

## IFRRO BOARD REPORT 2013

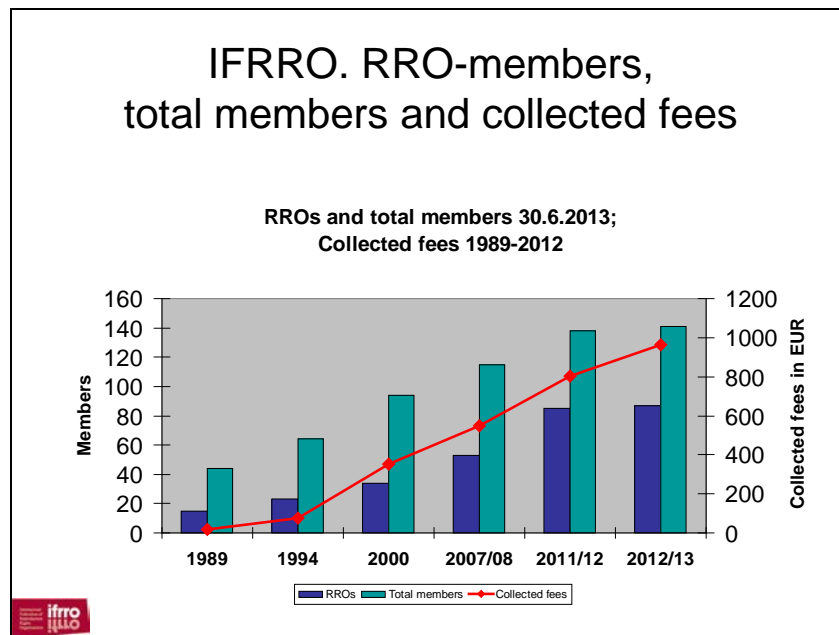
This report covers the period July 2012 – June 2013 during which the Board was made up of *Rainer Just*, VG Wort (President, Magdalena Vinent, CEDRO till 25 October 2012); *Hélène Messier* (COPIBEC) (First Vice President, *Franziska Eberhard*, ProLitteris, till 25 October 2012); *Jim Alexander* (Copyright Agency) (Second Vice President, *Bruce Funkhouser*, CCC, till 25 October 2012); Directors: *Tracey Armstrong* (CCC), *Kevin Fitzgerald* (CLA), *Mats Lindberg* (BUS), *Michael Mabe* (STM) and *Yngve Slettholm* (Kopinor); *Jens Bammel* (IPA), *Christer Johansson* (Bonus Presskopia), *Hélène Messier* (COPIBEC) and *Owen Atkinson* (EWC) till 25 October 2012; Substitute Directors: *Ana María Cabanellas* (IPA), *Heikki Jokinen* (IFJ), *Dora Makwinja* (COSOMA) and *Benoît Proot* (Reprobel); *Maureen Cavan* (Access Copyright) till 25 October 2012. The Board met three times: October 2012 in Buenos Aires; March 2013 in Dublin; and June 2013 in Brussels.

The period under review was marked by issues of prime importance to the IFRRO membership. Discussions at the World Intellectual Property Organization (WIPO) focused on exceptions and limitations to exclusive rights. Parallel to considering a WIPO instrument for persons who are blind or print disabled, which resulted in the Marrakech Treaty of 28 June 2013, discussions started on library exceptions. Those discussions will continue in 2013 and 2014, and be followed by examinations of educational exceptions in 2014 and 2015. Key facets of the IFRRO and RRO work include contributing to seamless user access to intellectual property in education and facilitating access to cultural heritage. Documenting involvement and results of such activities and participating in projects for their further development are high on the Board's agenda: During the Financial year (FY), material illustrating seamless access to copyright works in education by RROs in support of author and publisher activities was made available in Arabic, Chinese, English, French, Russian and Spanish; IFRRO continued to be an active collaborator in projects such as the Linked Content Coalition (LCC), which aims to build an automated system for rights management on the Internet, and ARROW, which facilitates access to information on rights, rightholders and copyright licensing; and IFRRO is a leading partner in the implementation task force of the EU facilitated Memorandum of Understanding on the digitisation and making available of out-of-commerce works by libraries and other similar cultural institutions.

Another priority area of the Board is the governance of RROs. This was the topic of the 2013 IFRRO Senior Managers Forum, and IFRRO also responded positively to the invitation to participate in the WIPO initiative to develop a voluntary TAG (Transparency, Accountability and Good governance) quality mark for collective management organisations (CMO). This initiative envisages, at some stage, the active involvement of national RROs, and a dialogue with authors' and publishers' international organisations as well as government representatives. Substantial efforts were also put into the interchange with the European Union (EU) institutions European Commission, Council and Parliament, on the proposal for a EU directive on collective rights management (CRM). Noting that several changes requested by IFRRO to ensure that the various RRO functioning models can continue have been accepted by EU institutions in proposals for changes to the text, the Board is reasonably satisfied with the current development of the discussions on the Directive. However, more efforts are required in the coming FY to ensure that the EU adopts a text that is satisfactory to the IFRRO membership.

### 1. MEMBERSHIP

As at 30 June 2013, IFRRO has a total of 141 members in 77 countries. 87 members are RROs, of which 21 are Associate and four Provisional RRO members; and 54 are Creator and Publisher Association Members. This represents a net increase of four members since last FY. Collected fees by RROs during the year increased by 12% to €861.4 million.



One new Associate/Music RRO member – MCSC (Music Copyright Society of China); two new Provisional RRO Members – BURIDA (Bureau Ivoirien du Droit d’Auteur, Côte d’Ivoire) and SDADV (the Copyright and Neighbouring Rights Collecting Society of the Principality of Andorra); and one new Creator and Publisher Association Member – SOFAM (Société Multimédia des Auteurs des Arts Visuels Belgium) - were approved during the FY. In addition, RRO member AIDRO changed its status and name to EDISER (Centro Licenze e Autorizzazioni per le Riproduzioni Editoriali, Italy) and was approved as an Associate RRO member.

