



**Study on Reproduction Rights Organisations (RROs)
in European countries**

REPORT

Prepared by the IFRRO Secretariat
(Based on a questionnaire of 7 April 2005 to RROs; the section on levies also includes
information assembled by IFRRO's Equipment Levy Forum)

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Summary

General

Reproduction Rights Organisations (RROs) are set up jointly by authors and publishers and represent them equally. They serve the interests of both rights holders and users insofar as they provide access to printed and published copyright works by photocopying and similar reproduction and certain digital uses. RRO activities take place in some 50 countries worldwide.

RROs are relatively young organisations. The first was incorporated in 1973. Even though there were some movements towards the establishment of such organisations in the late 1970s and in the following decade, most RROs are less than 15 years old. Twelve of the 25 RROs forming the basis for the main part of this report started collecting and distributing reprographic fees less than 10 years ago, 14 of them less than 15 years ago.

There are CMOs in membership of IFRRO acting as RROs in all EEA countries and in 21 EU countries, i.e. all but Cyprus, Estonia, Latvia and Portugal. With the exception of the section on levies¹, this report covers 22 countries: 20 EU countries, one EEA country (Norway) and Switzerland which also administers rights in Lichtenstein.

RROs operate according to different models, generally referred to as ‘voluntary licensing’, ‘voluntary licensing with a legal backup’ (extended collective licence and obligatory collective management) and ‘non voluntary licensing’, which also encompasses levy systems. IFRRO’s Internet site (www.ifrro.org) includes a comprehensive presentation of these different models and shows which has been adopted by each RRO.

The section on levies also includes information collected by IFRRO independently of this study, as a result of which this section of the report covers all EU member states, EEA countries and Switzerland. We have also accounted briefly, in footnotes, for the use of levies in relation to reprography in other European countries. In view of the current discussions on levies we find this appropriate.

The “European RRO”

All European RROs are non-profit organisations, usually set up as associations or limited companies. In a few countries the administration of reprographic reproduction rights is split between several RROs: in Germany, for instance, there are three RROs – one for texts, one for visual material and one for musical works – and in UK and Ireland newspapers are licensed through separate organisations. Just over half of the organisations administer Public Lending Rights (PLR) and 48% also administer ‘other rights’, most frequently rental rights and cable retransmission rights.

The statutes of an RRO usually have to be approved by a public body. In most countries, permission from the relevant authority, usually the Ministry of Culture, is needed, and some form of supervision by the authorities exists in all but two countries, Malta and Sweden. In addition, most RROs have established their own internal control bodies set up by the rights holders themselves and working independently of other governing bodies in the organisation. RROs are thus generally subject to tight control both by their owners and by the public.

¹ In view of current discussions, the section on levies also includes information collected by IFRRO independently of this study, thus enabling the report to inform on all EU Member States, EEA countries and Switzerland. In footnotes we have accounted briefly also for the use of levies in relation to reprography in other European countries.

Governance and administration of RROs

All RROs have Boards, usually elected by a General Assembly, less frequently by the rights holders' associations, which provides for strong rights holder governance and influence on the organisation.

All but three of the RROs in this study have General Assemblies. Where the RRO has been set up jointly by authors' and publishers' collecting societies, the structure itself might make a General Assembly of rights holders superfluous; it would, rather, be needed in the societies that have set up the RRO.

An RRO would typically deduct between 11% and 15 % to cover administrative costs. More than one quarter of the RROs spend 10% or less on administration, and only 22% use more than 20% of the collected revenues for administrative purposes. This means that RROs are generally efficient CMOs.

RROs in five countries (Austria, Germany, Greece, Spain and Switzerland) deduct for cultural and/or social purposes. Four deduct for both cultural and social purposes, Greece for cultural purposes only and Pro Litteris in Switzerland for social purposes only. The percentage is generally maximised to 10% of collected fees.

Relationship between rights holders and the RRO: the mandate

Authors and publishers grant and withdraw mandates to RROs individually, with a standard mandate form or, less frequently, through a rights holder association. Generally, the RRO is granted either a non-exclusive mandate, or an exclusive mandate that provides the rights holders with an opportunity to withhold works or rights from the mandate. This applies to 19 of the 25 RROs surveyed. RROs that have exclusive mandates most frequently receive them through individual mandate forms. In 19 of the countries surveyed, RROs are also granted rights by law.

Fifteen European RROs report that they administer digital rights. This typically involves the right to license intranet and intranet digitisation. For some RROs, the mandate is limited to the licensing of rights to scan copyright material. In some countries, such as Belgium, Denmark, Sweden and Switzerland, the administration of certain digital rights by an RRO is granted by law.

Foreign rights holders

Foreign rights holders are represented by all RROs through bilateral agreements. This also applies to RROs in countries where rights are granted by law. Eleven organisations accept individual direct mandating by foreign rights holders. Nearly all the RROs mandated by rights holders individually accept foreign rights holders as members – although, as many RROs receive their mandates via rights holder associations, individual foreign members are probably not an issue for these associations. Foreign rights holders are not precluded from representation through membership in rights holder associations. This is often the case, but that aspect lies beyond the scope of this study. In any case RROs treat national and foreign rights holders equally.

RROs conclude both Type A and Type B reciprocal agreements. The former implies exchange of both rights and revenues collected, while with the latter there is an exchange of repertoire, but no transfer of collected revenues.

