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SUBMISSION TO THE PUBLIC CONSULTATION ON THE COPYRIGHT COLLECTIVE RIGHTS MANAGEMENT ECOSYSTEM IN SINGAPORE

This submission is made on behalf of IFRRO - The International Federation of Reproduction Rights Organisations – which is the main international network of Collective Management Organisations called the Reproduction Rights Organisations (RROs) in the publishing industry – and authors’ and publishers’ associations in the text and image sector, with 145 member organisations in 80 countries worldwide. Our RRO member organisation in Singapore is CLASS, the Copyright Licensing & Administration Society of Singapore Limited.

IFRRO supports the submission made by CLASS. In addition, we submit the following – and attach our responses to the survey:

For IFRRO, its members and the Collective Management Organisations (CMOs) that it represents, transparency, accountability and good governance are fundamental principles. Core values include that CMOs shall deploy the highest ethical standards when dealing with the rights which they administer, the collection and distribution of remunerations and the funds they hold in trust, and that rightholders shall have the right to determine how and by whom their rights shall be managed. This is outlined in the IFRRO Code of Conduct and the instrument on Relationship between Reproduction Rights Organisations (RROs), that all IFRRO members are encouraged to use and implement on a voluntary basis.

For many years IFRRO has worked together with WIPO and other international federations to foster standards of good governance and transparency. This work was materialised in many workshops and seminars organised across the world to promote these standards, and in the preparation of an instrument that was then referred to as the ‘Transparency, Accountability and Good Governance Compendium’ which was partly based on IFRRO’s Code of Conduct and other instruments.

The IFRRO Code of Conduct can be found [here](#). It sets out the standards of service that rightholders and users can expect to receive when dealing with RROs. The Code promotes awareness of and access to information about copyright and the role and function of RROs in administering copyright on behalf of rightholders. The objective of the Code is to develop confidence about and to promote best practice in the operations of RROs. To facilitate this, IFRRO encourages RROs to develop fair and effective procedures for handling complaints and resolving disputes. While adherence to the Code is voluntary, it embodies the principles and values which IFRRO believes all RROs should achieve and uphold. RROs that adopt this code have in place the necessary mechanism or systems to comply with the standards of behaviour set out in the code.

In addition, IFRRO has adopted other instruments (which can be found [here](#)) that look at specific areas of collective management and provide best practices and standards of service:

- An instrument on Relationship between Reproduction Rights Organisations
- The IFRRO Digital Toolkit
- The IFRRO Principles for International Document Delivery
- The IFRRO Principles of Bilateral Agreements
- The IFRRO Repertoire Exchange Mandate (REM) for Collective Licensing of Digital Uses

We acknowledge the recognition by the Ministry of Law and the IPOS of the relationship between more regulation and increased operating costs and of the challenge to keep the balance right.

The spirit of collective management is for users and rightholders to come together and negotiate how to achieve an easy, lawful and fair access to works while ensuring that appropriate remuneration is paid to authors and publishers. Collective management of rights has developed through various models and forms and continues to evolve. For that reason, IFRRO has always advocated in favour of letting rightholders and users agree on the best terms and conditions for the licensing of works. Indeed, rightholders and users are best placed to take such decisions and should remain free to do so.

Yours faithfully,

A handwritten signature in black ink that reads 'Caroline Morgan'.

Caroline Morgan,
Chief Executive and Secretary General of IFRRO

Attachment: IFRRO's answers to the survey

PART I: INTRODUCTION

Respondent's profile

- 1) You are:
 - ✓ Others, please specify: **This submission is made by the International Federation of Reproduction Rights Organisations (IFRRO). The members of IFRRO are national Reproduction Rights Organisations (RROs) and national and international associations of authors and publishers worldwide. RROs are Collective Management Organisations (CMO) in the text and image sector. This sector includes the publication of books, journals, magazine, newspapers, musical works in print and the like. RROs administer reproduction and other relevant rights, including certain forms of digital uses, in copyright text and image-based works on behalf of publishers and authors, including visual artists, when the authors and publishers do not want to or cannot administer the rights themselves.**
- 2) Please indicate the industry you are in: **print and image**
- 3) Please indicate the collective rights management field that is relevant to you:
 - ✓ **Print**
 - ✓ **Visual arts**
- 4) Please indicate the CMO's you interact with (local as well as foreign). **CLASS in Singapore, and all RROs in 80 countries across the world.**

Your name (optional): **Caroline Morgan**

Your organisation (optional): **International Federation of Reproduction Rights Organisations, IFRRO**

Your email address (optional): Secretariat@ifrro.org

- 5) Can we contact you for clarification or further information? **YES**

PART V: SURVEYING THE COLLECTIVE MANAGEMENT LANDSCAPE IN SINGAPORE

Question 33: What are the challenges faced by CMOs in ensuring clarity and transparency in royalty computation and distribution? (e.g. distributing royalties based on actual use of works)

Due to the volume of usage records, the revenues collected by RROs for large scale reproduction of already published works are generally distributed on the basis of statistical surveying and sampling and vary according to the use and the licence. The methods fall into two broad categories:

- The title specific distribution aims at rewarding authors and publishers according to the use of their works. Reporting may in some instances be detailed and based on users reporting on every single copy they make but as this, in most cases, is highly impractical when it comes to large scale copying the distribution is most often based on extrapolation from statistical data from sampling, surveying and the like, as it is in Singapore.
- Non-title specific distribution does not require detailed monitoring of the actual works used but of the types of material and works that are copied (fiction books, non-fiction books, school books, academic treaties, fiction text, photographs, journalistic articles, musical notes, etc.)

