

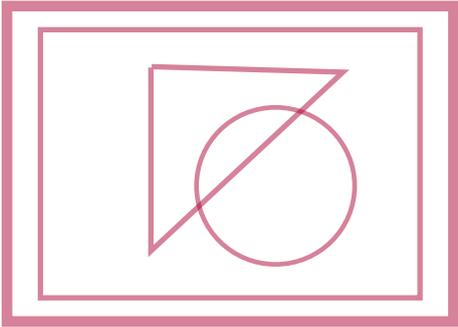
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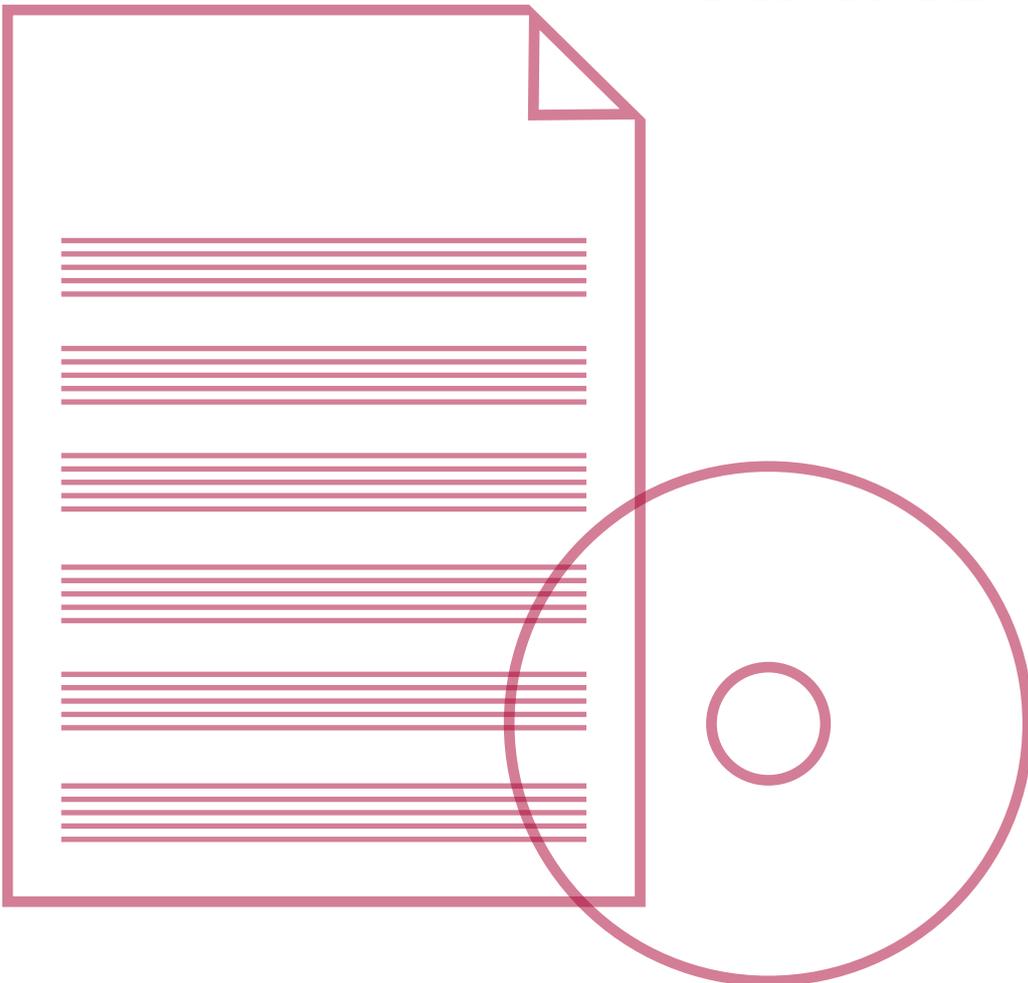
# IFRRO MENTORING HANDBOOK



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# IFRRO MENTORING HANDBOOK



## Purpose of the IFRRO Mentoring Handbook

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*The IFRRO Mentoring Handbook provides practical guidance to managers and staff of established RROs when they have accepted to function as a mentor for an emerging RRO.*

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Development work is an important part of IFRRO's activities. According to the Statutes one of its main objectives is "to support and encourage the formation of RROs in countries where none presently exist and to nurture their development". Different tools have been developed at the request of the CEO of IFRRO to provide IFRRO and its members with adequate means to address development work.

