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EVENTS:

5 to 14 October 2015 [Assemblies of Member States of WIPO \(55th series\)](#), Geneva, Switzerland

14 to 18 October 2015 [Frankfurt Book Fair](#), Frankfurt, Germany

11 November 2015 IFRRO World Congress & Annual General Meeting 2015, Mexico City, Mexico

1 to 2 December 2015 [The Future of Author's Rights](#), Berlin, Germany

7-11 December 2015 [WIPO Standing Committee on Copyright and Related Rights \(SCCR\) - 31st session](#), Geneva, Switzerland

LINKS TO OTHER NEWS:



[IAF August Newsletter](#)

IFRRO

IFRRO submission on US Mass Digitalization consultation

IFRRO has responded positively to the US Copyright Office's mass digitalization consultation. The IFRRO submission supports the Copyright Office's proposed approach, that ways to facilitate large-scale digitisation of copyright works be explored through a pilot program, which involves relevant stakeholders. It further shares relevant experience from other similar initiatives and, in particular on the use of the Extended Collective Licensing (ECL) to support large-scale digitisation, which is the legal technique that we understand that the Copyright Office wishes to consider in support of large-scale digitisation projects in the US.

Click here for [full submission](#)

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IFRRO statement at the 30th WIPO SCCR

The 30th meeting of the WIPO SCCR (Standing Committee on Copyright Related Rights) continued its discussions on library exceptions and limitations. Having agreed to use a methodology proposed by Martín Moscoso, the session Chair, which suggests to deal with 11 topics selected by the WIPO Member States, the discussions on 2 July focused on preservation of copyright works by libraries and archives. IFRRO acknowledges the important role of libraries in preserving and making available cumulative knowledge, and that there are countries where appropriate exceptions may be required. However, the right of preservation does not imply any further use of the reproduced work. IFRRO's statement at the meeting was welcomed as being constructive.

Click here for [full statement](#)

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RRO News

CADRA, the Argentinean RRO, signs licensing agreements with three more universities

[CADRA](#) has recently signed licensing agreements with three universities on the usages of published works: Universidad Nacional de Misiones, Universidad Nacional de San Juan and Universidad Champagnat (Mendoza). The agreements will allow the universities, their students and teaching, research and other personnel to reproduce parts of published works that are protected by copyright, ensure at the same time an appropriate remuneration of authors, including professors and researchers who are active in contribution scientific or literary works, and publishers for the use of their works.

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Copyright Board of Canada accepts the request of Access Copyright to consolidate proceedings and organise an oral hearing

The Copyright Board of Canada has [responded](#) positively to a request by Access Copyright, the Canadian RRO, to schedule an oral hearing during which its proposed post-secondary

tariffs will be discussed. The Copyright Board also agreed to consolidate the tariff proceedings for the years 2011-2014 and 2014-2017 as suggested by Access Copyright.

This will enable Access Copyright and its experts to give evidence and testify about key issues in the tariff proceedings, with respect to the volume of compensable copying undertaken by the post-secondary institutions that are subject to the tariffs and the appropriate royalty rates, and also the extent and applicability of the fair dealing exception. This is particularly important in the light of the recently published PwC study that IFRRO had [reported](#) about and that shows that educational publishing in Canada is at risk due to the refusal to take up licences and pay fair remuneration to rightholders.

The hearing is [scheduled](#) for 19 January 2016.

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CLA, the IFRRO UK RRO member, launches new Second Extract Permissions Service

The IFRRO member in the UK, The Copyright Licensing Agency (CLA), has launched a new service to allow universities to buy rights instantly online. The new 'Second Extract Permissions Service' enables universities to buy rights instantly when they need to copy more than is allowed under the CLA Higher Education Licence, speeding up the process and reducing administration costs. Over 100 major publishers are signed up to the service, and universities are invited to pre-register now online ahead of an August rollout at <http://he.cla.co.uk/second-extract>. See CLA's related press release [here](#).

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DACS record distribution

DACS has published its latest Annual Review, which shows a record distribution of £15 million in royalties to 19,000 visual artists and estates in 2014.