## 2. ORGANISATION AND STRATEGIES

Whilst working on a new Business Plan, the Board decided to base its short and medium term activities on the Business and Activity Plan document presented to the members at the AGM 2012. As a part of the Business Plan review the Board will also consider the education and enforcement work, including the use of the Enforcement Fund, and whether there is a need for additional efforts to raise awareness of the enforcement work. It will also review the need for a specific education and enforcement task force.

The Board agreed to put more emphasis into regional development work, with enhanced focus on the improvement of the performances of emergent RROs in membership of IFRRO. To this end funding will be provided for yearly regional RRO meetings combined with practical workshops and awareness raising activities emphasising region specific issues. Also, both the regional development committees and technical working groups will be asked to set goals for their activities and make yearly structured self-assessments of their work and achievements against those goals.

## 3. POLICY ISSUES AND STRATEGIC COOPERATION

### Enhancement of Collective Management

#### WIPO<sup>1</sup> initiative TAG (Transparency, Accountability and Good Governance)

IFRRO has agreed to cooperate with WIPO on a project to develop a voluntary transparency, accountability and good governance (TAG) quality mark. The project has been presented to the Board, and to the IFRRO membership at the IFRRO Business Models Forum in April 2012 and the Senior Managers Forum in March 2013. The Board favours the establishment of a Steering Committee, made up of the international federations representing CMOs and WIPO, to govern the initiative, and has agreed for the IFRRO *CEO* to accept an invitation to chair it. At the time of the finalising of the Board’s report, there have been two meetings between WIPO and interested international federations, and an activity plan has been agreed to. The federations involved and WIPO still need to concur on the further structuring of the initiative, including the

<sup>1</sup> World Intellectual Property Organization (see more on WIPO 6.1 on page 9)

involvement of national CMOs; authors', performers', publishers' and producers' organisations; and governments.

#### European Union Collective Rights Management Directive

On 10 July 2012, the European Commission published a draft directive on collective rights management, which addresses governance and transparency issues in general and multi-territory licensing of musical works. The directive, which is of prime importance to the IFRRO community, with potential effect beyond EU Member States, is expected to be adopted before the end of 2013. Work on the EC proposal has been given the highest priority by the Board. Several of the proposed amendments adopted by the European Council's working group and the European Parliament's Legal Affairs Committee have addressed concerns raised by IFRRO and will, if finally approved, represent a substantial improvement of the first draft. At the time of the finalising of the Board's Annual Report it seems as if there is support for IFRRO's requests that it be specifically recognised that the Directive is without prejudice to the different RRO models of operation and revenue distribution; information exchange can take place also via rightholder organisations; both CMOs and users can make use of dispute resolution mechanisms; any reference to the EU service directive will be deleted, as there are discrepancies in views on its applicability to collective rights management; increased flexibility through more decisions being left to the discretion of Member States; and "Collective Management Organisations" (CMO), which more adequately describes the functioning of these organisations, will replace "collecting societies". Among the issues of major importance to the IFRRO community still to be solved are the deadline for distribution of collected fees and the scope of the Directive, which should not include publishers and literary agents.

#### **Enhanced focus on exceptions and limitations to exclusive rights**

The agenda of the WIPO SCCR<sup>2</sup> has a main focus on exceptions and limitations to the exclusive rights of authors. Following the adoption of a Treaty for persons who are blind or print disabled<sup>3</sup>, the current emphasis is on exceptions for libraries and archives and education. The WIPO SCCR has decided to have three consecutive sessions dedicated specifically to library exceptions, starting in December 2013, to be followed by three consecutive sessions on educational exceptions in 2014 and 2015. Those are core issues to the IFRRO membership, and the Board has opted for extended IFRRO delegations to those meetings, to ensure that information and IFRRO's position are communicated broadly and appropriately. At the SCCR meeting in July 2012, IFRRO organised a side event, with contribution also from IPA and the International Authors Forum (IAF), to document how the best way for educational institutions to obtain seamless access to copyright works is through agreements with authors, publishers and RROs. The presentations were compiled and are available on IFRRO's home page and at the WIPO library.

The basis for the WIPO SCCR discussions on library and educational exceptions is a proposal for a Treaty proposed by the African group of WIPO Member States and a draft Treaty for libraries and archives suggested by the International Federation of Library Associations and Institutions (IFLA). The two proposals include mandatory library and educational exceptions without remuneration to rightholders. During the year under review the Board reconfirmed IFRRO's position of opposing a Treaty or any other international legal instrument on library and educational exceptions. Rather it would be appropriate for WIPO to opt for solutions based on the sharing of best practices, combined with a capacity building programme towards countries that need to develop their own copyright based industries, institutions and infrastructure.

#### **Cooperating for better solutions to identify rights and authorise use of copyright works**

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

Although there are projects to digitise and make available cultural heritage in several parts of the world, including the US Digital Library initiative, IFRRO's active involvement has been requested in Europe only. A main focus has been on the implementation of the Memorandum of Understanding (MoU) on the digitisation and making available of out-of-commerce works. The implementation task force, initiated by the MoU signatories and chaired by the IFRRO *CEO*, has identified the current surprisingly few projects which involve making available also out-of-commerce works in copyright; developed information material on the MoU; and has established a resource pool to assist those who wish to implement it.<sup>4</sup>

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<sup>2</sup> Standing Committee on Copyright and Related Rights

<sup>3</sup> See 6.1 on page 9

<sup>4</sup> <http://www.ifro.org/content/i2010-digital-libraries>; and <http://www.ifro.org/content/mou-resource-pool>

The Board notes with interest that several EU Member States, when implementing the EU Orphan Works Directive, have proposed or are considering implementing also the out-of-commerce MoU: The French out-of-commerce works legislation of May 2012 implements both, facilitating collective licensing on the basis of compulsory collective management with an opt out clause; on 28 June 2013, the German Parliament adopted the orphan and out-of-commerce bill, which still needs the approval of the Bundesrat, allowing the digitisation and making available of such works published in Germany before 1966, based on collective licensing and a legal presumption that the pertinent RROs represent all rightholders concerned unless they have expressly declared otherwise; other EU Member States have also announced the intention of implementing the out-of-commerce works MoU when they implement the EU Orphan Works Directive.

