

IFRRO Statement on Orphan Works

May 2007

Writers, creators and publishers rely on copyright. Reproduction Rights Organisations (RROs) assist and support them in a framework of copyright compliance, offering solutions for certain uses.

An orphan work is a copyright work for which the user is unable to identify, locate and/or contact the legitimate holder of the relevant rights (“rightsholder”) for the purpose of obtaining permission to use his/her works.

IFRRO supports the position papers on the use of orphan works prepared by the International Publishers’ Association and the International Association of Scientific, Technical and Medical Publishers.

To enable use of orphan works within the framework of copyright, IFRRO encourages regulators to support (including by legislative measures where appropriate) voluntary solutions between rightsholders and users complying with the following criteria and in a way that is interoperable internationally:

- Any orphan works solution should be applicable to all (kinds of) protected works
- A bona fide user needs to conduct a thorough search employing a high level of care prior to using an orphan work
- Regulators should support stakeholders in different fields to work out category specific guidelines and best practices and should avoid setting minimum standards in legislative measures (including for reasonably diligent good faith search)
- Regulators should support the creation and maintenance of databases concerning information on orphan works
- Regulators should support rightsholders’ initiatives for the improved inclusion of metadata in digital material
- Any solution should ensure attribution (of the work and its rightsholders) by the user throughout to the extent possible
- Any solution should respect moral rights to the extent possible
- Any orphan works solution should include an entitlement to equitable remuneration to the rightsholder for the use of his work and should contain mechanisms for withdrawal of the work regarding future licences when the rightsholder reappears

This does not affect the existing legal framework regarding the duration of copyright, the scope of copyright liability or the applicability of exceptions or defences to infringement or the availability of remedies.