The main rationale behind the Type B agreement is to assist a newly-established RRO to get off the ground. By offering its repertoire to a new RRO and at the same time allowing it to withhold the money collected for a certain limited period of time (usually 3-5 years), established RROs provide new RROs with substantial development aid through seed money. Sometimes the new RRO is allowed to keep what it has collected while the money the established RRO has collected

on its behalf is transferred. This strengthens even further the incentives for establishing new RROs.

Another reason that RROs enter into Type B agreements is that they deem the monies to be exchanged to be somewhat similar; they therefore prefer to keep the money in the country of collection and avoid the administrative burden and costs of exchanging collected fees. The Type B agreement is in this situation considered to be a more cost-effective alternative. This is typically the case in some of the Nordic countries.

Relationship with users: access to copyright works and tariffs

In 19 of the countries there is some form of legal backup to support RROs. In six countries an extended collective licence – or obligatory collective management of the reproduction rights – has been established, and in 13 of the countries there are legal licences to support at least part of the RRO's activities.

Even though 11 of the RROs offer both blanket and transactional licences, most are limited to blanket licensing. This is to a large extent explained by the number of RROs having been set up recently. One RRO, AIDRO in Italy, offers only transactional licences. This is offered outside the scope of the legal licence administered by law by Società Italiana degli Autori ed Editori (SIAE). As a result the user has the choice of blanket and transactional licensing, albeit offered by two different organisations.

In respect of tariffs and other conditions for the use of works through reprographic reproduction, the rule is user involvement. Tariffs are most commonly negotiated with users, with or without an obligation to have them approved by a public body, or fixed in legislation. The user community thus generally has an influence on the establishment of tariffs.

The user influence is also ensured through involvement in statistical surveys used to determine the volume for which payment is due. Of the 16 RROs reporting on the use of surveys, only two carry them out alone without the involvement of users and/or a third party. 13 engage an independent statistical bureau to carry out surveys and 11 involve users in planning and/or carrying out surveys.

User influence is further provided through external dispute settlement mechanisms, which have been put in place in all but five of the countries surveyed. Mediation and/or arbitration are the most frequently used mechanisms for negotiation of tariffs and other conditions.

Levies

(This part of the report includes material collected by IFRRO independently of the survey and covers all EU member states, Norway, Iceland and Switzerland – a total 28 countries.)²

Levies on reprographic equipment and/or an operator levy are covered by the legislation in 16 EU countries and in one country outside the EU covered by the survey.³ In one EU country the levy is not yet in place due to the lack of an implementation decree. Levies are thus currently being collected in 15 EU countries, of which in two only an operator levy is collected.

² In view of the current debate on the use of levies it seems appropriate to include material that IFRRO has collected independently.

³ Reprographic equipment is also levied in Bulgaria, Latvia, Romania and Serbia & Montenegro, currently collected only in Romania, which also has an RRO, COPYRO, in membership of IFRRO. In Estonia an operator levy is collected, whereas in Latvia photocopies are levied to cover research, educational and library but not private use. Bulgaria, Romania and Serbia & Montenegro have levies on photocopiers to cover private and personal use – not, however, currently being collected in Bulgaria and Serbia & Montenegro.

The equipment levy generally applies to all photocopiers. In many countries faxes, scanners and multifunction machines are also levied. More rarely, the levy system is extended to cover printers, PCs, CD-burners and DVD-burners.

Several levies are not collected. In 76% of the countries, RROs report that they are unable to collect them, mainly because they are disputed in litigation (47%) or because there is not yet a decree to implement them.

Moreover, levy systems differ from one country to another. This becomes particularly apparent when examining types of uses covered by the levy. In most cases, the levy covers private use but in some countries only research and educational use is covered, and in others both private, personal and institutional use are levied. There is thus a considerable variety, which makes it difficult – if not impossible – to compare levy systems across borders.

Distribution of levies is generally based on allocation to works according to results in statistical surveys or stipulated by legislation

Distribution of collected revenues

IFRRO members currently use the following four main methods of distribution:

- *title specific* distribution based on
 - full reporting
 - sampling
 - objective availability
- *non title specific* distribution on the basis of surveys

Full reporting means that users record details of every copyright work copied.

When distribution is based on sampling, a defined number of users covered by the agreement (normally between 2% and 5%, selected statistically) report actual copying at agreed intervals.

In some countries, rights holders have decided that it would be too complicated to collect data on photocopying directly from users, and a distribution method has been developed based on the availability of the material in the market. The rights holders report to the collecting society when their works have been published and are compensated for probable copying of the work. The rationale behind this distribution method is that, since all material that exists can be photocopied, it can be assumed that at some stage it probably will be. This method of distribution is frequently used to distribute levies.

There are also countries where rights holders have opted for non-title specific distribution of remuneration. Surveys are designed to collect *generic*, non-title-specific information regarding the volume of copying of the type of material and categories of publications, rather than identifying the specific publication, author and publisher that have been photocopied. This distribution method often results in collective distribution of remuneration. Data is collected from a limited number of the users covered by an agreement (approximately 5%) for a limited period of time which can vary from 8 hours to weeks. Surveys are conducted less frequently than in a system based on sampling, normally not more often than every 4-5 years within each sector covered by an agreement.

This system can also provide for the individual remuneration of rights holders, even if indirectly. The RRO distributes remuneration to the rights holder associations, which in turn pay individual authors and publishers.

The split of the revenue between publishers and authors is generally subject to negotiation, but in some countries it is fixed in the legislation.

There is a comprehensive presentation of the different distribution methods used by RROs on IFRRO's home page: <http://www.ifrro.org/papers/distrib.html>.