#### 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. The Board approved during the FY that IFRRO joins the ARROW legal entity, established as an association under Italian legislation, as an ordinary member. A main challenge for ARROW is to establish a long term sustainable business model.

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 costs of the project, which expires in October 2013. 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 partner responsible for the coordination of RRO related activities, ICLA, OSDEL, Polska Ksiazka and SACD as partners, and COPYDAN and Kopiosto as external supporters. At the time of the finalising of the Board's Annual Report, the use of ARROW was enabled in 14 European Member States, and the IFRRO Standards Software had been made ARROW compliant with a link established to the ARROW system<sup>5</sup>. There is manifested interest for ARROW also outside Europe.

#### Persons who are blind or Print Disabled

At a Diplomatic conference in Marrakech (Morocco) on 28 June 2013, the WIPO Member States agreed on a Treaty to facilitate access to published copyright works for persons who are blind, visually impaired, or otherwise print disabled. It is an exceptional and access Treaty, rather than an exceptions and limitations Treaty, providing access to specifically defined beneficiaries. It leaves to the individual country to decide whether to make the exception or limitation subject to remuneration, and reconfirms the important role of authorised entities in facilitating access to works in accessible formats. This means that the WIPO-facilitated TIGAR (Trusted Intermediary Global Resources) and the EU-facilitated ETIN (European Trusted Intermediary Network ) initiatives to create a network of authorised entities for the cross-border exchange of accessible format copies of works maintain their relevance. For IFRRO members, the Treaty should not *per se* bring about changes. Countries in which RROs administer statutory licenses in respect of accessible format copies are allowed to maintain such arrangements. The Board continues to encourage RROs to respond positively to requests from authors and publishers to facilitate the making and cross-border exchange of accessible format copies, including participating in the TIGAR and ETIN projects, when appropriate. The IFRRO website has a dedicated page to those issues, which also includes tools to facilitate RRO involvement.

IFRRO maintains its participation in TIGAR, the pilot program established under the WIPO Stakeholder Platform on enhanced access to copyright works by persons with print disabilities. *Rainer Just* and the *CEO* have taken seats on the nine member Steering Committee (SC), with the *General Counsel* attending most of its meetings and calls. Five RROs - CLNZ, DALRO, Jamcopy, Kopinor and ProLitteris - 38 major publishers, the Swedish Writers Union and 23 Trusted Intermediaries (TI)/Authorised Entities in 21 countries, among those five in developing countries, have signed the MoU on the facilitation of cross-border exchange of accessible format copies and files. Permission has been granted for more than 1,000 of the some 1,300 requests from TIs for file exchange, several of them by RROs, involving 520 titles, of which several have been downloaded by more than one TI.

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<sup>5</sup> See Chapter 5 on page 8

Preparations are underway for the establishment of an on-going sustainable TIGAR entity. This will most likely involve the development of authorisation based on collective licensing.

ETIN is an EC-facilitated initiative to implement the EU MoU signed in 2010 by stakeholder representatives concerned, including IFRRO, on improved access to copyright works for persons with print disabilities. ETIN has approved a specific model licensing agreement, by which publishers and authors can authorise the cross-border transfer of accessible versions within the EU, EEA and Switzerland. An ETIN Board has been established to govern the project, with *Rainer Just* representing IFRRO, assisted by IFRRO's *General Counsel*. The EC DG MARKT 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. The *CEO* is a member of the Board. The objectives of LCC are consistent with and support the Board's goal of demonstrating seamless access to copyright works through efficient rights management. Other IFRRO members among the 39 partners are CCC, CLA, EMMA, ENPA, EVA, EWC, FEP, IPA and NLA.

The LCC "Common Rights Framework" model, which includes the Rights Reference Model and defines the principles of identification (of works, rightholders, etc.), and the principles of messaging was published in spring 2013. Next steps include defining how users access data and agree on a plan for the transition from project to permanent structure.

With the aim to provide a proof of concept for the LCC, several of its partners, including IFRRO, are collaborating in the Rights Data Integration (RDI) project, which is sponsored by the European Commission under its Information and Communications Technologies Policy Support Programme (the "ICT PSP") for 50% of the budgeted eligible costs. RDI will demonstrate how different expressions of rights and licensing used by rights sources and exchanges can be translated through a central hub to be built using the LCC Common Rights Framework. Contract negotiations with the EC have been concluded but the contract has not yet been signed at the time of the finalising of the Board's report.

#### **Cooperating on a better understanding of the future**

##### IAF (International Authors' Forum)

IFRRO has actively encouraged the establishment of an organisation representing authors of all kinds on an international level. IAF does not compete with, rather it complements the important role that EVA and EWC play on the European level and that of IFJ and ICOGRADA globally. To this end, meetings and gatherings of author organisations and representatives have been facilitated in conjunction with IFRRO meetings, and a financial contribution has been offered from the Development Fund. The Board notes with satisfaction that, during the period under review, the IAF has been formalised and granted legal personality. IFRRO and IAF have cooperated on WIPO activities, including IAF's contribution to the side event at the WIPO SCCR meeting in July 2012 on seamless access to copyright works in education, and on the enhancement of a culture for books and reading conference programme.