A Manual on how to set up an RRO, called "How Reproduction Rights Organisations (RROs) Function", was launched in 2006. The Manual functions as guidance for emerging and new RROs in their early stages.

The present Mentoring Handbook is a mirror to the Manual on how to set up an RRO. It gives guidance to established RROs when they are asked and accept to function as a mentor and to share their experiences and expertise with an emerging RRO. That work is done on a voluntary basis.

The Mentoring Handbook includes information on different aspects of IFRRO's development work, with a clear focus on the mentoring relationship (chapters 1 – 2 and 6 - 8). Mentoring means a long-term commitment and partnership with an emerging RRO.

The Mentoring Handbook is written as a practical tool for senior managers of an established RRO in their work as a mentor. The staff of the mentoring RRO are also part of the target audience. The Handbook is written from the mentor's viewpoint, not as a general development work guide.

The authors hope that the Mentoring Handbook encourages RROs to commit themselves to a mentoring relationship. In this way they can contribute to the overall aim of IFRRO and RROs worldwide and are rewarded by an exciting window on the worldwide copyright arena.

### About the Authors of the Handbook

The IFRRO Mentoring Handbook is a product of team work. The main author is Tarja KOSKINEN-OLSSON, Honorary President of IFRRO, assisted by Franziska SCHULZE, General Counsel of IFRRO.

A Task Force consisting of Brian O' DONNEL (Access

Copyright, Canada), Karen PITT (CAL, Australia), Jean LISSARRAGUE (CFC, France), Samantha HOLMAN (ICLA, Ireland), and John-Willy RUDOLPH (Kopinor, Norway) participated actively in the process and provided valuable advice and input.

### About IFRRO

IFRRO works to increase, on an international basis, the lawful use of copyright works and eliminate unauthorised copying by promoting efficient collective management of rights through RROs. IFRRO facilitates cooperation among RROs as well as with and among authors, creators, publishers and their associations. Through this work and its persistent fight against copyright infringement, piracy and other forms of unauthorised use of published works IFRRO stimulates creativity, diversity and investment in cultural goods as a useful tool for rightsholders, consumers, the economy and society as a whole. IFRRO represents creators and publishers alike and provides a common and international platform for them to foster the establishment of appropriate legal frameworks for the protection and use of their works.

IFRRO's Core Values are:

- IFRRO respects the rights of individual creators and publishers to determine how their works are managed;
- IFRRO encourages management of rights and provides systematic and proactive support to RROs and supports joint efforts by authors, creators and publishers of literary and scientific printed works worldwide to establish RROs;
- IFRRO works to strengthen its role as the leading international body in fostering and providing information on reproduction rights and the collective administration of such rights;
- IFRRO encourages and provides opportunities for authors, creators and publishers and their representatives to meet, exchange information, collaborate and partner in respect of reproduction of copyright works, document delivery and certain digital uses of their works;
- IFRRO and its members deploy the highest ethical standards when dealing with the rights which they are involved in administering (collection and distribution of remunerations) – and the funds they hold in trust.

### About IFRRO Tools in Development Work

Different tools are used in IFRRO's development work, to facilitate and streamline the work undertaken by the members of IFRRO. The CEO of IFRRO has taken

decisive steps to deliver concrete and measurable results in development work and commissioned tools to that effect.

Current tools and resources include the following:

- Manual on how to set up an RRO, called “How Reproduction Rights Organisations function”, launched in 2006.
- Mentoring Handbook to serve as a guide for established RROs when they have accepted to function as a mentor to an emerging RRO, launched in 2008.
- Regional Business Plan for different regions to function as a guide for Regional Development Committees when deciding priorities for each region. The first Regional Business Plan for Europe was launched in 2007, others to follow.
- Practical hands-on work on selected priority countries is undertaken by four Regional Development Representatives.