Transparency

RROs generally appear to be transparent, from both rightsholder and public points of view. All RROs make annual reports, tariffs and distribution rules available to their members. Twenty-one of them also make them accessible to the public, often on the Internet (16 RROs). Tariffs are generally accessible to the public (24 RROs), most often on the Internet (18 RROs).

All RROs report that they make their distribution rules known to their members. Twenty RROs also make them available to the public, 16 of them on their home pages on the Internet. Discount policy is made available to the public by 14 RROs, whereas information on bilateral agreements is available for all RROs on IFRRO's website, which also includes the IFRRO model bilateral agreements.

The Survey - response rate

A questionnaire ([Appendix 1](#)) was circulated to 26 European IFRRO members on 7 April 2005. A total of 25 organisations, of which 23 are based in European Union (EU) countries, replied (a response rate of 96%).

To be approved as a full RRO member of IFRRO the organisation has to demonstrate that it represents authors and publishers alike, that both these main categories of rights holders are duly represented on the governing bodies and that it is authorised by them to license reprographic reproduction and similar rights to users. Some of the Collective Management Organisations (CMOs) administering reprographic rights have not obtained RRO status with IFRRO, but have been admitted as associate members. Nevertheless, to simplify the terminology in this report, these CMOs are also referred to here as RROs.

The EU countries Cyprus, Estonia, Latvia, Portugal and Slovenia do not have approved RROs in membership of IFRRO. Reprographic fees are currently collected in Slovenia by an independent company and transferred to authors and publishers after 10 % has been deducted to cover administrative costs. An RRO has just been incorporated and is expected to apply for IFRRO membership in 2005. Levies for reprography are also collected in Estonia and Latvia by multipurpose CMOs – in Estonia only in the form of an operator levy. Fjölis, in the EEA country Iceland, had not completed the questionnaire by the time this report was prepared. Nonetheless, the high response rate and the widespread coverage mean that the report is representative for CMOs in the field of reprography in Europe.

In the following matrixes, the total (N) is generally 25 when reference is made to RROs/CMOs, whereas it is 22 when reference is to countries. When there is divergence from this, the 'N' is indicated. This applies in particular to section I on levies, which includes more countries than the rest of the survey.

A. GENERAL

Rights administered

a) Reprographic rights

Most RROs (68 %) administer reprographic reproduction rights in all types of works. In UK and Ireland, there are separate organisations for the administration of reprographic rights for newspapers, whereas in Germany VG Wort administers the reprographic rights with respect to texts, VG Bildkunst visual material and VG Musikedition musical works. AIDRO (Italy) does not represent visual material, and in Austria there is a separate RRO (Musikedition) for the administration of reproduction rights in musical works.

| Administration of reprographic rights | Europe total |
|--------------------------------------------------------|--------------|
| All reprographic reproduction rights | 68% |
| Do not administer all reprographic reproduction rights | 32% |
| Total | 100% |

b) Public Lending Right (PLR)

Whereas 57 % of the EU RROs have been assigned to administer the Public Lending Right, none of the non EU countries administers these rights, making it a total of 52% of the European RROs administering these rights.

| RROs administering PLR | Europe total |
|----------------------------------------|--------------|
| Administer Public Lending Rights | 52% |
| Do not administer Public Lending Right | 48% |
| Total | 100% |

c) Digital rights

60% of the RROs report that they have been granted the right to administer scanning and/or digital rights. This comprises most of the EU RROs (57 %) and both non-EU RROs. Five of the m report that the rights are limited to the scanning of copyright material: one licenses scanning only in the educational sector, and four only in private corporations and/or public administration and bodies. For one of these RROs the rights are limited to the scanning and licensing of press cuttings. In some countries the administration of digital rights by the RRO is granted by law.

| RROs administering digital rights | Europe total |
|---------------------------------------------------------|---------------------|
| Scanning in education | 4% |
| Scanning in private and/or public sector | 12% |
| Digital rights other than and including scanning rights | 44% |
| No digital rights | 40% |
| Total | 100% |

RROs reporting that they administer digital rights other than scanning are typically granted the rights to license intranet and intranet digitisation.

d) Other rights

48 % of the RROs responded that they administer rights other than reprographic and digital rights. Most frequently, these organisations administer rental rights, cable retransmission rights, broadcasting rights and communication to the public rights.

| RROs administering other rights | Europe total |
|----------------------------------------|---------------------|
| Administer other rights | 48% |
| Do not administer other rights | 52% |
| Total | 100% |

Permission to start up

Generally, permission is needed to start up an RRO. This applies to 19 (86%) of the surveyed European countries, of which 17 EU Member States. In one country (Finland), there are draft amendments to the copyright legislation that would make it obligatory to have permission by the authorities to start up RRO activities. In two other countries (Ireland and the Netherlands) the approval of the statutes of the RRO is necessary. Most frequently, the approval is granted by the Ministry of Culture. Other alternatives are the Patent Office or other governmental office or ministry.

| Permission to start up RROs (countries) | Europe total |
|------------------------------------------------|---------------------|
| Permission is needed to start an RRO | 86% |
| Permission not needed to start an RRO | 14% |
| Total | 100% |

Only one country, the UK, reports that approval neither of the statutes nor the RRO itself is needed to start up the RRO. However, the UK legislation stipulates terms and conditions of licensing schemes and licensing bodies with which CMOs have to comply. In Italy, specific authorisation by the authorities is not required to set up an RRO to license reprography beyond the legal licence administered by law by the Società Italiana degli Autori ed Editori (SIAE).

Legal Personality

All of the organisations surveyed were not for profit organisations. An RRO is typically established as an association not for gain (68 % of the surveyed RROs) or a company with limited guarantees (24 %).

| Legal personalities of RROs | Europe total |
|------------------------------------|---------------------|
| Association | 68% |
| Foundation | 4% |
| Cooperative | 4% |
| Limited guarantee | 24% |
| Total | 100% |

B. REPRESENTATION OF RIGHTS HOLDERS

Becoming a member and terminating membership of the RRO

More than half of the RROs admit their members through individual application forms. The other predominant way of becoming an RRO member is through rights holders associations. One organisation, LATGA-A in Lithuania, reports that representation is granted only by law, the reason for this being that LATGA-A does not yet offer access to copyright works by reprographic reproduction through a licence beyond the scope of the legal licence.

| Author and publisher membership of RRO | Europe total |
|----------------------------------------------------|---------------------|
| Signing individually a membership application form | 58% |
| By statutes when signing an application form | 4% |
| Through a rights holder association | 38% |
| Total | 100% |

N = 24

In 19 countries surveyed (86 %), there are additional stipulations in the legislation to enable the licensing of reprography, partially or in whole. Typically, there are stipulations on an operator levy and/or levy on reprographic and similar equipment in 10 of the 22 countries surveyed⁴. Legislation also ensures a complete repertoire to the user and the CMO in France where there is an obligatory collective management of reproduction rights and in the Nordic countries with the extended collective licence. In Italy, the Netherlands and Switzerland, reprographic reproduction is (partly) authorised through legal licences.

Notwithstanding that the mandate is granted by law, in 12 of these countries the RRO supplements the legal mandate by collecting individual mandates from the rights holders (seven countries) and/or the rights holder associations (five countries).

In Lithuania, the organisation is granted the mandate exclusively by law for all its current activities in the field of reprography, and this mandate may not be withdrawn by the individual rights holder or a representative association. Otherwise, the most frequent way to terminate the RRO representation is for the rights holder simply to cancel membership of the RRO or the pertinent rights holder association, or withdraw the mandate.

| Author and publisher withdrawing mandate to RRO | Europe total |
|--------------------------------------------------------|---------------------|
| Resigning individually/withdrawing the mandate | 71% |
| Cancelling membership of rights holder association | 29% |
| Total | 100% |

N = 24

⁴ Section I of the Report which is about levies and levy systems, also include countries other than those covered by the main study. Information on levy systems has been collected by IFRRO over a number of years. We find it appropriate to account comprehensively for the implementation of levies and levy systems in Europe regardless of membership of IFRRO.

Representation of foreign rights holders

44% of the organisations reported that it was possible for foreign rights holders to become members of the RRO.

| Foreign rights holder membership of RROs | Europe total |
|-------------------------------------------------|---------------------|
| Foreign rights holders can become members | 44% |
| Foreign rights holders cannot become members | 56% |
| Total | 100% |

The normal way of representing foreign rights holders is, nonetheless, through bilateral agreements with other RROs. All RROs surveyed conclude such agreements. Additionally, in 19 countries, foreign rights holders are represented by RROs by virtue of law, for the part of the reproduction covered by the legal licence. Eleven RROs (44%) receive individual mandates from foreign rights holders.

Approximately half of the RROs receive their mandates via rights holder associations so receiving a mandate from an individual foreign rights holder would not be possible. Investigating whether these RROs are mandated by foreign rights holders directly would mean examining who can become a member of the rights holder associations, and that is beyond the scope of this study. However, where RROs are mandated directly by individual rights holders the rule is that a foreign rights holder may also sign up.

C. THE MANDATE

A majority of the RROs (68%) receive exclusive mandates, 35% of them by law alone, 12% exclusively by virtue of the RRO statutes.

| The RRO mandate | Europe total |
|------------------------|---------------------|
| Exclusive mandate | 68% |
| Non exclusive mandate | 32% |
| Total | 100% |

However, most frequently an exclusive mandate is granted to the RRO by the individual rights holders themselves, directly upon signing a membership form.

| Granting of the exclusive mandate | Europe total |
|------------------------------------------|---------------------|
| By individual membership form | 53% |
| By the statutes of the RRO alone | 12% |
| By law alone | 35% |
| Total | 100% |

N = 17

It should also be noted that an RRO granted an exclusive mandate often allows the rights holder to withhold works or rights from the mandate. This applies to 59% of these RROs and it means that 19 of the 25 organisations surveyed either receive non-exclusive mandates and/or allow rights holders to withhold works or rights from the mandate.

| RROs receiving exclusive mandates | Europe total |
|-------------------------------------------------|---------------------|
| Rights holders may withhold rights/mandates | 59% |
| Rights holders may not withhold rights/mandates | 41% |
| Total | 100% |

N = 17

In most cases, the mandate granted to an RRO also implies transfer of rights. This is the case for 60% of the RROs surveyed.

| Transfer of rights through mandating the RRO | Europe total |
|-----------------------------------------------------|---------------------|
| The mandate implies transfer of rights | 60% |
| The mandate does not imply transfer of rights | 40% |
| Total | 100% |

D. TRANSPARENCY

All RROs make their annual reports, tariffs, distribution rules and which bilateral agreements they have signed available to their members. Similarly, a register of registered rights holders and of works remunerated are available to members of the RRO wherever applicable. It is thus fair to conclude that, generally speaking, transparency rules in respect of the relationship between the RRO and its membership.

Also the relationship between users and the RRO is generally characterised by a high degree of transparency, as shown in the following two matrices. The rule is that important information is available to the public:

| Information available to the public | Europe total |
|--------------------------------------------|---------------------|
| Annual report | 84% |
| Tariffs | 96% |
| Discount policies | 56% |
| Distribution rules | 80% |
| Bilateral agreements | 100% |
| Register of all registered works | 32% |
| Register of works remunerated | 20% |

Annual reports, tariffs, distribution rules and discount policies are often also available on the Internet. Bilateral agreements entered into, by and between RROs, as well as model bilateral agreements are available on www.ifrro.org

Available on the Internet

| Information available on Internet (websites) | Europe total |
|-----------------------------------------------------|---------------------|
| Annual report | 64% |
| Tariffs | 72% |
| Discount policies | 48% |
| Distribution rules | 64% |
| Bilateral agreements | 100% |
| Register of all registered works | 28% |
| Register of works remunerated | 20% |

As many RROs only offer blanket licences under which all works and rights holders are covered, many do not keep registers of rights holders or of works remunerated. Wherever applicable, the registers made available to members are often also available to the public. Making registers available is, however, considered by some organisations to be questionable as this might be in conflict with, and must be balanced against, regulations on privacy.

E. SUPERVISION

RROs are subject to supervision by the authorities in all but two of the countries covered by the survey (Malta and Sweden), i.e. 91%. Moreover, more than half have set up internal bodies to control their activities, including the result of negotiations, tariffs and remuneration, and to investigate, audit and sanction all aspects of their operation.

| Supervision of RROs | Europe total |
|----------------------------------------------------------------------------------------------------|---------------------|
| Countries in which RROs are subject to control by the authorities | 91% |
| RROs with an internal independent control body | 56% |
| Countries in which there is a second instance to which a decision regarding an RRO may be appealed | 50% |
| Countries in which there exists an external dispute settlement mechanism | 68% |

In half of the countries surveyed a second instance, such as a tribunal, to which decisions may be appealed, has been established. Furthermore, two-thirds of the countries have established external dispute settlement mechanisms. Where such a mechanism exists, the rule is that it also settles disputes between the RRO and the users.

| External mechanism to settle disputes between | Europe total |
|------------------------------------------------------|---------------------|
| Members of the RRO | 47% |
| Members and the RRO | 40% |
| The RRO and the users/licensees | 87% |

N = 15

F. ADMINISTRATION

RROs administer rights efficiently, to the benefit of both rights holders and users. They do not normally charge users a specific administrative fee but deduct from the fees collected. 78% of the European RROs spend 20% or less of collected revenues to cover administrative costs, and more than one-quarter of them spend 10% or less. RROs that charge more than 20% to cover administrative costs are generally among the 'young' RROs.

| Administration as percentage of collected revenues | Europe total | |
|-----------------------------------------------------------|---------------------|-------------|
| | | Accumulated |
| 10 % or less | 26% | |
| 11-15 % | 35% | 61% |
| 16-20 % | 17% | 78% |
| More than 20 % | 22% | 100% |

N = 23

Only four of the surveyed RROs reported that they charge a specific administrative fee from the user, which means that this is not common among RROs.

G. GOVERNANCE

Most RROs (88%) have established General Meetings as the supreme governing body. All have Boards, and 40% also have other governing bodies established, most frequently, to deal with or supervise distribution of collected revenues and/or the activities of the organisation in general.

| The governing of the RRO | Europe total |
|---------------------------------|---------------------|
| Annual General Meeting | 88% |
| Board | 100% |
| Other governing bodies | 40% |

Members of the governing bodies are most often elected by the rightsholder members at General Meetings (88 %). Alternatively, this is done by the rightsholder associations (12%).

| Elections of officers | Europe total |
|------------------------------|---------------------|
| General Meetings | 88% |
| Rights holder associations | 12% |
| Total | 100% |

H. LICENSING AND COLLECTION OF REMUNERATION

In most countries (86%), RROs have some form of legal backup. In 59% of the countries there is a legal licence, most frequently a levy system, which exists in 10 of the 22 countries in the main survey⁵.

| RROs – models of operation/legal regimes | Europe total |
|-------------------------------------------------|---------------------|
| Voluntary licensing | 14% |
| Voluntary licensing with a legal back up | 27% |
| Legal licence/levy systems | 59% |
| Total | 100% |

In four countries where there is a legal licence, users are also offered a voluntary licensing scheme by RROs that covers reprographic reproduction beyond the scope of the legal licence. Most RROs are young and struggle to implement a legal licence⁶. It will be difficult for them to move on to offering users voluntary licensing schemes before they have fully implemented the legal licence.

In nine countries (41%) the user is offered both transactional and blanket licenses. In Italy, SIAE collects and distributes the remuneration to authors and publishers for the reprographic reproduction carried out on the basis of the legal licence. AIDRO offers licences beyond the scope of the legal licence and is the only RRO to offer only transactional licences.

| Type of licences offered by RROs | Europe total |
|-----------------------------------------|---------------------|
| Blanket licence only | 54% |
| Transactional licence only | 5% |
| Both transactional and blanket licences | 41% |
| Total | 100% |

The most common way to fix the tariff is through negotiations with users and/or importers/-producers/vendors/owners of reprographic equipment or the bodies representing them. This applies to 55% of the RROs for all or some of their licensing. Most must also have the negotiated tariffs approved by the authorities. In 15% of the countries, RROs set all tariffs unilaterally, whereas in 25% they are fixed in the legislation. Establishing tariffs by law applies in particular to levies. In seven countries, there are several different methods used to set the tariffs. Some are fixed in legislation, some negotiated and some set unilaterally by the RRO.