Given the number of copies made every year by users (millions) and the difficulty of accessing and processing data, these two methods ensure that the distributed amounts reflect as close as possible the actual use of works. RROs, and through them the rightholders that they represent, are the best placed to decide on the mechanism to survey the uses of works and distribute revenues. We of course agree that communication and explanation of the method used is important to have confidence in the system. In IFRRO's view a positive user obligation to cooperate in providing data would also assist.

Question 34: What are your views on how to set reasonable and transparent licence fees?

The main objective of RROs is to offer transparent, reasonable and fair licence fees for the uses of copyright-protected works. We note from the Consultation Paper that this is achieved by several different approaches to fee setting, including fee setting by public authorities.

In general, given that the RRO's licence is a unique offer authorising uses that are not otherwise exploited, there is thus often no other direct commercial comparator that can be used or the possibility of making valid comparisons from overseas. Through the collection of usage data, RROs seek, in negotiations with users, to allow agreements that reflect the reality with respect to factors such as types of works used, usages and user behaviour, and establish fair tariffs. This requires accurate and honest user reporting on usage of copyright material. Imposing obligations on rightholders, while users have no obligation to contribute data on their uses, will not permit accurate market analysis that could form the basis for the establishment of tariffs and other conditions which reflect the economic value of the rights administered.

Question 35: Have you used mediation as a form of dispute resolution? Yes/No.
If yes, how was the experience, and was there satisfactory resolution?

As an international federation, IFRRO cannot give a specific answer to this question.

Question 36: Have you been involved in a dispute before the Copyright Tribunal? Yes/No.
If yes, how was the experience, and was there satisfactory resolution?

As an international federation, IFRRO cannot give a specific answer to this question.

Question 37: Do you have other suggestions on how to resolve disputes?

As an international federation, IFRRO cannot give a specific answer to this question.

However we can note that three common ways developed by CMOs to handle dispute are mediation, arbitration, and independent determination.

Question 38: What are some measures adopted in foreign jurisdictions that can be applied in the Singapore context?

We will be happy to provide further evidence on measures adopted by CMOs across the world.

In print and publishing, collective rights management by Reproduction Rights Organisations (RROs) is primarily concerned with certain secondary uses when rightholders want their rights to be managed collectively or when individual direct rights management is impracticable or impossible (market failure). The way in which the RRO operates, and the structure it adopts, will be directly affected by the rightholders' choices and the legal system in which it is

functioning. Various models of RRO operation have evolved to suit national traditions, needs and legislative approaches. We normally distinguish between three main models: voluntary collective licensing, voluntary collective licensing and legal licence.

The variety of models, which are tailored to the local needs, means that different measures have been adopted from copyright tribunals to specialist arbitrators and mediators in order to handle disputes.

Question 39: What can members do to better help a CMO fulfil its obligations to them?

Members are encouraged to participate and make their voices heard within the CMO. Authors and publishers are, with users, the main beneficiaries of collective management and should therefore be fully involved in the CMO.

Question 40: What can users do better?

Accurate data submitted by users is a key component of a licensing scheme, and we therefore submit that there should be a positive obligation for users to report on the uses of copyright-protected works, which would be beneficial to everyone. Copying records should be properly kept and submitted in due time.

Question 41: What can creators or CMOs do to make it easier for works to be distributed on digital platforms?

The use of works on digital platforms varies greatly from one country to another and also depending on the types of works concerned. IFRRO engages with its members to share the solutions that they have developed to meet the challenges of the digital world every year during the meetings of IFRRO's fora and working groups, to foster communication on business models activities, including technical standards and identifiers, among RROs and other members.

We refer to the submission made by CLASS regarding the specific situation in Singapore.

Question 42: What other areas of improvement can CMOs implement in Singapore's collective rights management ecosystem?

We refer to the submission made by CLASS. We also make the point that the role of government is to assist the CMOs and the users of copyright to reach negotiated market-based solutions. One area in which the operation of the collective rights management ecosystem could be improved is to consider positive user obligations to manage the copyright content that they use within the limits of the law, and, if they decide to be licensed, to do everything reasonably necessary to enable sufficient reliable and accurate data to be collected to form the basis of fee calculation and distribution. Examples of this within the region are in the Philippines, where educational institutions are required to develop an IP management policy as part of their accreditation, and Australia where the decision to rely on the statutory licence for education requires a positive obligation to provide usage data for distribution purposes.

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