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

The Board aims to actively continue the cooperation with CISAC. The Executives have met to exchange views on issues of common interest, and the CEO has also met with the CISAC leadership team to discuss the cooperation on technical standards and possible CISAC involvement in the Linked Content Coalition and the WIPO initiated project on a good governance quality mark (TAG).<sup>6</sup>

##### IFLA (International Federation of Library Associations and institutions)

*Franziska Eberhard*, in her capacity as First Vice President of IFRRO, attended the IFLA congress in Helsinki in August 2012, and IFRRO and IFLA collaborate in the conference programme on the enhancement of a culture for books and reading, which also involves WIPO, IPA and IAF. The 2013

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<sup>6</sup> See Chapter 3 on page 3 and Chapter 6.1 WIPO on page 7

conference is scheduled to take place in Lima (Peru) in November, involving also CERALC<sup>7</sup> and the national RRO, authors', publishers' and library organisations and Indecopi, the national Intellectual Property Office.

#### **4. MEMBERSHIP RELATIONS, COMMUNICATIONS AND INFORMATION**

The Board reiterates from last year's Annual Report the need to communicate positive messages on copyright and collective management; document the importance of the creative sectors; and show the ability of authors, publishers and RROs to provide easy and seamless access to intellectual property, in response to defined user demands. IFRRO's communication strategy must ensure better understanding of rightholder, including RRO, positions and requirements. To this end the Board is working on a strategic plan, which involves the development of some key messages and the identification of copyright and collective management advocates. Future work will include close cooperation with the international author and publisher association members, the IFRRO Communications task force and external expertise in finalising key messages and developing a deployment strategy. It will also, at a later stage, include singling out IFRRO collective management and copyright spokes persons or ambassadors.

New supporting material developed during the FY includes, in the "Easy to Read" publications series, a quick guide to revenue distribution and use of collected fees and the good governance of RROs. The English version of the material from the side event at the WIPO SCCR on seamless access to copyright works in education<sup>8</sup> was translated into Arabic, Chinese, French, Russian and Spanish, and distributed broadly via the IFRRO, IPA and IAF networks. The IFRRO Welcome Manual is available in English, French and Spanish.

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, remains a priority for the Board. During the period under review, joint Board meetings were offered to the international author and publisher association members; were held with STM in July 2012 and FEP in March 2013; and are planned with other members in the coming FY. Meetings were held regularly on Executive levels with EMMA, ENPA EVA, EWC, FEP, IFJ and STM to discuss issues of common interest and for coordination purposes.

The importance of IFRRO providing support to members in relation to copyright legislation is constantly increasing. During the FY, assistance was, in particular, given, at their requests, to members in Brazil, Canada, China, India, Lithuania, Russia, Spain, Turkey and the UK, mainly in the form of written submission, in some cases also by IFRRO members, to national governments. Support to RROs in Russia and Spain was complemented by written communication and presentations to the European Commission. Meetings to discuss copyright amendment bills were held with government representatives of Brazil, China, Russia and Spain; the ones with Russian authorities involved also the European Group Chair *Kevin Fitzgerald*, whilst the IFRRO *President*, the *CEO* and *European Group Chair* held meetings with several ministries and a press conference in Madrid in January 2013 in support of CEDRO and Spanish rightholders. IFRRO was invited to make presentations in conjunction with bilateral talks that EU have with China, Russia and Turkey. Support to ABDR in Brazil and to IRRO's efforts to start up licensing of tertiary educational institutions in India included articles in Brazilian and Indian newspapers, one in India jointly with IAF and IPA.

The 2013 *Senior Managers Forum* (SMF), hosted by ICLA in Dublin in March, shared best practices and discussed good governance of RROs. In 2014 the Board will consider organising regional SMFs as a part of regional development committee meetings on region relevant topics.

Authors' and publishers' gatherings were facilitated in conjunction with the Congress in Buenos Aires in October 2012 and the IBMF in Dublin in March 2013.

With the objective of maintaining transparency of the Board's work, the Board agendas continue to be posted on the Members Only section 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 most important Board

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<sup>7</sup> CERALC, see page 8

<sup>8</sup> See Chapter 3, page 3

decisions. The IFRRO *Newsletter* was published eight times and the *Digital Alert* appeared quarterly during the period under review. 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, usually once a month.

## **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. Two meetings were organised during the period under review: in October 2012 in Buenos Aires on understanding user needs and delivering solutions; and in March 2013 in Dublin on RRO contribution to seamless user access to copyright works.

### **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.

The different MTL models are being examined by a subgroup led by *Robert Staats* of VG Wort, under the IFRRO Future Challenges Task Force, which is otherwise made up of *Magdalena Vinent* (CEDRO, Task Force Chair), *Tracey Armstrong* (CCC), *Sandra Chastanet* (CFC), *Kevin Fitzgerald* (CLA), *Anke Schierholz* (VG Bildkunst representing authors) and *Pierre Dutilleul* (EDITIS, representing publishers), assisted by the IFRRO *CEO*. Concluding that MTL based on multilaterals could be considered as being merely an alternative technique to MTL based on bilaterals, *Robert Staats*, the IFRRO *CEO* and *General Counsel* met informally with the European Commission, DG Competition, in May 2013 to solicit their views on selected elements that could become a part of solutions to be suggested by IFRRO. The meeting confirmed that the main issue is to avoid any form of customer allocation and price fixing. International authors' and publishers' associations in membership of IFRRO have been kept informed of this work, and approaches discussed with them.

### **Text and data mining (TDM)**

"Text and Data Mining" is used mostly as a collective term to describe both text mining and data mining. Text mining is generally used to depict the extraction of meaning from a body of text, the indexing of content or analysis of data contained in national language text; whilst data mining is an analytical process that looks for or extracts trends and patterns in datasets. The Board recommends that RROs add TDM uses to their (existing) licensing agreements with users, including without charging additional administrative costs or, when decided by the rightholders, usage fees. CCC, PA (UK), PLS and STM are among the IFRRO members currently involved in developing solutions for TDM.

### **Cloud computing**

During the FY, the Board assessed the role of RROs in relation to cloud computing and recommended that RROs exploit with their author and publisher affiliates the possibilities for collective licensing of the cloud and include uses related to the cloud in their licensing agreements.

### **Technical standards and identifiers**

The ONIX Governing Body (OGB) consists of *Franziska Eberhard* (ProLitteris), *David Grundy* (ALCS), *Heather Reid* (CCC), *Pablo Ruiz de Elvira* (CEDRO) and *James Boyd* with *Mark Bide* (EDI<sub>t</sub>EUR) associated to it. Since the retirement of *Maureen Cavan* (Access Copyright) it has lacked a permanent Chair. The OGB is tasked with the management of the implementation and the efficacy of the use of ONIX for RROs. Following the review during the last period, which showed that lack of technical resources was slowing down the implementation of the ONIX standards, the program has been put on hold until national projects are completed. It is expected to resume in early 2014.

IFRRO is a member of EDI<sub>t</sub>EUR, which is responsible for a number of standards of interest to IFRRO members, including ONIX for RROs. EDI<sub>t</sub>EUR now administers both ISTC and ISNI International Agency (IA) activity, bringing welcome coordination to this important area. Mark Bide will be stepping down as



Managing Director in the course of the next 6-18 months; the Board has started the work on his replacement. 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 10 Registration Agencies (RAs) in the following countries: Belgium, Canada, China, France, Germany, the Netherlands, New Zealand, Poland, Russia and the UK. Two of the older registration agencies, RR Bowker in the US and Thorpe-Bowker in Australia, recently gave notice to close down their ISTC-RA operations but informed that, as bibliographic agencies, they are both still keen to utilise ISTC numbers in their database. There are now almost 200,000 ISTC records on the live database, identifying textual works in more than 70 different languages. These figures are up from 17,000 records for works in just 20 languages a year ago.

During the period under review, the ISNI Board re-elected the *CEO* as Chair of the ISNI-IA. *James Boyd* is also actively involved in the ISNI work for IFRRO. There are two Registration Agencies (RAG) - Ringgold Inc. and Bowker. The business model is built on ISNI members paying an annual fee of €800, RAGs and sponsorship. Documents, including one targeting RROs, outlining the benefits of ISNI membership have been prepared by the ISNI-IA. An aim is to recruit IFRRO members as ISNI members in 2013. Already Access Copyright and CEDRO have taken up ISNI membership and ICLA and ProLitteris have announced that they are in the process of doing so.

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**

IFRRO has contracted the Canadian company Peppertag Inc. to finalise the standard software package for RROs. It will be a cloud based systems delivered for use in early autumn 2013, with the four modules rightholders, works, licensing and distribution, fully compliant with messages, standards and identifiers used by RROs, such as ONIX, ISNI and ISTC. Also, the software has been made ARROW compliant, developed with the particular assistance of ICLA and Jamcopy as pilot users, and is offered to new and emergent RROs free of charge, with the RRO using it meeting the maintenance costs. Discussions are presently underway with WIPO on their collaboration and involvement in its finalising and deployment.

## **6. WORK IN RELATION TO INTERGOVERNMENTAL BODIES**

### **6.1. WIPO (World Intellectual Property Organization)**

WIPO is one of IFRRO's key partners. The main cooperation is with the Copyright Infrastructure Division<sup>9</sup>, headed by Director *David Uwemedimo*, which is also responsible for the TAG and TIGAR initiatives<sup>10</sup>. The General Assembly (GA) and the SCCR are attended by the IFRRO *President* and the *CEO*, selected SCCR meetings also by the *General Counsel*. Following the adoption of the *Treaty to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled* at the Diplomatic Conference in Marrakesh on 28 June 2013, the SCCR agenda will now turn its main focus on exceptions and limitations for education and libraries and archives, and continued work on a Treaty for broadcasting organisations to be discussed in parallel to those topics.

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: two in Africa; two in Europe; one in Latin America; one in Asia; and the WIPO-SIDA and WIPO-NORCODE training courses.

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

IFRRO has NGO status with UNESCO and provided speakers for three UNESCO conferences during the FY under review: The *CEO* spoke at the cultural heritage conference in Vancouver in September 2012 and at the World Summit on Information Society (WSIS) +10 conference in London in June 2013, and *Hélène Messier* at the WSIS +10 conference in Paris in February 2013.

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<sup>9</sup> WIPO Organigram [http://www.wipo.int/export/sites/www/about-wipo/en/pdf/organigram/visio-org\\_en.pdf](http://www.wipo.int/export/sites/www/about-wipo/en/pdf/organigram/visio-org_en.pdf)

<sup>10</sup> See Chapter 3, pages 3 and 4



### 6.3. European Union

The Secretariat, on occasions accompanied by the IFRRO President, the European Group Executive Committee members or 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, issues on the WIPO SCCR agenda, and in relation to bilateral talks that the EU conducts with other countries.

#### Orphan Works Directive

On 28 October 2012 the EU Directive on Orphan Works entered into force. The EU Member States have to adopt it into their national legislation by 29 October 2014. Its application includes the digitisation and making available for non-commercial purposes of orphan books, journals, newspaper, magazines, audiovisual works and phonograms, but not stand-alone photographs and other images, in publicly accessible libraries and similar institutions, and public-service broadcasting organisations under an exception in national laws. A prior diligent search for rightholders in available resources, among which the Directive recommends also ARROW, is required before classifying a work as being orphan. A central orphan works registry will be established by the Office for Harmonisation in the Internal market (OHIM). Reappearing rightholders have the right to withdraw their works and receive "fair compensation" for the use that has been made of it. Member States that allow orphan works to be included in collective licensing schemes, for instance under an Extended Collective Licence, may continue such arrangements. Some Member States have already started implementing the Orphan Works Directive and also included the implementation of the MoU on out-of-commerce works<sup>11</sup> in their proposal.

#### Collective Management Directive

On 10 July 2012, the European Commission published the draft directive on collective rights management. It comes in two parts: a section on governance rules, including transparency and accountability, applicable to all collective management organisations; and a section on multi-territory licensing of musical works, which includes musical works in print. On 4 July, COREPER<sup>12</sup> adopted a common view, and on 9 July, the European Parliament's legal affairs committee voted proposed amendments to the Commission's proposal, thus enabling the start-up of the tri-partite Commission-Council-Parliament dialogue on the draft directive and its possible adoption in 2013.

#### Copyright Levies

On 31 January 2012, the EC appointed mediator on copyright levies, *António Vitorino*, published his report. Among the recommendations opposed by IFRRO is the proposed shift of responsibility towards retailers for the payment of the levy, which will result in increased burden and cost on the RRO and reduce the possibility for control. On the other hand, IFRRO welcomes the recognition that text and image levies differ from private copying levies in that they are not restricted to equipment sold to private users, and that it should be left to individual countries to decide which products should be levied, as any device capable of reproducing copyright works could potentially be included. In respect of the latter, the Board notes the ruling of the Court of Justice of the European Union (CJEU) on 27 June 2013 in favour of VG Wort, that levies may be imposed on printers and computers where the two are linked together. Also, on 11 July 2013 the CJEU ruled in favour of Austrian CMOs in a case raised by Amazon.com, that a general blank tape levy and the use of collected fees for social and cultural purposes are compatible with EU legislation, provided there is also a system for reimbursement, for instance upon re-exportation, and fees are distributed to eligible authors and publishers on a non-discriminatory basis. The CJEU considered that that the payment of a levy in one EU Member State should not free the retailer from paying it in other Member States.

Upon examining the Vitorino Report in the Council in June 2013, several EU Member States questioned whether the Report's recommendations could at all form a basis for further discussions of levies at EU level. The European Parliament aims at discussing it in September 2013. A conclusion on how the European Commission intends to address the issues raised in the Report is expected towards the end of 2013.

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<sup>11</sup> See Chapter 3, page 3

<sup>12</sup> Committee of Permanent Representatives in the EU, made up of the heads of the EU Member States' missions

#### **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. The *Senior Legal Advisor* addressed ARIPO's 36<sup>th</sup> Administrative Council meeting in Zanzibar on 27 November 2012. Mr. *Gift Sibanda* stepped down as DG at this meeting and has been replaced by Mr. *Fernando dos Santos*. IFRRO and ARIPO cooperated with WIPO in the educational seminar and conference on good governance in Harare in November 2012, with *Greenfield Chilongo* as the IFRRO speaker.

#### **6.5. OAPI (Organisation Africaine de la Propriété Intellectuelle)**

OAPI, which celebrated its 50<sup>th</sup> anniversary in 2012, represents 16 French-speaking Sub-Saharan African countries. It is lead by DG Mr. *Paulin Edou Edou*. His mandate was renewed for another 5 years at last year's Council of Ministers' meeting. An agreement on co-operation covering all major IP relevant activities was signed in 2007.

#### **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. CERLALC's Director General is Mr. *Fernando Zapata Lopez*, with Ms. *Mónica Torres Cadena* as Deputy DG. IFRRO and CERLALC cooperated in a subregional seminar at the Panama book fair in August 2012 and CERLALC is involved in the organising of the Enhancement of a culture for books and reading to take place in Lima (Peru) in November 2013.

#### **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. IFRRO is currently negotiating an agreement on cooperation with LAS, parallel to the ones previously signed with ARIPO, OAPI and CERLALC. IFRRO and LAS cooperated in a conference on copyright and cultural heritage in Cairo in April 2013, with *Emma House* (PA, UK) and the CEO as IFRRO speakers.

### **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 2012-13.

#### **Asia Pacific Committee (APC)**

The region counts 14 RROs in membership of IFRRO, including two Music RROs. Since the last Annual Report, the Board has approved MCSC (China) as a new Music RRO. FILCOLS, IRRO and YRCI have successfully started up licensing activities. In India, courts of first and second instances have ruled in favour of rightholders, that copying at the University of Delhi requires a license, whilst the Delhi High Court's decision is pending at the time of the finalising of the Board's Annual Report. IFRRO has supported IRRO and the rightholders in their efforts. The Committee and IFRRO Secretariat are actively following the copyright amendment bill introduced in China in March 2012, which aims also at strengthening collective rights management. India, Indonesia and the Philippines remain priority countries for the APC, which is chaired by *Caroline Morgan* (Copyright Agency) and met once during the period under review.

#### **African Development Committee**

Africa counts 12 RROs as members of IFRRO, which is one more than in last year's Report, as the Board has approved BURIDA (Côte d'Ivoire) as a new Provisional RRO member. Copyghana has started to collect the text and image levy and is negotiating licenses with the educational sector, whilst Repronig is expected to start collecting a reprographic equipment levy in 2014 following the adoption of the implementation decree in February 2013. BBDA, COSOMA and DALRO continue their positive developments and as the Continent's reference RROs. Priority is given to assisting Kopitan, Repronig and ZARRSO to develop their licensing activities. The African Development Committee, which is chaired by *Greenfield Chilongo* (Zimcopy), met once during the period under review.

## **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, *Anders Kristian Rasch* (Copydan) and *Robert Staats* (VG Wort), elected for a two-year period at the EG meeting in October 2012. The EG has followed closely the EU CRM and orphan works directives, implementation of the EC facilitated out-of-commerce works MoU, the mediation on copyright levies, and the ARROW<sup>13</sup> and ETIN<sup>14</sup> projects. The meeting in March in Dublin had a special focus on the CRM Directive, with introductory remarks offered by *Anne Coleman*, Principal Officer at the Irish Department of Jobs, Enterprise and Innovation, who chaired the EU Council WG on the CRM Directive the first half of 2013. The draft EU directive on collective management will remain a priority for the European Group also in the coming year.

### European Development Committee (EDC)

The EDC met once during the year under review, in Belgrade (Serbia) in June 2013, combining the meeting with a successful stakeholder awareness raising seminar that was organised in cooperation with the Serbian Intellectual Property Office. Since last year's report, the Board has granted Provisional RRO membership to SDADV (Andorra), changed EDISER's (former AIDRO) membership status to Associate RRO membership, from RRO membership, and approved SOFAM (Belgian visual CMO) as new Creator and Publisher member. Europe thus counts 46 RROs with IFRRO membership, of which 25 are full RRO members. The Balkan and Baltic States remain priority countries for the committee work, with good prospects for the start up of RRO activities in Serbia and Latvia. 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, the same as last year. Given that ECCLA is a sub-regional RRO for six Eastern Caribbean States, the RROs in Latin America and the Caribbean cover 16 countries. There is positive development in the region with the establishment of Peru Repro and SEA Panama, the reviving of the initiative for a RRO in Costa Rica, and the signing of the first license by B-COPY in Barbados. The Brazilian copyright amendment bill is still pending. Main targets remain the RROs in Costa Rica, Peru, Panama, the Caribbean RROs, and supporting the development in Brazil. *Ana Maria Cabanellas* (CADRA) chairs LAC, with *Brian O'Donnell* (Access Copyright) as Vice Chair.

### **Middle East Development Committee (MEC)**

MEC, chaired by *Emma House* (PA, UK), did not meet during the period under review. It has adopted an activity plan which includes the collection of basic country information. Fact finding missions have been made to the United Arab Emirates (UAE), Egypt, Lebanon and Jordan, partly with the inclusion of workshops for stakeholders, with particular assistance offered to the UAE the past year. The activities of the Committee and the progress on RRO works continue, however, to be hampered by the political situation in the region. 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 (i) assess education and enforcement activities in general and those carried out by IFRRO members in particular, (ii) make recommendations to the IFRRO community on education and enforcement activities with the aim of communicating best practices and suggested activities to the IFRRO membership, and (iii) make recommendations on education and copyright enforcement activities that IFRRO could support. It met once during the period under review. IFRRO members have contributed information, which is available on the IFRRO website, in addition to further best practices uploaded to the Members Only page, on copyright education programmes and enforcement activities. During the FY, the Board approved contribution from the Enforcement Fund towards CEDRO's litigation in Spain against the website "YOUKIOSKE.COM".

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<sup>13</sup> See further on this in Chapter 3 ARROW, on page 3

<sup>14</sup> See further on this in Chapter 3 Facilitating access for persons with print disabilities, on page 4

### **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, a special “IFRRO day” was organised at the Frankfurter Musikmesse in April 2013, and separate meetings have been held with music publishers and RROs in various countries, with a particular focus on China, USA 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, and benchmarking different business approaches. The current focus is on the sharing of best practices on business approaches and information on technical tools, standards and identifiers; exploring new areas of licensing; content licensing, including of web content, RRO collaboration and cross-border access. 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 based on ISNI, which through automated processing can be an essential and cost reducing tool in distribution of revenues by RROs. The TSC organised a webinar in January 2013 with the participation of technical staff and experts from 10 IFRRO members, and a pilot group of interested RROs was established. The next steps envisages a user survey as a means to decide whether to develop a software and build an interface for an IFRRO Party Identifier System to support the automation of the processing of data files, by using ISNI.

### **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. During the period under review the WG has focused on statistical methods, also to identify the value of visual material for distribution purposes. It has kept a watching brief over the ARROW Plus work, Google Book search, CRM directive and Out-of-Commerce works implementation task force in relation to issues relevant to the image sector. It met twice 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 *Kurt van Damme* (Reprobel). The main focus during the FY has been on the EC initiated mediation on copyright levies. ELF has contributed to the providing of information and also in the assessment of the mediator’s report. In addition to the CJEU decision on the scope of article 5.2.a of the EU Copyright Directive confirming the possibility of levying printers and computers<sup>15</sup>, there are also pending court cases both in Belgium and Germany on the publisher’s statutory right to a share of the remuneration, where decisions are expected the coming year. A new price survey on multi-functional devices is under preparation and ELF consented to the cooperation with WIPO on yearly reports on text and image levies, which may materialise the coming year. The Forum continues to maintain a watching brief on online cross-border sales of devices.

### **IFRRO Public Lending Rights Forum**

The IFRRO Public Lending Rights 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 monitors the implementation of the EU rental and lending rights directive.

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<sup>15</sup> See Copyright levies on page 9

## **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* copyright notices/phrases, the draft legal instrument for the blind and print disabled, and recent development in legislation and litigation.

## **9. FINANCES**

### **Operational accounts**

The year-end balance on the operational activities, i.e. excluding the Development Fund and the Communication Policy Project, resulted in a deficit of €12,560 against a budget surplus of €300. A further €212,100 of paid membership fees was allocated towards development work and transferred as voluntary contributions to the Development Fund. The Board proposes that the FY's deficit be debited to the operational reserve, which will then amount to a total of €484,498, as of 30 June 2013. The reserve equals some seven months of budget yearly spending, which is considered indicative of a sound fiduciary practice.

### **Development Fund**

Three IFRRO members contributed a total of €16,454 directly to the Development Fund during the FY. €212,100 was transferred as voluntary contributions from the membership fees, resulting in a total Development Fund contribution of €228,554. 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 €318,689 was paid out towards previously approved grants during the FY. As at 30 June 2013, the Development Fund amounts to €1,039,267, of which €404,628 has already been allocated through Board decisions towards specific projects. This leaves a total of €634,639 available for new projects.

