

IFRRO speaking points for EUIPO Out-of-Commerce Works (OOCW) Datathon Closing Event: 28 June 2022

- [IFRRO](#) is the international network for national collective management organisations (CMOs) in the publishing sector and national and international associations of creators and publishers across the world. IFRRO has 156 members in over 80 countries.
- We would firstly like to thank the EUIPO for launching this Datathon in collaboration with Europeana Foundation and for involving IFRRO and our members.
- OOCW licensing is an **important topic** for IFRRO and its members, many of which are engaged in developing licensing schemes for OOCW. We have therefore really appreciated the interactive approach the EUIPO and other stakeholders have taken, including the discussions about the functioning of the EUIPO's OOCW Portal and implementation of the Copyright in the Digital Single Market Directive.
- We wanted to say a few words today about the **role of CMOs** in the licensing of OOCW digitisation schemes by cultural heritage institutions (CHIs).
- Some of IFRRO's CMO members were already licensing OOCW before the discussions on the Copyright in the Digital Single Market Directive. The Directive introduces measures so that now **all** EU Member States will have legal mechanisms in place allowing for collective licensing by representative CMOs for certain uses of OOCW by CHIs.
- At the end of 2020, IFRRO launched a [Guide on the licensing of OOCW](#), which makes a number of suggestions about how to successfully license digitisation schemes, drawing upon CMOs' experiences.
- As well as discussing **collective licensing best practices** it also discusses issues raised by IFRRO members, in particular rightholder authors and publishers, who have **ongoing concerns** such as, for example, how effective opt-out mechanisms will be in practice.
- Being **able to exclude works** from the licencing mechanism or the exception or limitation, "*at any time, easily and effectively*", as set out in the Directive, is critical to rightholders' confidence in the system.
- It is clear that the key to successful schemes is for rightholders to **trust in the licensing** system. Indeed, those CMO members that already have experience of OOCW licensing emphasise that a key criterion for success is close cooperation with authors, publishers and their organisations, as well as with CHIs.
- The importance of having trust in the system also reinforces the importance of having meaningful **national stakeholder dialogues** that allow for sector-specific concerns to be properly taken into account. Such an approach – which we believe is

vital - fosters the relevance and usability of the licensing mechanisms and helps to ensure effective safeguards for rightholders.

- We support the approach in the 2011 MoU, that was signed by IFRRO, some IFRRO members, European library associations and the Commission's former Internal Market Commissioner. This advises that a CHI initiating an OOCW project engages with rightholders and the licensing CMO **before** starting the project.
- We are delighted that several of our CMO members are now in the process of **negotiating new OOCW licensing agreements** or plan to do so, following the adoption of the Directive. We look forward to being able to share more details in due course.
- There is a dedicated [page](#) on IFRRO's website where you can find OOCW-related information, including the IFRRO Guide.
- Part of our work at IFRRO is to **facilitate the sharing of licensing best practices**. As regards OOCW licensing, we decided to set up a small Task Force of CMO members with experience in this area to discuss practical licensing solutions that could ultimately be shared to the benefit of others.
- For example, the inclusion of foreign works in national OOCW digitisation projects could potentially be achieved via **bilateral agreements** between CMOs. This is an area we will be looking into more closely in the months ahead.
- During the Datathon, we were particularly interested to hear from the German National Library about its initiative towards "**having fully automated workflows** for easy licencing in large digitisation projects and mass proceedings". They are working together with our members VG Wort and VG Bild Kunst.
- This is a good example of ongoing **CMO and CHI cooperation**, that other CMOs and CHIs can ultimately benefit from.
- We look forward to the **further development of the Portal** and continued collaboration with the EUIPO and other stakeholders.
- We appreciate that the EUIPO continues to work on developing the Portal and is working towards making it more **user-friendly**, having consulted with stakeholders.
- It is our hope that **future improvements will include interoperability** of the Portal with external databases, which as well as being practically useful would also, we believe, help to increase confidence in the system.
- IFRRO and its members look forward to **continuing the good collaboration** with the EUIPO, Europeana and CHIs, so that looking ahead the system will be the success that we all want it to be.