⁵ Section I of the Report which is about levies and levy systems, also include other countries than those who have been covered by the main study. Information on levy systems has been collected by IFRRO over a number of years. We find it appropriate to account comprehensively for the implementation of levies and levy systems in Europe regardless of membership in IFRRO.

⁶ This is expanded on in the next section of this report – Section I on levies.

| Tariffs (countries) | Europe total |
|---------------------------------------------------------------------------|---------------------|
| Set unilaterally by the RRO | 15% |
| Negotiated, not necessary to have the tariffs approved by the authorities | 25% |
| Negotiated, obligation to have the tariffs approved by the authorities | 35% |
| Fixed in legislation | 25% |
| Total | 100% |

N=20

The most important criteria for the establishment of tariffs are type of works, type of use, type of user, number of copies made.

In a majority of the countries (73%) the responding RROs base the remuneration on statistical surveys. Those who report on how surveys are carried out usually admit user and/or third party involvement.

| Use of statistical surveys | Europe Total |
|-------------------------------------|---------------------|
| Carried out unilaterally by the RRO | 12% |
| User and/or third party involvement | 88% |
| Total | 100% |
| | |
| User involvement | 69% |
| Third party involvement | 75% |

N = 16

In most countries there is some form of dispute settlement mechanism which normally comes into force if negotiations between users and RROs on tariffs and other conditions fail. Only two reporting RROs state explicitly that there is no dispute settlement mechanism in place. Mediation, with or without arbitration, is the most commonly used instrument.

| Dispute settlement mechanisms | Europe total |
|--------------------------------------|---------------------|
| Mediation | 9% |
| Arbitration | 27% |
| Both mediation and arbitration | 27% |
| Other dispute settlement mechanisms | 14% |
| No dispute settlement mechanism | 23% |
| Total | 100% |

I. LEVIES

This part of the report includes material collected by IFRRO independently of this study; in view of the current debate about the use of levies it seems appropriate to include it. The section on levies covers all EU member states, Norway, Iceland and Switzerland, 28 countries (more than the rest of the report). 'Europe total' in this section refers to these 28 countries.

Collection of levies for reprographic reproduction

In respect of reprographic reproduction, levies on equipment and/or in the form of an operator levy exist or are considered in 17 countries, i.e. 61 %:⁷ Austria, Belgium, Czech Republic, Estonia, France, Germany, Greece, Hungary, Latvia, Lithuania, Luxembourg, Poland, Portugal,

⁷See footnote 2 on page 3 with respect to the levying of reprographic equipment in Bulgaria, Estonia, Latvia, Romania and Serbia & Montenegro, currently collected only in Romania by COPYRO.

Slovakia, Slovenia, Spain and Switzerland. They are currently collected on reprographic devices in 14 countries. In two countries, an operator levy is collected but there is no equipment levy.

| Collection of levies | Europe total |
|-----------------------------------------------------|---------------------|
| Countries with an equipment levy | 61% |
| Countries with operator levy, but no equipment levy | 7% |
| Levies are under consideration | 4% |
| Equipment levy and operator levy | 71% |

N = 28/14

(France is included in the overview. There is a levy on photocopiers in France but this is in the nature of a tax rather than a copyright royalty. It is levied by the state on photocopiers and paid to the Centre National du Livre (CNL) a not for profit public agency administered by the Ministry of Culture. Its mission is to support the creation and publication of books which may not be financially worthwhile, but which are of cultural interest. It makes grants to authors and libraries and loans to publishers.)

The matrix below shows the types of equipment covered by the equipment levy.

| Application of levies to reprographic devices – Europe total | | | | | | | | |
|---------------------------------------------------------------------|---------------|-------|-----------|-----------|-------------------------|-----------------|-------------|-------------|
| | Photo-copiers | Faxes | Scan-ners | Prin-ters | Multi-function machines | PCs/ hard discs | CD Burn-ers | DVD Burners |
| Clearly covered | 76% | 35% | 41% | 12% | 41% | 12% | 18% | 18% |
| Disputed | | - | - | 24% | 6% | 18% | 6% | 6% |
| Considered | 12% | 18% | 24% | 29% | 24% | 35% | 29% | 29% |
| Not covered | 12% | 47% | 35% | 35% | 29% | 35% | 47% | 47% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

N = 17

As the matrix shows, in most countries, not all levies are collected even though there are stipulations in the legislation. This is partly because the levies are disputed in current litigation, often through lack of implementation decrees.

| Collection of levies | Europe total |
|----------------------------------------------------------------------|---------------------|
| All levies collected | 24% |
| Levies not collected because they are disputed in current litigation | 47% |
| Levies not collected because of absence of implementation decree | 29% |
| Total | 100% |

N = 17

There is an operator levy in 12 countries; in 10 of these the operator levy is collected in addition to an equipment levy:

| Establishment of the levy | Europe total |
|----------------------------------|---------------------|
| Clearly covered | 71% |
| Considered | 6% |
| Not covered | 23% |
| Total | 100% |

N = 17

How is the levy established?

Information on how levies are established has been collected through the main survey only. This shows that levies are in most cases established in the legislation, and less often negotiated.

| Establishment of the levy | Europe total |
|----------------------------------|---------------------|
| Unilaterally by the RRO | 10% |
| Fixed in legislation | 70% |
| Negotiated | 20% |
| Total | 100% |

N = 10

Uses covered by the levy system

The standard use covered by a levy is private use. Otherwise, types of uses covered by levies are shown in the following matrix, where 'own use' may also refer to institutional use:

| Copying on paper or similar medium – Europe total | | | | | |
|----------------------------------------------------------|-------------|------------------|--------------|-----------------|-------------|
| | Private use | Personal/own use | Research use | Educational use | Library use |
| Covered | 88% | 59% | 47% | 47% | 53% |
| Not covered | 12% | 41% | 53% | 53% | 47% |
| Total | 100% | 100% | 100% | 100% | 100% |

N = 17

Distribution of the levy

Distribution of levies is based on allocation to works according to results in statistical surveys or stipulated in legislation:

| Distribution of levies | Europe total |
|-------------------------------|---------------------|
| Statistical surveys | 60% |
| Stipulated in legislation | 40% |
| Total | 100% |

N = 10

J. FOREIGN WORKS

Not all RROs yet have accurate information on the percentage of foreign material reproduced by reprographic means in their countries. This part of the study is thus based on the report from the RROs that completed this section of the survey.

In 72% of the countries, foreign material represents 15% or less of the works copied, which might make cross border licensing less of an issue: if 85% of the works copied are of national origin (and assuming the user would require services from the RRO other than the photocopy licence), it would seem that signing up with the national RRO would be the most rational option to the user

| Percentage of foreign works | Europe total |
|------------------------------------|---------------------|
| 6-10 % | 36% |
| 11-15 % | 36% |
| 16-20 % | 7% |
| 21-25 % | 7% |
| More than 25 % | 14% |
| Total | 100% |

N = 14

Bilateral agreements

Type A agreements are most commonly used by RROs, and most have signed more Type A than Type B agreements with other European RROs.

| Bilateral agreements between European RROs | Europe total |
|--------------------------------------------|--------------|
| More Type A agreements than Type B | 65% |
| More Type B agreements than Type A | 35% |

N = 17

Type B agreements are normally signed for a limited period of time (3 to 5 years) with new RROs to enable them to keep all money collected in the country when they start up the operation. The rationale is the provision of assistance to the new RRO to start up. Some established RROs even transfer revenues they have collected to the new RRO, without claiming their share of the revenue. Type B agreements are thus used as seed money and as an aid to development.

Where the legal systems and operating methods of RROs are so incompatible that a direct exchange of funds between them would require the introduction of new elaborate and costly mechanisms – and thereby reducing the payments to rights holders significantly – B-type agreements have been the solution *inter alia* to avoid such costs.

Some RROs have established that the money collected by the RRO in country A for the reproduction of works represented by country B, equals more or less what the RRO in country B collects for the reproduction of works represented by the RRO in country A. They conclude Type B agreements to avoid exchanging similar sums. This is typically the situation for some of the Nordic RROs (such agreements may, however, change if the situation changes).

K. DEDUCTION FOR CULTURAL AND/OR SOCIAL FUNDS

Six RROs in five different countries – Austria, Germany, Greece, Spain and Switzerland – deduct for social and/or cultural purposes. In four of these countries, deduction is made on the basis of provisions in the law.

| | Europe total |
|-----------------------------------------------|--------------|
| Deduct for cultural purposes | 5% |
| Deduct for social purposes | 5% |
| Deduct for both social and cultural purposes | 14% |
| Do not deduct for social or cultural purposes | 76% |
| Total | 100% |

Total deduction is maximised to 10%, but is higher in Greece and in Spain where the law establishes a 20% deduction. The RROs in Austria, Germany and Spain deduct for cultural and social purposes, whereas OSDEL in Greece deducts only for cultural, and Pro Litteris in Switzerland only for social, purposes. Organisations which deduct for cultural and/or social purposes would also promote and organise cultural events and administer social schemes.

Brussels, 22 June 2005



Olav Stokkmo
Secretary General



QUESTIONNAIRE

Study on Reproduction Rights Organisations (RROs) in European countries

(Sent to all European RRO members and associate members of IFRRO
collecting and distributing fees for reprographic reproduction)

7 April 2005

| | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| <p>A. General</p> <ol style="list-style-type: none"> 1) Name of the RRO: 2) Which rights do you administer? <ol style="list-style-type: none"> a) Reprographic reproduction rights <ul style="list-style-type: none"> • Please specify the rights administered: b) Public Lending Right c) Other rights <ul style="list-style-type: none"> • Please specify the rights administered: 3) Is permission needed to start up the work as an RRO 4) How do you get permission to start up the work as an RRO? <ul style="list-style-type: none"> • Please specify: 5) Is the approval of the RRO's Statutes (and/or amendments of the Statutes) by the Government or a governmental body (e.g. Ministry of the Culture) needed? 6) Which is the legal personality of the RRO? 7) Is the RRO a non for profit organisation? | <u>Yes</u> | <u>No</u> |
| <p>B. Representation of Rights holders</p> <ol style="list-style-type: none"> 1) How do rights holders become members of/mandate the RRO? <ol style="list-style-type: none"> a) Signing individual membership application form b) By statutes when signing membership application c) Granting the mandate through a standard mandate form d) Through a rights holders' association e) By law f) Other (describe) 2) How do rights holders terminate the membership/mandating of the RRO? <ol style="list-style-type: none"> a) By resigning individually b) By cancelling rights holders association membership c) By withdrawing the mandate individually d) Cannot terminate the membership/withdraw mandate e) Other (describe) 3) Can foreign non-resident rights holders become members of the RRO? 4) How are foreign rights holders represented? <ol style="list-style-type: none"> a) Through individual membership of the RRO b) By mandating the foreign RRO c) By virtue of law, e.g. extended collective license d) Through bilateral agreements between RROs | <u>Yes</u> | <u>No</u> |
| <p>C. The Mandate</p> <ol style="list-style-type: none"> 1) Is the mandate <ol style="list-style-type: none"> a) Exclusive <ul style="list-style-type: none"> • By the individual membership form • By the Statutes of the RRO • By law b) Non exclusive 2) Does the mandate imply transfer of rights 3) May the rights holder withhold works for which rights are not transferred? | <u>Yes</u> | <u>No</u> |

