “Force majeure Event” means a specified event or events beyond the parties’ control that significantly disrupt the parties’ ability to perform their contractual obligations and such inability to perform occurs by reasons of any of the following events:-
 - (a) any supervening outbreak of war affecting Hong Kong and/or any hostilities (whether war be declared or not), invasion, the act of foreign enemies, rebellion, revolution, military or usurped power civil war, military operation, terrorist attack, national emergency,
 - (b) on act of God, fire, flood, storm, earthquake, tidal wave, communications failure, strikes, riot, civil disturbances, and

- (c) such Force Majeure Event is beyond parties' reasonable control and only for so long as the Qualified Applicant continues to take reasonable steps to mitigate the effect of the Force Majeure Event and to perform despite the occurrence of the Force Majeure Event substantially.
- xii) The Organiser reserves the right to interpret and amend the regulations and details of the Scheme. Any interpretation and decision on the rules, terms and conditions of the Scheme shall be final and conclusive. No dispute shall be raised by the Applicants, the Artiste, Qualified Applicants, service providers and Studio Practitioner.

I () have read and understand the above Rules and Regulations; and hereby agree to comply with the above Rules, Regulations and undertakings and will keep our agreement with the Organiser confidential.

Applicant Company Name:

Signature:

Company Chop:

Date: