

IFRRO BOARD REPORT 2012

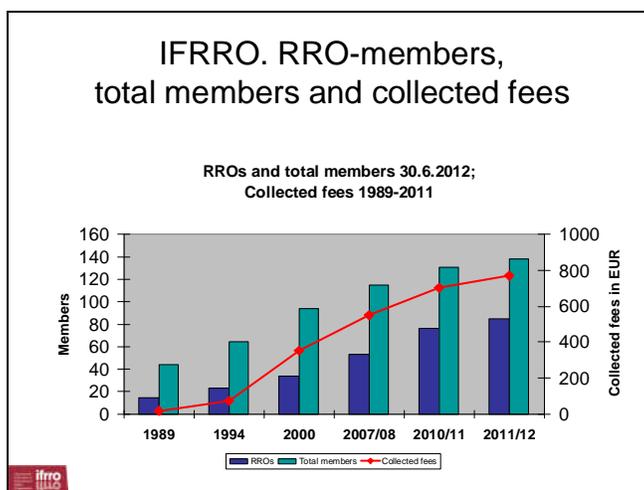
This report covers the period July 2011 – June 2012 during which the Board was made up of *Magdalena Vinent*, CEDRO (President); *Franziska Eberhard*, ProLitteris (First Vice President); *Bruce Funkhouser*, CCC (Second Vice President); Directors: *Jim Alexander* (Copyright Agency), *Jens Bammel* (IPA), *Christer Johansson* (Bonus Presskopia), *Hélène Messier* (COPIBEC) and *Owen Atkinson* (EWC); Substitute Directors: *Mats Lindberg* (BUS), *Maureen Cavan* (Access Copyright), *Rainer Just* (VG Wort) and *Michael Mabe* (STM). The Board met three times: October 2011 in Ljubljana; January 2012 in Barcelona; and July 2012 in Rome, and carried out five e-votes, in March and May 2012.

The period under review revealed the importance of documenting how rightholders and RROs provide easy and seamless access to copyright works, and for RROs and other Collective Management Organisations (CMO) to document their efficiency. Politicians and users, while acknowledging that the future economy is a knowledge-based one built on Intellectual Property (IP) often couple it with claims that copyright works should come for free, at least in education and research, or when offered by libraries and similar institutions. Rightholders are accused of making it too complicated or too expensive to access their works.

During the period under review a main focus of the Board has therefore been on communicating and documenting to policy makers at various levels as well as to consumers, that IFRRO and RROs are *enablers* rather than blockers of legal access to copyright works. RROs not only make access easier for users they ensure the continued supply of quality material by distributing usage fees to creators and other rightholders. New IFRRO publications present in an easy way collective rights management by RROs, their business approaches, including for digital uses, and best practices on revenue distribution, governance and transparency. Contributions to and, when appropriate, leadership in developing dynamic and forward looking solutions to address user and rightholder needs have been kept up. This includes stakeholder collaboration to enable the digitisation and making available of out-of-commerce works through collective licensing; enhanced access to works for persons with print disabilities through the WIPO supported TIGAR and the EC facilitated ETIN projects; and a system for the reduction of time and costs in establishing rights, rights status and identifying rightholders in the EC sponsored ARROW project. It also comprises new initiatives for innovative solutions based on stakeholder dialogues, such as the Linked Content Coalition to create an automated system for rights management on the Internet.

1. MEMBERSHIP

As at 30 June 2012, IFRRO has a total of 137 members. 84 are RROs, of which 19 are Associate and two Provisional members, and 53 are Creator and Publisher Association Members. This represents a net increase of six members since last FY. Collected fees by RROs during the year increased by 14.1% to € 804.3 million.



Two new RRO Members – BECLA (Belize Copyright Licensing Agency) and ECCLA (Eastern Caribbean Copyright Licensing Agency), two new Associate RRO members – YAYBIR and EDISAM (both Turkey) - two new Provisional RRO members - NSRR (National Society of Reprographic Rights, Kazakhstan) and Repro BG (Bulgaria) – and one new Creator and Publisher Association Member – SAVA (Sociedad de Artistas Visuales de Argentina) - were approved during the FY. The membership of GCA (Georgia Copyright Association) was changed to RRO membership, from Creator and Publisher Association membership. The Board cancelled the membership of VLCC (Vietnam) due to lack of compliance with its obligations under the IFRRO Statutes.

2. ORGANISATION

The Board reassessed the IFRRO election procedures, taking account of discussions which took place at the AGMs in 2010 and 2011. A proposal is tabled for the membership's consideration at the General Meeting 2012. It comes in three parts: practical instructions to be adopted and adjusted by the Board as appropriate; election rules to be approved by the General Meeting; information on formalities according to Belgian laws.

The current business plan expires in 2012. As a basis for further work the Board decided to maintain the current plan's Mission Statement, Core Values, Purposes and Main Objectives, and focus on the examination of challenges that IFRRO and RRO face in the short and medium term, and on an activity plan for 2012-2014. A document is presented to the GM 2012 with the following overall focus points: (i) to work to enable the IFRRO community to understand better the future, both with respect to possible user needs, rightholder requirements and future rightholder business approaches; (ii) to clarify future roles of RROs and encourage the development of RRO business approaches in collaboration with authors and publishers and their associations, with the aim of facilitating the development of solutions that address consumer needs, whilst respecting rightholder requirements; and (iii) to undertake communications and information activities, with the aim to ensure better understanding of the positions and requirements of rightholders and RROs, and to enhance rightholder influence in the political environment.

In respect of a question raised by EMMA, the Board clarifies that the IFRRO Statutes Article 4 §6 do not require that an applicant for Creator and Publisher Association membership need be a rights administrator.

3. POLICY ISSUES AND STRATEGIC COOPERATION

Addressing future challenges and understanding user behaviours

How access to copyright works is being provided has become increasingly topical. An IFRRO task force has been set up to examine future challenges, examining how user needs are met, and to document how agreements with rightholders directly supported by usages administered by RROs provide seamless access to text and image based works. It is chaired by *Magdalena Vinent (CEDRO)* and otherwise made up of *Bruce Funkhouser (CCC)*, *Sandra Chastanet (CFC)*, *Kevin Fitzgerald (CLA)*, *Robert Staats (VG Wort)* *Anke Schierholz (VG Bildkunst representing authors)* and *Youngsuk Chi (IPA and Elsevier representing publishers)*, to be assisted by the IFRRO *CEO*. The documentation work on seamless access is led by Bruce Funkhouser, whilst a subgroup on multi-territory licensing is headed by Robert Staats.

The Board also established a task force made up of *Jim Alexander (Copyright Agency)* *Christer Johansson (Bonus Presskopia)* and *Michael Mabe (STM)*, to be assisted by *James Boyd* at the Secretariat, to collect and assess information available on research on user behaviours.

Enhanced Collective Management

The European Commission has published a draft directive on collective rights management, which addresses governance and transparency issues in general and multi-territory licensing of musical works (see further on this in Chapter 6.3 on page 9). The directive is of prime importance to the IFRRO community, with potential effect beyond EU Member States. Work on the EC proposal will be given the highest priority by the Board in the coming year. IFRRO has also agreed to cooperate with WIPO on a project on voluntary transparency, accountability and good governance certification.

Cooperating with stakeholders for better solutions to identify rights and use copyright works

Digitising and making available the cultural heritage: orphan works and out-of-print works

The digitisation and making available of cultural heritage in Europe will be facilitated by the implementation of the EU orphan works Directive (see 6.3 on page 8/9), and also by the implementation of the EC facilitated Memorandum of Understanding (MoU) on Out-of-Commerce works, signed on 20 September 2011 by IFRRO and IFRRO members EVA, EWC, FEP, IFJ and STM, as well as the European Publishers Council (EPC) and the library organisations CENL, EBLIDA and LIBER¹, in the presence of EC Internal Market and Service Commissioner *Michel Barnier*. The MoU regards libraries and other cultural institutions which are not for direct or indirect commercial advantage. Authorisation to digitise and make available works should be through collective licensing by representative CMOs, generally RROs, who can document that they are supported by both authors and publishers; EU Member States should establish mechanisms, including through legislation, where required, to ensure inclusion of works of non-mandating authors and publishers of the same category of works; authors and publishers are granted a right to exclude works from the scope of the agreement; the European Commission is to propose a mechanism to allow cross-border availability.

At the initiative of IFRRO, a task force, with the signatories as its members and the IFRRO *CEO* as the convener, has been set up to work on the implementation of the MoU. The work focuses on the identification of national projects to make available cultural heritage, which includes in-copyright works that are out of commerce, liaising also with the Europeana Network to identify candidate projects for special follow-up by the task force, and providing assistance to national implementation groups.

ARROW – Accessible Registries on Rights and Orphan Works and European digital libraries

ARROW is a tool to assist in search for rights status and authors and publishers of text-based works in an automated, streamlined, and standardised way, with the aim of reducing the time and cost involved in the search process. Contracting partners agreed on 27 June 2012 to establish an ARROW legal entity as an association under Italian legislation, with the Italian Publishers Association (AIE) as the administrator. During the coming financial year the Board will decide on IFRRO's involvement, including whether to become a charter or ordinary member of ARROW.

The broadening of the use of ARROW is pursued mainly through the best practice project ARROW Plus, which also examines its use for still images. The EC sponsors 80% of the project costs. IFRRO is the leader of Work Package (WP) 2 on dissemination and networking and also leads the quality management work. IFRRO members EVA and FEP are leaders of WPs 6 and 3 on the inclusion of visual material and on the coordination of national initiatives respectively. Other IFRRO members involved are CEDRO, who is also the main responsible for the coordination of RRO related activities, ICLA, OSDEL, Polska Ksiazka and SACD as partners, and COPYDAN and Kopia as external supporters. As a part of the project budget allocated towards IFRRO, € 138,000 has been earmarked towards RROs that are not contractual partners and thus not eligible for the EC financial support directly, for the integration of their databases into the ARROW system. This work is scheduled to start in early 2013.

The Board notes with satisfaction that the UK based Wellcome trust has decided to make use of ARROW in its digitisation project and that also BNF, the French national library, considers it for its project to digitise and make available some 500,000 national out-of-commerce works published in France before 2000.

Persons with Print Disabilities

IFRRO participates in TIGAR (Trusted Intermediary Global Resources), the pilot program established under the WIPO Stakeholder Platform on enhanced access to copyright works by persons with print disabilities. *Hélène Messier* and the *Chief Executive* have taken seats on the nine member Steering Committee (SC). At the time of the finalising of the Board's Annual Report, 14 Trusted Intermediaries (TIs), CLNZ, DALRO, Jamcopy, Kopinor and ProLitTeris, 29 major publishers and the Swedish Writers Union have signed the MoU on the facilitation of cross-border exchange of accessible format copies and files. Some 450 files/books with cleared permission have been uploaded to the FTP server administered by WIPO for the purpose of the project with several of the rights cleared by the participating RROs. A special website² exists to inform of the project, its development and achievements.

¹ Conference of European National Libraries; European Bureau of Library, Information and Documentation Association; Ligue des Bibliothèques Européennes de Recherche (Association of European Research Libraries)

² <http://www.visionip.org/portal/en/index.html>

As part of its further development the project has started working on a collective licensing framework, which aims to be based on RRO reciprocal arrangements to help eliminating territorial rights issues and title by title clearance. It has also started examining how countries under development can be more actively involved in TIGAR.

The European Trusted Intermediary Network (ETIN) is an EC facilitated initiative to implement the MoU signed by stakeholders, including IFRRO, in 2010 on the improved access to copyright works for persons with print disabilities in EU Member States. It has been constituted on the basis of contractual agreements and a waiver in the ETIN Board by-laws, rather than as a legal entity. The initiative supports the WIPO stakeholder platform and a joint document has been issued with TIGAR to explain differences and similarities in the two projects. A model licensing agreement has been drafted, the ETIN accreditation rules and supervisory board by-laws have been approved, and the nine member project supervisory board has been appointed, including *Rainer Just* representing IFRRO assisted by IFRRO's *General Counsel*. The stakeholders involved in ETIN have also started a dialogue with the EC on funding possibilities and the EC DG Single Market and Services has uploaded ETIN documents and a list of Frequently Asked Questions (FAQ) on its website.

Linked Content Coalition (LCC) and the Rights Data Integration (RDI) project

IFRRO is a part of the Linked Content Coalition (LCC), a cross-media project which aims to create a structure for rights management on the Internet, based on existing open standards to ensure interoperability. IFRRO's *CEO* is on the Board, together with representatives from Springer, Pearson, Reed Elsevier, EPC (European Publishers Council, the project initiator), IFPI (International Federation of the Phonographic Industry), EMI Music Publishing, Fremantle Media, IDF (International DOI Foundation) and Microsoft. He is assisted by *Ingrid de Ribaucourt* who acts as the main liaison between IFRRO and the project and is active in several work streams, including the one on governance. Other IFRRO members among the 39 partners are CCC, CLA, EMMA, ENPA, EVA, EWC, FEP, IPA and NLA. The objectives of LCC are consistent with and support the Board's goal of demonstrating seamless access to copyright works through efficient rights management. In the first phase of the 12 months project fund raising will be given priority.

With the aim to provide a proof of concept for the LCC, several of its partners, including IFRRO, have collaborated in an application to the EC for project funding to build a Rights Data Integration (RDI) demonstrator. The key element of the project is to provide data and map them for interoperable user exchanges. At the time of the finalising of the Annual Report the contract with the EC on the co-financing of RDI was not signed. It has been indicated by the EC that negotiations could start in September 2012.

Cooperating on a better understanding of the future

IAF (International Authors' Forum)

The Board welcomes the launch of IAF. IFRRO has actively encouraged its establishment, among others through facilitating, since 2005 in conjunction with IFRRO meetings, gatherings of author organisations and representatives, and through a financial contribution from the Development Fund. The Board hopes that the IAF will soon develop into a representative body that can add a long awaited author's voice on the global arena to the vital role of the EWC in Europe. It aims at strengthening its cooperation with IAF, which during the period under review focused on WIPO activities, including an enhancement of a culture for books and reading conference in May 2012 and meetings on copyright.

CISAC (Confédération Internationale des Sociétés d'Auteurs et Compositeurs)

The Board looks forward to keeping up the cooperation with CISAC under its Director General *Olivier Hinnewinkel*. To this end the two Executives have met to exchange views on future challenges. Cooperation has continued on the development of ISTC and ISNI³ for enhanced interoperability in rights management. The Board would also welcome CISAC involvement in the IFRRO-WIPO education programmes⁴ with ARIPO, OAPI and CERLALC, to be further adopted for virtual learning environments, and the WIPO led good governance project⁵.

³ On ISTC and ISNI, see Chapter 5 on Technical standards and identifiers on page 6 and 7

⁴ See also Chapter 6.6 on page 9

⁵ See Chapter 6.1 WIPO on page 7

IFLA (International Federation of Library Associations and institutions)

IFRRO and IFLA continue to meet regularly at the Executive and Presidency levels, and the two organisations are invited to each other's General Meetings. The *President* attended the IFLA congress in Puerto Rico in August 2011, and IFRRO and IFLA are the initiators and driving forces of the conference programme on the enhancement of a culture for books and reading, which also involves WIPO, IPA and IAF. This year's successful event in Nairobi in May 2012 included ARIPO⁶, as well as Kopiken, the Copyright Board, National Library, and Publishers' Association of Kenya as co-organisers. The 2013 conference is tentatively scheduled for Latin America.

4. MEMBERSHIP RELATIONS, COMMUNICATIONS AND INFORMATION

The Board acknowledges the need to communicate compelling, positive messages on copyright and collective management in response to increased emphasis on the need for access to copyright works to build the future knowledge-based economy often combined with underrating of the copyright industries ability to provide it. IFRRO's communication strategy must ensure better understanding of rightholder, including RRO, positions and requirements and enhance rightholder influence in the political environment, paying attention not to project a "victim mentality". The IFRRO Communications Plan 2012-2014 that sets out the strategy and activities to meet those challenges is based on harnessing the increased political interest and demand for access, promoting collective management as an effective tool for providing it and demonstrating new and innovative business approaches for meeting both the needs of the users and the rightholders.

During the financial year under review, various changes have been made to the IFRRO website, including an introduction to IFRRO on the home page. Two "Easy to Read" publications – a quick guide to RROs and their work, and another one on the distribution and use of collected fees, governance and transparency in the text and image based works sector - were launched. The English version of the Welcome Manual, primarily directed towards new members, has been finalised and distributed to all members; the French and Spanish versions are under preparation and will be made available in the coming FY. Future work will include consideration on whether to engage external expertise to help the Board to understand better user behaviour and future challenges, identify authors and others who can act as "copyright and collective management ambassadors", and the tailoring of messages to major events. The Communications task force that assists in developing and implementing the IFRRO communications strategy will be maintained.

Meeting formally and regularly with IFRRO members representing authors and publishers to keep abreast of the concerns of our members and to develop scenarios and joint messages and tailor them to target issues in a timely fashion, remain priority issues for the Board. During the period under review a joint Board meeting was held with STM and similar meetings are planned with other international organisations in membership of IFRRO for the coming year. Meetings were held on Presidency and/or Executive levels with EVA, EWC, FEP, EMMA, ENPA and IFJ. The Board wishes that the future work includes, to a larger extent, direct meetings with selected individual publishers, in order to raise awareness of IFRRO and of RROs and how they work, and to assist RROs in developing new business approaches.

With the objective of maintaining transparency of the Board's work, the Board agendas continue to be posted on the Members Only sector of the IFRRO website one month prior to the meetings, and an *Executive News* after each Board meeting informs the membership's executives and boards of the main Board decisions. The IFRRO *Newsletter* was published eight times and the *Digital Alert* appeared quarterly during the period under review, and the *News Alert* to remind members of the information that has been sent out, and to highlight upcoming deadlines, when appropriate, was published as required.

In respect of copyright legislation, assistance has, in particular, been provided, at their requests, to members in Canada, Kazakhstan, Lithuania, Turkey, the UK and China, the latter with active assistance from Copyright Agency's General Manager and General Counsel, *Caroline Morgan* and *Karen Pitt*. At the request of US members, IFRRO also filed an *amicus curiae* brief in the Golan vs. Holder case, where the court ruled in favour of rightholders, that copyright may be extended to foreign copyright works which had previously been in the public domain.

⁶ African Regional Intellectual Property Organization, see Chapter 6.4, page 9

The 2012 *Senior Managers Forum* (SMF), of which we thank COPYDAN for impeccable hosting for a second time in a row, was attended by 65 Senior RRO managers. Focus was on the sharing of practices among RROs on the licensing in education. Governance will be the topic of the SMF 2013.

Authors' and publishers' gatherings were facilitated through incorporating them into the weekly programme of the Ljubljana IWC, and for the authors also in conjunction with the IBMF in Copenhagen in April 2012.

Google

After the Google Book Search Settlement was rejected on 22 March 2011, the Authors Guild and the U.S. publishers revived their original lawsuits from 2005; the publishers have since dropped theirs following a deal with Google. On 22 December 2011, Google filed a motion to dismiss the Authors Guild as an associational plaintiff from the Google Books case, as well as ASMP from its related suit against Google. Google argued that the associations lack standing to bring suit, and that only the individual plaintiffs in the two lawsuits could go forward with litigation. Having heard arguments on 3 May 2012, U.S. Judge Denny Chin granted class certification to authors challenging Google. He later issued an opinion on 31 May 2012 that allowed the Authors Guild to represent its members in the lawsuit, finding it more sensible to have a single legal action than scores of individual lawsuits. He also allowed ASMP to represent its members in the parallel visual artists' lawsuit, along with the other artists' groups who joined together in the suit. This was followed by a Google petition of 14 June 2012 asking for an immediate appeal of class certification. The case now proceeds in the District Court while the Second Circuit decides whether or not to hear the appeal.

5. FACILITATING DEVELOPMENT OF RRO BUSINESS APPROACHES

Business models and cases

The IFRRO Business Models Forum (IBMF) chaired by *Tracey Armstrong* (CCC) offers opportunities for the exchange of best practices and discussions to stimulate development of RRO business models, and for the communication and exchange of views on the Board's policies in the area. Three meetings were organised during the period under review: in October 2011 in Ljubljana on licensing in education, in March 2012 as WebEx on licensing of content, and in April 2012 in Copenhagen on governance as a competitive advantage in collective management.

Multi-territory licensing

The Board has identified three main models for multi-territory licensing (MTL) which were also presented to the IFRRO AGMs in 2010 and 2011: (i) direct licensing; (ii) portal licensing and licensing based on multilateral agreements; and (iii) licensing based on bilateral agreements. Without prioritising between the alternatives, the Board has seen it as important to clarify them to the members.

Given EC decisions on solutions proposed by the music sector, the Board mandated the European Group (EG) to examine how solutions based on bilaterals could be made compatible with EC legislation. With presentations at relevant meetings in October 2011 and the subsequent posting to the IFRRO Members Only of a possible model and an accompanying toolkit, the Board communicated to the EG Executive Committee that it was satisfied that the mandate given by the Board had been fulfilled. It further decided to establish a subcommittee to examine MTL solutions based on portals and multilateral agreements made up of *Magdalena Vinent* (CEDRO), *Bruce Funkhouser* (CCC), *Sandra Chastanet* (CFC), *Kevin Fitzgerald* (CLA), *Robert Staats* (VG Wort) *Anke Schierholz* (VG Bildkunst representing authors) and *YS Chi* (IPA and Elsevier representing publishers), to be assisted by the IFRRO *Chief Executive*. The subcommittee, which is a part of the Future challenges task force chaired by *Magdalena Vinent*, is led by *Robert Staats*. It aims at delivering a first report to the AGM 2012.

The Board noted that VG Wort and CCC signed an agreement, extending their bilateral arrangement to enable both RROs to offer corporate digital rights to German and US firms and their global subsidiaries. VG Wort has retained RightsDirect, who will remit remuneration to VG Wort for the use of its repertoire, for such licensing in Germany.

Technical standards

The ONIX Governing Body (OGB) chaired by *Maureen Cavan* (Access Copyright) and including *Franziska Eberhard* (ProLitteris), *David Grundy* (ALCS), *Heather Reid* (CCC), *Pablo Ruiz de Elvira* (CEDRO) and

James Boyd with *Mark Bide* (EDItEUR) associated to it, is tasked with the management of the implementation and the efficacy of the use of ONIX for RROs. During the period under review the OGB completed a survey on actual usage of ONIX for RRO standards – ONIX for Distribution (ONIX-DS) and ONIX for Repertoire (ONIX-RP). The results revealed that not all RROs are yet compliant and those that are have different levels of compliance. Only CCC and Copydan are sending and receiving ONIX files between each other, whilst CLA is scheduled to be able to do that in 2013. Part of the problem appears to be competing demands for technical resources in the RROs and the absence in demand among RROs for ONIX exchange. The OGB held a conference call in March to consider the results and concluded that more effort was required in convincing senior leaders of RROs of the benefits of using ONIX.

IFRRO is a member of EDItEUR which is responsible for a number of standards of interest to IFRRO members, including ONIX for RROs. The finances now show a positive balance. The Board welcomes as consistent with its goal of streamlining its standards activities that EDItEUR has signed contracts to administer ISTC and ISNI. The *CEO* is on the Management Board with *James Boyd* also attending selected meetings.

The International ISTC Agency (ISTC-IA), in which the *CEO* is on the Board with *James Boyd* also attending meetings, now has 12 Registration Agencies (RAs), ensuring a positive financial situation. 7 are based in Europe, 2 in North America, 1 in Asia and 2 in Australasia. Short term priority is to increase the number of registered ISTCs, which at the time of the finalising of the Board's Annual Report stand at around 67,000. A regular ISTC Newsletter is planned starting later in 2012.

During the period under review the ISNI Board appointed two Registration Agencies (RAG), the Ringgold Inc. and Bowker. An ISNI-IA Business Plan has been prepared, complete with Vision, Mission Statement, Core Values, Purpose, Objectives and Activity Plan, of which the five first elements are available on the ISNI public website. A RAG recruitment Strategy and a Communications Plan are under development. Currently there are nearly 1.5 million assigned ISNIs and a further 15.5 million registered on the database with provisional status awaiting matching. *CEO* is Chairman of the ISNI-IA and *James Boyd* is also involved in the work for IFRRO.

IFRRO continues its involvement in and support to the International DOI Foundation (IDG) and the Plus Coalition on the facilitating of communication and management of image rights.

Standard Software package for RROs

In accordance with the Business Plan 2009-12 the Board is developing a standard software package compliant with messages, standards and identifiers used by RROs, such as ONIX, ISNI and ISTC, to be offered to new RROs free of charge, with the RRO using it meeting the maintenance costs only. On this project IFRRO is working with Access Copyright. The first two modules, on rightholders and works, are being piloted, with expected delivery of the complete package, including the two other modules, on licensing and distribution, the last quarter of 2012. Current RRO members have also shown interest for the IFRRO standard software package, which will therefore be made subject to a broad general presentation in 2012/13.

6. WORK IN RELATION TO INTERGOVERNMENTAL BODIES

6.1. WIPO (World Intellectual property Organization)

WIPO is one of IFRRO's key partners. The main collaborating activities are with the Culture and Creative Industries Sector headed by Assistant Director *Trevor Clarke*, which comprises the Copyright Infrastructure Division responsible for collective management and the cooperation with the Non Governmental Organisations (NGO) such as IFRRO, headed by Director *David Uwemedimo*; the Copyright Law Division with *Michel Woods* as Director; and the Copyright Development Services Division led by Acting Director *Gao Hang*. We have continued the cooperation on an education programme on copyright and collective management, with the intention to include a virtual learning module, and started up discussions on a possible collaboration on a global voluntary acknowledgement of good governance for CMOs. The coming year the discussions with WIPO will include on enhanced collaboration on enforcement.

The General Assembly (GA) and the SCCR⁷ are attended by the IFRRO *President* and the *CEO*, selected SCCR meetings also by the *General Counsel* or the *Senior Legal Advisor*. The current SCCR agenda includes exceptions and limitations for education and libraries and archives, and a WIPO instrument for persons with print disabilities. Due to the importance of the issues to the IFRRO membership the Board opted for bigger delegations to the SCCR meetings in November 2011 and July 2012; it wishes to thank *Franziska Eberhard* (ProLitteris), *Maureen Cavan* (Access Copyright), *Jim Alexander* (Copyright Agency), *Rainer Just* (VG Wort), *Mats Lindberg* (BUS and Bonus Presskopia), *Balamine Ouattara* (BBDA), *Tracey Armstrong* (CCC), *Valéria Sanchez* (CeMPro) *Sandra Chastanet* and *Katia Labayle* (CFC), Kevin Fitzgerald (CLA), *Anders Kristian Rasch* (COPYDAN) *Nothando Migogo* (DALRO) and *Barbara Jozwiak* (Polska Ksiazka) for taking part in it.

The 23rd session of SCCR in November 2011 decided on eleven specific topics to be discussed in relation to exceptions and limitations for libraries and archives; IFRRO submitted comments directly to WIPO, which were also sent to the EC and selected governments. The first session in 2012, which was postponed to July, included three days dedicated specifically to exceptions and limitations for education. IFRRO hosted the reception on the opening day, jointly with with IPA and IAF, and was pleased that the award winning UK author *Tony Bradman* and the WIPO DG *Francis Gurry* honoured it with their presence. During the 24th session in July 2012 IFRRO also organised a side event for a full audience of Member States' delegations and others on seamless access to copyright works in education. *Jim Alexander* (Copyright Agency and the Board) and *Tracey Armstrong* (CCC) were the main speakers, in addition to the IFRRO *President* and *CEO*. The Board wishes to acknowledge the invaluable contributions of IPA and IAF to that event. The SCCR agreed to work towards the adoption of legal instruments for persons with print disabilities in 2013 and broadcasting in 2014, and for the clarification of WIPO instruments for libraries and archives in 2014 and education in 2015.

The period under review also saw the successful conclusion of the WIPO Beijing Treaty on Audiovisual Performances, signed by a number of Member States on 26 June 2012.

The *Senior Legal Advisor* follows the WIPO CDIP⁸, which in 2012 has made progress on a range of projects and also started examination of a report commissioned on the "External Review of WIPO Technical Assistance in the Area of Cooperation for Development" The *Senior Legal Advisor* also follows the work of the IGCRTKF⁹, in particular on Traditional Cultural Expressions (TCE). Whilst focus the last 12 months has been on Generic Resources and TK, which is of lesser relevance to the IFRRO community, the coming period will focus more on TCE.

During the FY under review, IFRRO provided speakers for and/or collaborated with WIPO in the organising of seven conferences, seminars, workshops and fact finding missions: three in Africa; one in Europe; one in Latin America; one in Asia; and the WIPO-SIDA training course.

6.2. UNESCO (United Nation's Economic, Social and Cultural Organization)

IFRRO has NGO status with UNESCO and contributed during the FY under review to the evaluation of the 2005 UNESCO Convention on the protection and promotion of the diversity of cultural expressions.

6.3. European Union

The Secretariat, partly accompanied by the *President* and/or by member organisations, met with EU institutions to present IFRRO's position on relevant EU initiatives and other issues of importance to the IFRRO community. This includes the work on the collective management and the orphan works directives, and issues on the WIPO SCCR agenda. Also, IFRRO commented on the proposed changes in the EU Directive on the enforcement of intellectual property rights, which proposes to create a European notice and action framework, and on the proposal for a regulation on entrusting the Office for Harmonisation in the Internal Market (OHIM) with the European Observatory on Counterfeiting and Piracy, which entered into force on 5 June 2012.

⁷ Standing Committee on Copyright and Related Rights

⁸ Committee on Development and Intellectual Property

⁹ Intergovernmental Committee on IP and Genetic Resources, Traditional Knowledge and Folklore

Orphan works Directive

On 8 June 2012 the European Commission (EC), Parliament and Council reached consensus on the Directive on certain permitted uses of orphan works. The final text is scheduled to be officially published in October 2012, after which the EU Member States are admitted two years for its implementation into national legislation. The main features of the Directive, which take appropriately account of the comments submitted by IFRRO, are: (i) before any use of the work, including making it available to the public, a diligent search, work by work, is required to verify its orphan works status; (ii) allowed uses do not include commercial exploitation; (iii) the institution may make certain non commercial uses of the work to recover costs incurred for the diligent search and the digitization process; (iv) the diligent search needs to observe criteria established in legislation; (v) the sources for the diligent search shall be determined at national level, in consultation with rightholders and users, and include those listed in the annex of the directive, which again refers to criteria established by the i2010 digital libraries initiative's High Level Expert Group¹⁰; (vi) the diligent search may be carried out by other organisations than those foreseen in the directive, such as RROs; (vii) the organisation performing the diligent search may charge for the service; (viii) a work that has been declared to be orphan in one EU Member State has the same status in all EU member States; (ix) the rightholder may put an end to the orphan works status; (x) the rightholder is entitled to receive compensation, which should be proportionate to the damage caused; (xi) each Member State shall determine the circumstances, including the point in time, under which payment is due, (xii) the directive is without prejudice to arrangements already or to be established by a Member State concerning rights management, including for large scale digitisation.

Collective Management Directive

On 11 July 2012, the European Commission published a draft directive on collective rights management. It comes in two parts: a section on governance rules, including transparency, applicable to all collective management organisations; and a section on multi-territory licensing of musical works, which includes a proposal for a "European Licensing Passport" obtainable by CMOs complying with defined criteria for rights administration. The governance part also includes principles on non-exclusivity in respect of rightholder mandates, criteria for information to rightholders and users, revenue distribution, establishment of tariffs and other licensing conditions, and for dispute resolution mechanisms. The main task in the coming year will be to ensure that RRO business models and functioning are appropriately considered in the directive that is eventually adopted by the EU. Whilst the Board acknowledges that collective management has reached a level of importance to attract the interest of legislators, it is imperative to ensure that the directive allows traditional RRO business approaches. RROs are mainly in the business of administering, through one-stop shops, certain subsidiary uses of already published works of multiple authors and publishers.

Copyright Levies

On 24 November 2011, Internal Market and Services Commissioner *Barnier* announced the appointment of *Antonio Vitorino* as the mediator between stakeholder representatives on the application of levies. IFRRO's delegation, made up of the IFRRO *President* and *CEO*, *Benoît Proot* (Reprobel), *Robert Staats* (VG Wort) and *Kurt van Damme* (Reprobel, in substitute for *Sandra Csillag* of Literar-Mechana), met with the mediator, who is scheduled to deliver his report to Commissioner Barnier before the end of the year, on 8 May 2012.

6.4. ARIPO (African Region Intellectual Property Organization)

In 2006, IFRRO signed a cooperation agreement with ARIPO, which represents 18 English-speaking Sub-Saharan African countries, headed by its DG Mr. *Gift Sibanda*. The *CEO* addressed ARIPO's 13th Council of Ministers and the 35th Administrative Council meeting in Accra on 28 November – 2 December 2011. ARIPO cooperated with IFRRO in the Enhancement of a culture for books and reading conference in Nairobi in May 2012, and *Greenfield Chilongo*, the IFRRO RDR Africa, has spoken at ARIPO conferences.

6.5. OAPI (Organisation Africaine de la Propriété Intellectuelle)

OAPI represents 16 French-speaking Sub-Saharan African countries and is lead by DG Mr. *Paulin Edou Edou*. An agreement on co-operation covering all major IP relevant activities was signed in 2007. The *Senior Legal Advisor* represented IFRRO and addressed the 52nd OAPI Council of Ministers in Conakry on 12-13 December 2011.

¹⁰ <http://www.ifrro.org/content/i2010-digital-libraries>

6.6. CERLALC (Centro Regional para el fomento del Libro en America Latina y en el Caribe)

IFRRO and CERLALC signed an agreement on cooperation in 2009. The CEO represented IFRRO and addressed CERLALC's 26th General Assembly and 46th Board meeting in Mexico City on 2 - 4 November 2011. IFRRO has also contributed to the organisation's copyright bulletin (ODAI), including through interviews with IFRRO's CEO on relevant items. CERLALC's Director General is Mr. *Fernando Zapata Lopez*, with Ms. *Mónica Torres Cadena* as Deputy DG.

6.7. LAS (League of Arab States)

LAS is an intergovernmental organisation, representing 22 Arabic countries, which works towards the enhancement of the relations between its members, including on intellectual property issues. During the period under review the Board consented to IFRRO signing an agreement on cooperation with LAS, parallel to the ones previously signed with ARIPO, OAPI and CERLALC. At the time of the finalising of the Board's Annual Report the agreement was not yet signed.

7. REGIONAL DEVELOPMENT ACTIVITIES

Annual reports submitted from the European Group and regional development committees document the achievements in the respective regions. The financial aspects of the development work are reported separately in Chapter 9 Finances and in the Financial Statement 2011-12.

Asia Pacific Committee (APC)

The region counts 13 RROs in membership of IFRRO, including one Music RRO. Since the last Annual Report no new RRO has joined IFRRO. In India, all interested parties have now agreed to join IRRO, which, after the election of the new Board, includes representatives also of the Federation of Publishers in India (FPI). The Committee and IFRRO Secretariat are actively following the copyright amendment bill introduced in China in March 2012 China, which in its first draft strengthens substantially collective rights management. We understand that the intention is for a revised Act to come into force in 2013. India, Indonesia and the Philippines remain priority countries. There is also renewed interest for a RRO in Malaysia which the APC will continue to monitor. The APC Chair is *Caroline Morgan* (Copyright Agency).

African Development Committee

Africa counts 11 RROs as members of IFRRO, which is the same as in last year's Report. Copyghana has started to collect revenues for reprography and negotiations have started on the licensing of education, whilst BBDA, which has already signed a licensing agreement with the government for government-owned educational institutions and is also at an advanced stage in the negotiations with private schools and universities, has started distributing fees regularly for reprographic reproduction. Priority is given to assisting Kopitan and ZARRSO to start up licensing activities, and to the establishment of RRO activities in Côte d'Ivoire and Senegal. The African Development Committee is chaired by *Greenfield Chilongo* (Zimcopy).

European Group and European Development Committee

European Group (EG)

The European Group met twice during the FY. The Executive Committee consists of *Kevin Fitzgerald* (CLA) as Chair, *Rainer Just* (VG Wort) and *Yngve Slettholm* (Kopinor). It has followed closely the EU orphan works directive, implementation of the EC facilitated out-of-commerce works MoU signed in September 2011, and the ARROW¹¹ and ETIN¹² projects. The meeting in October 2011 in Ljubljana also discussed a final proposed solution for multi-territory licensing based on bilateral agreements between RROs, including a toolkit to facilitate such licensing. Relevant documents have been posted to the IFRRO Members Only. An introduction by Ms. *Bente Skovgaard*, Head of Unit at the Ministry of Culture of Denmark, which had the EU Presidency at the time, allowed general discussion of copyright issues on the EU agenda at the meeting in April 2012 in Copenhagen. The coming year will have a main focus on the draft EU directive on collective management, published in July 2012.

¹¹ See further on this in Chapter 3 ARROW, on page 3

¹² See further on this in Chapter 3 Facilitating access for persons with print disabilities, on page 4

European Development Committee (EDC)

The EDC met twice during the year under review, in Podgorica (Montenegro) in October 2011 and in Sarajevo (Bosnia) in May 2012. Since last year's report GCA's membership status has been changed to RRO membership, from Creator and Publisher Association membership; two Associate RRO members – YAYBIR and EDISAM (both Turkey) – and two Provisional RRO members – NSRR (National Society of Reprographic Rights, Kazakhstan) and Repro BG (Bulgaria) – have been approved by the Board. Europe now counts 45 RROs with IFRRO membership, of which 26 are full RRO members. The Board is pleased with the development of RRO activities in the Caucasian region, led by the RROs in Georgia and Kazakhstan. Whilst the Balkan States will remain target countries for the work in the coming year, new legislation in Lithuania and recent initiatives in Latvia offer promising prospects also for the Baltic region. The EDC is chaired by *Samantha Holman* (ICLA).

Latin America and the Caribbean (LAC)

The Committee met twice during the period under review. There are 11 RROs members of IFRRO in the region. Two new RRO Members – BECLA (Belize Copyright Licensing Agency) and ECCLA (Eastern Caribbean Copyright Licensing Agency) were approved as RRO members of IFRRO during the year under review. Given that ECCLA is a sub-regional RRO for six Eastern Caribbean States, the RROs in Latin America and the Caribbean cover 16 countries. One new visual creators' CMO, SAVA (Argentina), was also admitted into IFRRO as a Creator and Publisher Association Member during the FY.

There is positive development in Central America with the establishment of the Panama RRO, SEA Panama, and an initiative for a RRO in El Salvador from the Publishers Association, actively supported by the national Intellectual Property Office. To assist in getting the Panama RRO off the ground the Secretariat has contracted *María Fernanda Mendoza* as the Development Representative for Panama. A new copyright amendment bill has been introduced in Brazil. IFRRO will be making interventions as agreed with ABDR. Main targets remain the RROs in Peru and Panama, support for the licensing activities in Barbados and Trinidad & Tobago, and getting BECLA and ECCLA properly off the ground. *Ana Maria Cabanellas* (CADRA) chairs LAC, with *Brian O'Donnell* (Access Copyright) as Vice Chair.

Middle East Development Committee (MEC)

MEC, which is chaired by *Emma House* (PA, UK), met once during the period under review, in October 2011 in Ljubljana, and has started work on an activity plan which includes the collection of basic country information. Fact finding missions have been made to the Emirates and Jordan, with the inclusion of workshops for stakeholders. The activities of the Committee and the progress on RRO works are, however, hampered by the political situation in the region and the effects of "the Arab spring". Priority countries are the UAE, Egypt, Lebanon and Jordan.

8. TECHNICAL WORKING GROUPS AND FORA

IFRRO Education and Enforcement Task Force

The purpose of the IFRRO Education and Enforcement Task Force (IEETF), chaired by *Jim Alexander* (Copyright Agency), is to assess education and enforcement activities, communicate best practices and make recommendations on such activities to the IFRRO membership, and identify those that IFRRO could support. It met twice during the period under review. Nineteen members have contributed information on copyright education programmes and CeMPro on enforcement activities, which has been made available on the IFRRO home page. Further best practice information has been posted to a dedicated structured page on the Members Only page. At the recommendation of the IEETF, the Board agreed that the IFRRO Enforcement Fund contributed to ZANA's litigation in Croatia against debtors who have refused to pay the copyright levy.

Musical Working Group

The Musical WG, chaired by *Marc Hofkens* (SEMU), studies and suggests solutions to relevant issues to the reproduction of musical works in print. It met once during the period under review. Current focus is to expand the licensing of musical work in print to more countries. To this end, meetings have been held with music publishers and RROs in various countries, with a particular focus on China, Italy and the Netherlands.

Newspaper and similar periodicals Working Group

The WG provides and exchanges relevant information to IFRRO members on the analogue and digital licensing of material from newspapers and similar periodicals. This includes information on requirements for digital services in the news and journalistic media and how these can be monetised for the rightholders of original copyright materials. The current focus is on the licensing of content, including web content, and web scraping on relevant technical standards and identifiers. The WG, which is chaired by *Sandra Chastanet* (CFC), met twice during the FY.

Technical Standards Committee (TSC)

The TSC, chaired by *Franziska Eberhard* (ProLitteris), is tasked with supporting IFRRO work on technical standards, including examining the need for and possibly developing an IFRRO Party Identifier. Discussion on an RRO executive level during the IWC 2011 in Ljubljana revealed the need to examine an IFRRO Party Identifier in the light of the development of the ISNI¹³, which has now been launched with 1.5 million data in its database. The TSC therefore aims at organising a webinar for RRO technical experts during the coming fiscal year.

Visual Material Working Group

The Visual Material WG is chartered to study and recommend solutions on matters involved in reprography and similar reproduction of still images contained within books, journals and newspapers and to determine strategies for co-operation and closer involvement of the visual creators in the field of reprography. The WG has continued its work on statistical surveying and the measuring of the use of visual material and digital rights, and has kept a watching brief over the ARROW Plus work on images. It met three times during the FY, chaired by *Mats Lindberg* (BUS).

Equipment Levy Forum

The Equipment Levy Forum (ELF) is an informal forum open to all IFRRO members for the exchange of information between RROs administering equipment levies and others that take an interest in those issues. It met twice during the period under review, chaired by *Benoit Proot* (Reprobel). In addition to considering preparatory work for the meeting with the EC appointed mediator on levies, discussions have focused on consequences of relevant decisions, such as in the Padawan and Stichting ThuisKopie cases regarding private copying, and one in Germany regarding levies on printers, plotters and PCs. It was further noted that Bulgaria scrapped the levies on reprographic devices; Spain, at least temporarily, modified the system to implement one by which levies are paid over the State budget; and Lithuania introduced levies on reprographic devices, in addition to the previously adopted fee payable by operators. The Forum continues to maintain a watching brief on online cross-border sales of devices.

IFRRO Public Lending Rights Forum

The IFRRO Public Lending Forum (IPF), chaired by *Benoît Proot* (Reprobel), is an informal forum open to all IFRRO members. It was convened twice during the period under review. A database with key information relevant to the administration of PLR has been developed and made available on the Members Only page, with contribution also from non-members of IFRRO, who, in its turn, will be provided access to the data. The Forum also considered the decision of the Court of Justice of the European Union (CJEU) on the Belgian PLR tariffs, that Belgium must provide a remuneration that is more than just “symbolic”.

Legal Issues Forum

The Legal Issues Forum (LIF) is a forum open to all IFRRO members for the exchange of information on legal issues. Chaired by *Caroline Morgan* (Copyright Agency), it met twice during the year under review to examine *inter alia* the legal concepts of “illustration of teaching” and traditional cultural expressions.

9. FINANCES

Tax issues

The Belgian tax authorities have started examination of IFRRO’s tax liabilities on interests yielded on saving accounts, which could result in claims for payment of taxes for the past 7 years. IFRRO’s auditors, KPMG,

¹³ ¹³ See further on this in Chapter 5 Technical standards and identifiers, on page 7

have reconfirmed their advice that IFRRO is not liable to pay taxes under Belgian legislation. A final decision is expected in the coming FY. The Board proposes to provision from this FY's surplus to meet possible tax claims.

Operational accounts

The year-end balance on the operation, i.e. excluding the Development Fund and Enforcement Fund, resulted in a surplus of € 60,745 against a budget surplus of € 400. The positive result is due to higher income than budget from membership dues, bank interests and from the European Commission for the ARROW Plus project. A total of € 272,400 of paid membership fees was allocated towards development work and transferred as voluntary contributions to the Development Fund.

The Board proposes that, of the FY's surplus, € 12,000 be reserved to guarantee for unpaid membership fees; € 20,000 be earmarked towards communications and information activities; and the balance of € 28,745 be added to the operational reserve which will then amount to a total of € 497,057, as of 30 June 2012. The reserve will then equal some seven months of the budget yearly spending, which is considered indicative of a sound fiduciary practice.

Development Fund

Three IFRRO members contributed a total of € 16,481 directly to the Fund during the FY. € 272,400 was transferred as voluntary contributions from the membership fees, resulting in a total Development Fund contribution of € 288,881. As in previous years, members also contributed financially through their own development funds and by not charging IFRRO when participating in development activities.

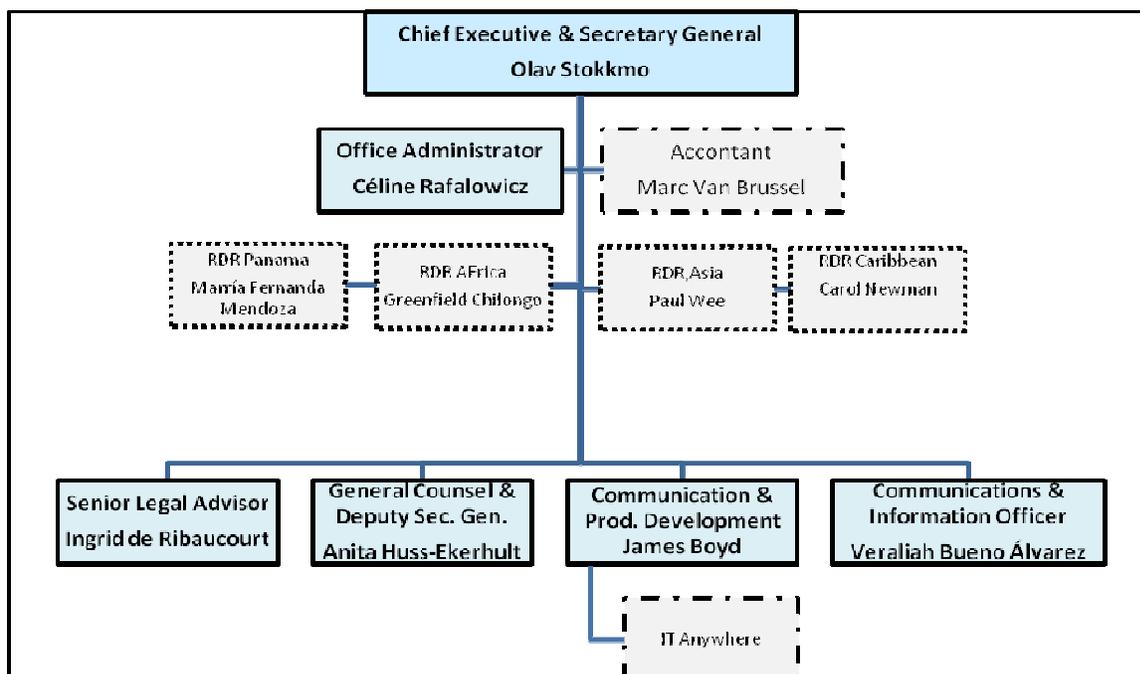
A total of € 286,004 was paid out towards previously approved grants during the FY. As at 30 June 2012, the Development Fund amounts to € 1,119,401, of which € 442,427 has already been allocated through Board decisions towards specific projects. This leaves a total of € 676,974 available for new projects

Enforcement Fund

IFRRO members contributed a total of € 17,750 to the IFRRO Enforcement Fund which was matched by IFRRO, bringing the total contributions to € 35,500. The Fund contributed € 11,690 towards ZANA's litigation against copyright levy debtors in Croatia, which leaves a fund balance of € 23,560 as of 30/06/2012.

10. THE SECRETARIAT

Since July 2011, the Secretariat has been based at Rue Joseph II, 9-13, Brussels (Belgium). *Olav Stokkmo* is Chief Executive and Secretary General with *Anita Huss* as Deputy Secretary General and General Counsel, responsible for legal work at the Secretariat. *Ingrid de Ribaucourt* is Senior Legal Advisor with responsibilities linked to EU-related and regional development work, as well as other legal issues. *James Boyd* is responsible for IFRRO's work on technical standards, communications, and product development, and *Veraliah Bueno Álvarez* is responsible for the IFRRO website, selected communication and information activities, and event managing. *Céline Rafalowicz* handles secretarial matters, including the day-to-day bookkeeping. As from 1 February 2012, *Marc Van Brussel* replaced *Jean Pierre Exsteen* as the IFRRO accountant, and is engaged on a consultancy basis. IT is outsourced to IT Anywhere, a Belgian IT service company. The organisation chart of the Secretariat looks like this:



Regional Development Representatives (RDR) reporting directly to the Chief Executive were contracted to assist as follows: Africa: Zimcopy/*Greenfield Chilongo* with priority countries Tanzania, Uganda, Zambia; Asia: CLASS/*Paul Wee*, with focus on Indonesia and the Philippines; Caribbean: *Carol Newman* focusing OCES, Belize and the Caribbean network; Panama: *Maria Fernanda Mendoza*. RROs have been established in all target countries, the RROs in Panama and Uganda are not yet IFRRO members.

11. FUTURE PERSPECTIVES

The Board will work harmoniously with authors' and publishers' bodies in membership of IFRRO towards establishing a clear, shared understanding among rightholders and their representatives of the challenges and opportunities facing the text and image based sector, and strive to assist RROs in identifying possible business approaches. Agreements with RROs and rightholders offer the safest, simplest, fastest, and the most innovative, convenient and cost-efficient way to meet dynamic user needs for seamless access to intellectual property in constantly changing environments. Collective copyright management by RROs works in developed as well as developing countries, and helps to build sustainable national creative industries and a range of materials adapted to local and special user needs. The Universal Declaration of Human Rights also gives any creator "the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author". Overly broad exceptions that conflict with normal exploitations of the works and broadening of exceptions and limitations without commensurate remuneration to authors and publishers would act as a disincentive to and have a negative impact on the continued creation and commissioning of copyright works. A main focus of the Board in the coming year will be on activities to provide better understanding of user needs and behaviour, and of future rightholder requirements and their business models. Priority will be given to communications activities that can ensure enhanced comprehension of RRO and rightholder positions and requirements and to show that collective management through RROs is about making copyright work.

Brussels, 30 June 2012

Magdalena Vinent, President