2014 was a milestone year for DACS. It celebrate its 30th birthday and launched some exciting new initiatives which build on a successful three decades transforming the financial landscape for visual artists.

See [more](#) from DACS.

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Copyright Protection

Canada: future of educational publishing jeopardized by refusal to take up licences and pay fair remuneration to rightholders

An important study carried out by PricewaterhouseCoopers on the economic impacts of the Guidelines on fair dealing established by educational institutions in Canada has been [published](#), and its main outcomes are particularly worrisome since they show that educational publishing is in danger and could eventually disappear if fair compensation is not paid to rightholders.

In 2012, the Canadian Council of Ministers of Education, along with the Association of Universities and Colleges Canada and the Colleges and Institutes Canada, adopted a set of Guidelines on fair dealing that have resulted in provincial governments – with the exception

of the province of Quebec, that was not concerned, neither affected by the said Guidelines – cancelling or not renewing their licensing agreements with the Canadian RRO Access Copyright, thereby not paying remuneration for the copying undertaken in K-12 schools, and around half of universities and colleges who followed the same path. IFRRO's member in Canada, [Access Copyright](#), is mandated by authors and publishers to licence users and distribute royalties to rightholders, and has therefore suffered a major loss of revenues due to this decision, which immediately resulted in authors and publishers being deprived from the royalties that they used to receive from the licencing of educational institutions.

The PwC study is assessing the impact of the Guidelines on the educational content market in Canada and on the Canadian economy. Here are some of the key findings of the study:

- The Canadian educational publishing industry is engaged in the process of transition from print to digital, which obliges publishers to invest a lot of efforts and money into the development of new products and technologies, a costly process, especially for SME publishers. At the same time, the government has reduced its spending on educational content while the sale of print content has declined, making the current situation particularly challenging for publishers.
- With the implementation of the Guidelines, the annual loss of revenues to authors, including visual artists, and publishers is expected to amount to \$30 million. For many SME publishers, “licencing revenues represent the difference between profit and loss”; losing these revenues may force some of them to simply exit the educational publishing market, and some have of them have already indicated that the decrease of income from licencing will hamper investment in the production of digital products and content.
- Fewer works tailored for the Canadian market will be created: imports of foreign materials are expected to increase whilst educational publishers in Canada have already started exiting the market: Oxford University Press has exited the K-12 market as a consequence of the adoption of the Guidelines and subsequent loss of licencing income, and Nelson Education had to file bankruptcy protection because of the decline in the market of educational materials.
- Further decline in sales in the educational publishing market are expected, and have already been witnessed, as the Guidelines encourage teachers to create their own royalty-free course packs instead of buying textbooks: as a result, “the rate of annual decline in K-12 sales has accelerated, on average, by about 0.7 percentage points per annum”.
- Less and less works will be created since authors will lose an incentive to create content for the educational publishing market; as shown in the study, licencing represents 20% of the income of creators affiliated to Access Copyright, and some of them have already indicated that they will reduce the number of works created and their focus on creating content for the education if licencing revenues were to decrease.

Additionally, the diversity of content created is expected to decrease given that publishers, facing a loss of revenues, will have to decide on which subject areas they want to focus on, leading to “fewer titles per course subjects, and fewer courses subjects served”.

- Another natural consequence stemming from the implementation of the Guidelines is that jobs in the educational publishing sector will be at risk; a 16% reduction of the economic footprint of this industry, both in terms of jobs and GDP, has already been recorded between 2011 and 2013.
- Finally, students and teachers are those that will eventually have to bear the weight of the deteriorating situation: with less competition between publishers, less content produced and sold, and a new responsibility for teachers to prepare course packs, students will pay a higher price to have access to quality materials and will study outdated copied materials, while teachers will spend more time compiling and creating their own teaching materials, all of this leading to a “greater disparity in the quality of learning sources”.

The conclusion of the study seems therefore to be that the small gains made by provincial governments through the non-payment of royalties to rightholders will turn out to be a great loss for everyone: rightholders, students and teachers, and the society at large.

In a comment to the findings of the PwC study, IFRRO’s CEO Olav Stokkmo said that this clearly shows that access to educational material through agreements with RROs and authors and publishers is what best meets dynamic user needs to legally access high quality teaching material inconstantly changing environments, in a way that also benefits, in the long run, users and society. It offers a safer, simpler, faster, innovative, convenient and cost efficient way to seamless access to content from multiple rightholders. Flourishing local cultural industries and a healthy educational system with broad access also to local resources contributes significantly to the nation’s economy and employment. Educational institutions, students, teachers, researchers - society needs good local educational resources. Local educational publishing needs care. RROs contribute to that.

Find [here](#) the full PwC report, an executive summary, an infographic and a one-page overview.

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The Copyright Alliance files comments to U.S. Copyright Office, addressing challenges faced by visual artists

On July 23rd, 2015, the Copyright Alliance filed comments in the U.S. Copyright Office’s proceeding concerning copyright protection for certain visual works, in response to the Office’s [Notice of Inquiry](#), seeking commentary on the current marketplace for photographs, graphic artwork, and illustrations, as well as observations regarding the real or potential obstacles that authors, and as applicable, their licensees or other representatives face when navigating the digital landscape.

The complete submission of the Copyright Alliance is available [here](#).

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Peruvian IP Office teaches students to respect Copyright

During 2013 and 2014, the Peruvian IP Office (INDECOPI) launched a copyright awareness programme as part of the Commission to Combat Piracy and Customs Crimes (CLCDAP). The programme, with the theme ‘I decide, I respect: rejection of piracy and respect for intellectual property’ was targeted at pupils in their 4th and 5th year of secondary school and reached around 50,000 students in both public and private schools. By raising awareness

the talks cover “the scope of copyright and the contribution of creativity and cultural industries to the country’s economic development”. It aims to teach teenagers to appreciate, value and respect intellectual property and thus, reject piracy.

Building on this success INDECOPI has extended the programme into 2015 and aims to reach another 30,000 pupils. In the first half of the year it had already trained 14,162 students or 47% of the target.

Click here for [INDECOPI report in Spanish](#)

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UK Copyright Hub officially launched: making licencing easier

The British Intellectual Property Minister, Baroness Neville-Rolfe, has officially launched on 30 July the [UK Copyright Hub](#). Thanks to the technology developed by the Hub, identifying IP rights for copyright-protected works available on the Internet, finding licencing solutions and securing permission to use the works will become faster and easier. Here are three of the main objectives and missions of the Hub:

- To provide a portal to copyright-related information and therefore make it easier to navigate through the subject and find organisations who can help,
- To create open-source technology to help simplify and automate the process of getting permission,
- To make it easier to connect pieces of content to their rightholders.

The Copyright Hub was launched together with a new [website](#), to gather support for the Hub and provide information on the technology developed and the many organisations that are supporting it. Key supporters include the Linked Content Coalition (LCC), of which IFRRO was a founding member; the LCC is a cross-media project which aims to create a structure for rights management on the Internet.

Pursuing the same goal of better linking content to rights and licencing solutions, the [Rights Data Integration Project](#) (RDI), in which IFRRO is involved as a contracting partner, is an initiative co-sponsored by the European Commission that aims at demonstrating how users of rights can easily identify rightholders and trade rights using different business models.

Olav Stokkmo, the Chief Executive of IFRRO, has welcomed the launch of the Copyright Hub as “an important step towards creating a legal market for the use of copyright works”.

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EU News

EC public consultation on contract rules for online purchases of digital content and tangible goods

The European Commission has opened a public consultation on contract rules for online purchases of digital content and tangible goods (deadline: 3 September 2015).

The purpose of this consultation is to collect interested parties' views “on the possible ways forward to remove contract law obstacles related to the online purchases of digital content

and tangible goods”. According to the Commission, this consultation does not aim at addressing copyright-related issues; this will be subject to a separate course of action.

Further information on the consultation is available [here](#).

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Find [here](#) a press release and [here](#) the webpage on which the report will be made available.