### **Enforcement Fund**

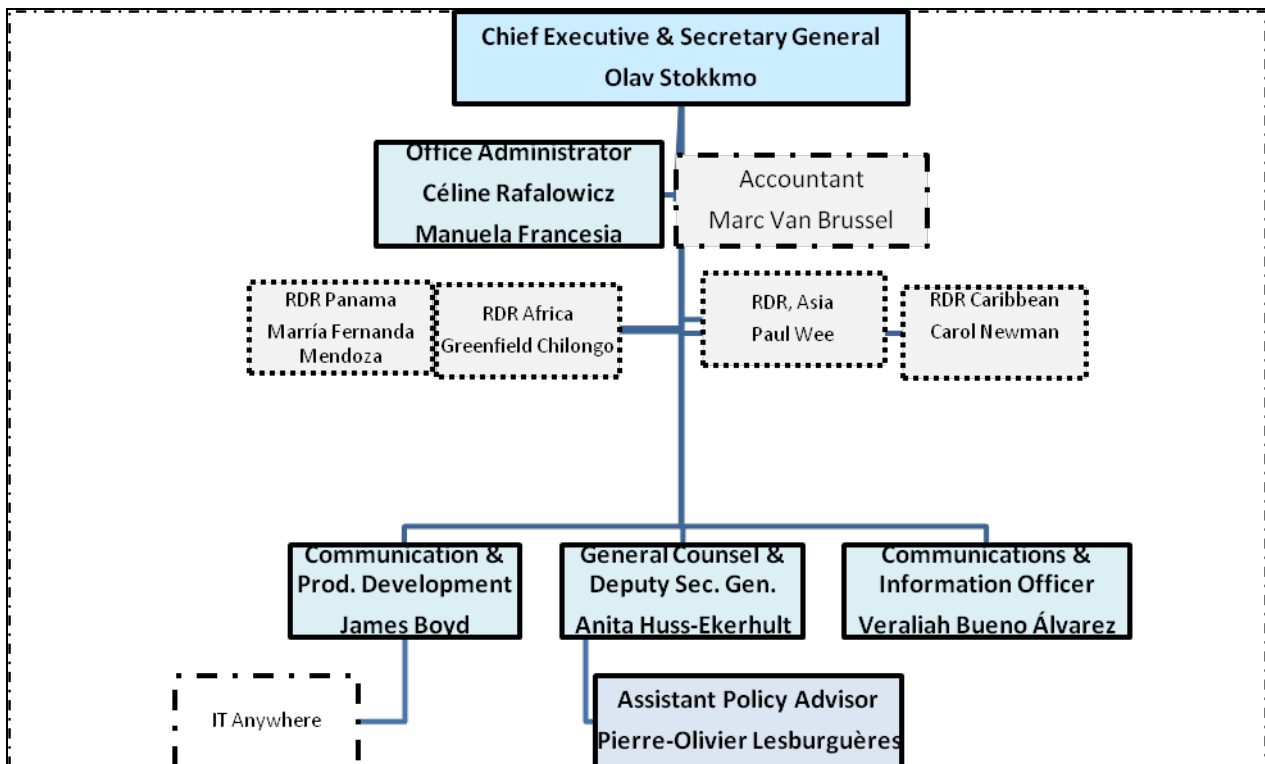
IFRRO members contributed an additional €22,500 to the IFRRO Enforcement Fund and €57,250 was transferred from the Development Fund towards the Enforcement Fund, bringing the total FY contributions to €79,750 and the fund balance to €103,560 as of 30.06.2013.

### **Tax issues**

The Belgian tax authorities' examination of IFRRO's tax liabilities on interests yielded on saving accounts, as reported in last year's Board Annual Report, has not been concluded, and there has been no contact with IFRRO on the issue during the FY.

## **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. *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*, who since 2005 has handled secretarial matters, including the day-to-day bookkeeping, is, since May 2013, on a substantially reduced working time. Following a three months internship period, *Manuela Francesia* has been employed as Office Administrator, currently on a 12 months contract expiring in February 2014. *Ingrid de Ribaucourt* left IFRRO in May 2013. *Pierre-Olivier Lesburguères* has been engaged on a 12 months contract, starting in June 2013; he will be undertaking regional development work and assist in EU and WIPO-related issues. *Marc Van Brussel* is the IFRRO accountant, employed on a consultancy basis. IT is outsourced to IT Anywhere, a Belgian IT service company. The organisation chart of the Secretariat is set out below:



**Regional Development Representatives (RDR)** reporting directly to the CEO 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 and Costa Rica: *Maria Fernanda Mendoza*. RROs have been established in all target countries, the RROs in Panama, Costa Rica and Uganda are not yet IFRRO members.

## 11. FUTURE PERSPECTIVES

In the past years, groups and activists seemingly hostile to copyright and collective rights management, or advocating the broadening of unremunerated copyright exceptions and limitations have increasingly influenced public opinion and policy makers. The Board is therefore making communications and documentation of the importance of the creative sectors key focus points. The creative industries are pivotal in sustaining national culture and cultural diversity, helping to define and project national identity. They are also fundamental to the economy, with copyright fuelling the knowledge based sector and digital economy. Studies show that there are significant and positive relations between the contribution of copyright industries to GDP and the GDP per capita, competitiveness, innovation and reducing corruption. It is due time for the copyright sectors to address more assertively unsubstantiated allegations and attacks on copyright and collective management. More needs to be done to assist those who speak in favour of the creative sectors. The IFRRO Board aims to take a lead in the work of countering uncorroborated accusations on copyright and collective management, through communicating evidence of their importance and contributions to society, and in demonstrating that the fundamental principles of copyright are still valid and work. It 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

Brussels, 30 June 2013

Rainer Just  
President