| D. Transparency | <u>To Members</u> | <u>To the public</u> | <u>On the Internet</u> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|----------------------|------------------------|
| 1) Are the following documents (information) available <ul style="list-style-type: none"> a) Annual Report b) the tariffs c) policies on discounts d) distribution rules e) bilateral agreements f) Is there an accessible <ul style="list-style-type: none"> 1) register of all registered rights holders 2) register of works remunerated | | | |
| E. Supervision <ul style="list-style-type: none"> 1) Are the activities of the RRO subject to control by the authorities? 2) Does the RRO have an internal independent control body? 3) Which powers does that body have regarding: <ul style="list-style-type: none"> a) Control of all activities of the RRO b) Control result of negotiations, tariffs and remuneration c) Power to investigate activities carried out by the RRO d) Power to audit and sanction activities carried out by the RRO 4) Is there a second instance to which decisions may be appealed? 5) Is there an external (third party) dispute settlement mechanism, e.g. arbitration established to settle disputes between <ul style="list-style-type: none"> a) Members of the RRO b) Members and the RRO c) The RRO and users/licensees | | <u>Yes</u> | <u>No</u> |
| F. Administration <ul style="list-style-type: none"> 1) What is the administrative cost in percentage of the total collection of reprographic reproduction fees? <input type="text"/> % 2) Do you charge an administrative fee from the users? | | <u>Yes</u> | <u>No</u> |
| G. =Governance <ul style="list-style-type: none"> 1) How is the RRO governed? <ul style="list-style-type: none"> a) Annual General Meeting b) Board c) Other governing bodies (specify) 2) How are members elected to the governing bodies? <ul style="list-style-type: none"> a) General Meeting b) Board c) Other governing bodies (specify) 3) Are groups of specific professions other than rightsholder groups represented on your governing bodies? 4) In case they are, which are these professions and in what proportion are they represented? | | <u>Yes</u> | <u>No</u> |

| H. Licensing and collection of remuneration | <u>Yes</u> | <u>No</u> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| <p>1) What is the basis for your licensing?</p> <ul style="list-style-type: none"> a) Voluntary licensing b) Voluntary licensing with legal back up (e.g. extended collective licensing) c) Legal licence <p>2) Can users choose between a blanket licence and a transactional licence?</p> <ul style="list-style-type: none"> a) Only blanket licences b) Only transactional licences c) Both transactional and blanket licences <p>3) How are tariffs set</p> <ul style="list-style-type: none"> a) Set unilaterally by the RRO b) Negotiated with user. No obligations to have them approved by the authorities c) Negotiated with users. Obligation to have them approved by the authorities d) Fixed in the legislation <p>4) Criteria for remuneration and tariffs</p> <ul style="list-style-type: none"> a) List main criteria used to establish remuneration or the tariffs charged to licensees b) Is concept of harm a criteria when assessing the tariffs? c) Is remuneration based on statistical surveys? <ul style="list-style-type: none"> a. Carried out by the RRO alone b. Jointly by the RRO and the user (representative) c. By third party without RRO or user involvement d. By third party with RRO involvement e. By third party with user involvement f. By third party with both RRO and user involvement <p>5) Are there dispute settlement mechanisms in force between RROs and users when negotiating tariffs and other conditions</p> <ul style="list-style-type: none"> a) Mediation b) Arbitration c) Other dispute mechanisms d) None | | |
| | | |

| I. Levies | <u>Yes</u> | <u>No</u> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| <p>1) Do you collect levies for reprographic copying (i.e. copying on paper and similar support) or for reprographic/digital copying?</p> <p>a) Reprographic equipment (analogue and digital) (list types of equipment).</p> <p>b) Operator levy on categories of operators (specify types of operators)</p> <p>c) Reprographic material, such as paper</p> <p>d) Digital equipment such as PCs</p> <p>e) Others (specify)</p> <p>2) Does the law provide for levies that should or could have been collected by an RRO but which are not collected?</p> <p>a) No, all possible levies are collected</p> <p>b) Levies are not collected because they are disputed (specify)</p> <p>c) The law contains levies, which the RRO has chosen not to collect (specify)</p> <p>d) There are provisions in the law for a levy, but they are not collected because of absence of the decree to implement it</p> <p>3) How are levies fixed</p> <p>a) Unilaterally by the RRO</p> <p>b) By law</p> <p>c) Negotiated with users</p> <p>d) If the levy is not negotiated with the user, what is the involvement of users?</p> <p>e) Negotiated with manufacturers and/or importers of equipment (specify)</p> <p>f) If the levy is not negotiated with the manufacturers/importers of equipment, what is their involvement?</p> <p>4) Types of uses covered by the levy</p> <p>a) Private copying</p> <p>b) Personal scientific/educational use</p> <p>c) Institutional use (i.e. in educational establishments, scientific institutions, libraries, public administration, private corporations, etc.)</p> <p>d) Both private and institutional use</p> <p>5) How are levies distributed among rights holders</p> <p>a) On the basis of statistical surveys</p> <p>b) On the basis of other statistical material</p> <p>c) Others (specify)</p> | | |