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China and the European Union upgrade the dialogue on Intellectual Property and sign a Memorandum of Understanding

On 29 June 2015, the European Union and China celebrated in Brussels the ten years’ anniversary of the structured annual dialogue on Intellectual Property Rights, in the wider context of the 17th EU-China summit. In a joint statement released after the summit, Donald Tusk, President of the European Council, Jean-Claude Juncker, President of the European Commission and Li Keqiang, Premier of the State Council of the People's Republic of China, “reconfirmed the importance of the EU-China IP Dialogue and applauded the progress achieved in the past 10 years. They reconfirmed their commitment to reinforcing cooperation on the protection and enforcement of Intellectual Property.”

The EU-China IP Dialogue has been reinforced with the signature of a Memorandum of Understanding (MoU) by the European Commissioner for Trade, Cecilia Malmström, and the Chinese Minister of Commerce, Gao Hucheng. According to a press release, the main objective of the MoU is “the improvement of the IP environment as one of the key conditions to promote creativity, innovation and investment, and the deepening of mutual understanding and public awareness of IP issues in the EU and China. It includes mutual commitment to developing joint initiatives to support the protection and enforcement of IP rights, including trade secrets, and the fight against online counterfeiting and piracy.” The MoU will upgrade the IP dialogue between the two parts by putting a Vice-Minister of Commerce in charge of the dialogue on the Chinese side and a Commission Deputy Director General in charge from the EU.

On 30 June, the day following the signature of the MoU, a first EU-China meeting on IPR matters was held under the new format of the dialogue.

See [here](#) the website dedicated to the ten years celebration and find [here](#) the European Commission’s press release.

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Legislation

Draft Belgian law, implementing the EU orphan works directive, approved by Belgian Parliament

Following a proposal by the Belgian Minister of Employment, Economy and Consumers, Kris Peeters, the Belgian Parliament approved a draft law on 9 July 2015, transposing Directive 2012/28/EU of the European Parliament and of the Council on certain permitted uses of works orphan works into Belgian law. The draft law has been sent to the King for ratification.

See also: presscenter.org. [Draft law in French and Dutch](#)
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Who are the addressees of the three-step test in Article 5(5) of the EU Information Society Directive?

Unlike the three-step test in international copyright instruments, it is uncertain who the addressees of the test in Article 5(5) of the EU Information Society Directive 2001/29/EC are. Are they national legislatures only, or national legislatures and courts alike?

[Mr Justice Richard Arnold](#) and [Dr Eleonora Rosati](#) have published an article on this issue.

Article 5(5) incorporates the three-step test and mandates that exceptions and limitations shall only be applied in certain special cases that do not conflict with a normal exploitation of the work or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholder. However, unlike the three-step test in international copyright law, it is uncertain whether the three-step test in the EU Information Society Directive is addressed to national courts as well as the legislatures of the EU Member States.

Referring to recent case law of the Court of Justice of the European Union (CJEU) in this respect, the authors conclude that it appears from the CJEU's jurisprudence that the three-step test in the EU Information Society Directive is addressed at national legislators and courts alike. Even in those EU Member States that have not transposed the language of the three-step test into their own legal systems, courts must determine not only whether the acts of the defendant in question are eligible for the application of a certain exception or limitation, but also whether they comply with the cumulative conditions of the three-step test as set in Article 5(5) of the EU Information Society Directive.

The complete article is available [here](#).

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Open Access included in Dutch Copyright Act / IFRRO Position Paper on Open Access

On 1 July 2015, an amendment to the Dutch Copyright Act, [Wet Auteurscontractenrecht](#) (in Dutch), became effective. Based on the [amendment proposed by MP Joost Taverne](#) (pdf) (in Dutch), a condition has been included, stating that academic titles, completely or partly paid for by the government, may now be published as Open Access material by the author after a reasonable period of time.

We would like to take this opportunity to remind IFRRO members of the IFRRO Position Paper on Open Access (available [here](#)), adopted in June 2005. The IFRRO Board will invite the membership at the upcoming AGM in Mexico City, on 11 November 2015, to adopt a revised version.

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Court cases

CJEU: request for a preliminary ruling on the French out-of-commerce legislation

The French Council of State (Conseil d'Etat) has asked the Court of Justice of the European Union to give a preliminary ruling on a case related to collective management and the right to authorise the reproduction and the representation in digital form of out-of-print books.

The following question has been referred to the Court: “Do the provisions... of Directive 2001/29/EC of 22 May 2001, preclude legislation... that gives approved collecting societies the right to authorise the reproduction and the representation in digital form of ‘out-of-print books’, while allowing the authors of those books, or their successors in title, to oppose or put an end to that practice, on the conditions that it lays down?”

EU Member States [have until 2 October 2015](#) to make a submission to the Court. Further information will soon be available on the Court's [webpage](#) dedicated to the case (Case C-301/15, Soulier and Doke).

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UK High Court quashes UK private copying exception

On 17 July 2015, the UK High Court – following the judicial review of the (controversial) introduction of the private copying exception into English law in October 2014 – decided that this new exception should be revoked entirely.

As reported earlier (see: [IFRRO website](#)), in an initial [decision](#) on 19 June 2015, the UK High Court already ruled that the exception had been introduced unlawfully. The Court had then left open questions as to whether the exception should be quashed, and whether a reference to the Court of Justice of the EU (CJEU) was required. Now, the Court decided not to make a reference to the CJEU, mainly because it might prove to be unnecessary, but decided to quash the private copying exception.

The decision of 17 July 2015 means that, with immediate effect, the UK is returned to the position before October 2014: copies of copyright works made for personal use will be infringements (unless otherwise licensed). It is questionable whether the UK government will now seek to reintroduce the exception, with a compensation mechanism.

Notably, the Court's decision has prospective effect only (*ex nunc*); copies made under the exception to date have not (so far) been ruled to be infringements. However, it remains to be seen whether rightholders will seek compensation from the UK government for copies made under the exception to date.

The complete decision of the UK High Court is available [here](#)

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French magazine fined for encouraging piracy

A computer magazine was fined by a French court on 12 June 2015 for releasing an issue in which readers were told how and from which sources they could download illegal content. The magazine was sentenced on the grounds that it encouraged readers to use software aimed at “making available protected works without authorisation”, a legal provision that had, so far, only be used to sentence software editors.

It is the first ruling of this kind against a magazine for “encouraging piracy”; the fine amounted to € 10,000 – corresponding to the revenues that had arisen from the sale of 6.038 copies – and an obligation to publish the judgment in two national newspapers. The magazine’s editors did not appeal against the decision.

Find [here](#) an article on this ruling.

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Creator and Publisher Associations

IPA appoints José Borghino as new Secretary General

José Borghino has been appointed to the position of Secretary General at the International Publishers Association (IPA) replacing Jens Bammel. Mr Borghino has been the IPA’s Policy Director since joining the organisation in 2013 and came to the IPA from the Australian Publishers Association where he served as Manager of Industry Representation.

IFRRO CEO, Olav Stokkmo and President, Rainer Just welcomed Mr Borghino’ appointment and congratulated him on his promotion. “We have already a good experience collaborating with José,” said Stokkmo “and we are looking forward to working with him in his new role.”

Click here for full [IPA press release](#)

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Standards

Study on open data registries commissioned by the French Government

The French Government commissioned in 2014 a study on open metadata registries, and its first outcomes were presented in May 2015. The study, carried out by BearingPoint, provides an overview of identifiers, metadata and data bases, analysed sector by sector (music, audio-visual, book publishing, and photographs and the press).

More than 100 interviews were conducted as a first step in the making of the study, with various representatives from the Linked Content Coalition (LCC), the UK Copyright Hub and the Rights Data Integration (RDI) Project being invited to present their work.

The outcomes of the study will be of particular interest for the participants in the RDI Project, an initiative co-funded by the European Commission that aims at demonstrating how users of rights can easily identify rightholders and trade rights using different business models.

IFRRO is a partner in the RDI Consortium.

See here the RDI Project’s [website](#).

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