Cooperation with the international authors’ and publishers’ associations in membership of IFRRO is an essential part of the development strategy. International and regional associations have successfully been involved in fact finding missions, training activities and assistance programs. Resolutions highlighting the importance of reprography management and of supporting the establishment of new RROs have been valuable elements in development work.

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# 1. Mentoring as Part of Development Work

# 1. Mentoring as Part of Development Work

## 1.1 Point of departure in development work

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*IFRRO's development work aims to have as many well-functioning RROs as possible to provide easy access to users of copyright works and fair remuneration to rightsholders for the use of their works.*

---

Mentoring is part of development work, which is one of the main objectives and core competencies of IFRRO. "To support and encourage the formation of RROs in countries where none presently exists and to nurture their development" refers to two phases in the RRO formation: emerging RROs and newly established RROs.

The goal of development work is to have as many fully functioning RROs as possible. Fully functioning means that:

- The RRO is representative: Relevant categories of rightsholders are represented and the RRO can offer to users a license that covers the copying of relevant works.
- Licensing and/or collection from all major usage areas: Remuneration can be collected either on the basis of a licensing scheme, as a result of a legal license or a levy system.
- Distribution to rightsholders: A distribution plan has been adopted and disseminated and distribution of collected revenue takes place to both national and international rightsholders.
- Strategy for future development exists: Mandates and business procedures make it possible to plan for future activities.

IFRRO and its members fully recognise different operational models by which reprography can be managed, i.e.:

- Voluntary licensing;
- Voluntary licensing with a legislative support, including extended collective licenses and compulsory collective management;
- Non-voluntary licensing: legal licenses and private copying remuneration.

These operational models are described in the joint WIPO/IFRRO publication "Collective Management in Reprography".

## 1.2 Different stages in development work

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*Development work includes different stages, starting from general awareness to concrete advice on operational work in an RRO.*

---

IFRRO is involved in development work at many different stages. These can be categorized in the following way:

No prior activity on collective management and reprography: Typically WIPO organises a seminar on collective management, including reprography. The aim is raising awareness and ground work for future targeted actions.

Targeted awareness-raising among stakeholders: Typically WIPO and IFRRO organise an awareness-raising event for rightsholders and/or users, legislators and others. The aim is to encourage rightsholders to start active steps towards the establishment of an RRO.

Emerging RRO: A working body has been nominated to prepare for the future establishment of an RRO. Lobbying for improvements in legislation may be included in this phase. The aim is to draw up a feasibility study to serve as a basis for a business plan, encourage rightsholders to join, draft mandates, statutes, applications for government approval (if applicable), etc.

Newly established RRO: The RRO may need guidance in licensing, membership recruitment, preparation of works databases, information campaigns, litigation, etc. The aim is to facilitate the early stages of an RRO and to help it to develop into a viable business as soon as possible.

Advice on specific aspects of operation: Guidance may be needed in special aspects of RRO activity, such as statistical surveys, distribution techniques, information campaigns, legislative reforms, etc. The aim is to provide information and input from other RROs that have solved similar issues to build on successes and to avoid trial and error in vain.

The categorisation is not a clear-cut issue, but serves as guidance. A mentor typically steps in when a working body has been nominated to prepare the establishment of an RRO, or when the RRO has been recently established.

### 1.3 What does mentoring mean?

---

*Mentoring means a long-term relationship where an established RRO functions as a mentor for an emerging RRO, based on an agreement between the two.*

---

Mentoring means a continuous relationship over a period of time and thus typically starts when concrete plans exist to establish an RRO and a working party has been established, and lasts until the RRO is fully operational. Mentoring is based on voluntary work that an established RRO undertakes in order to facilitate the early steps of an emerging RRO. Presence and moral support are important elements in mentoring.

A mentor is an advisor or a facilitator who shares his/her experiences and gives neutral advice on various issues encountered in the emerging RRO. The mentor is not selling any particular legal or operational system, but gives balanced advice. The mentor bears in mind that an RRO is a business that needs to be run like other businesses, with high efficiency standards.

In this publication we use the term “mentoring”, “mentoring RRO” and “emerging RRO”. Mentoring could have been replaced by “twinning”, a term which describes well the mental point of departure. The mentor shares his or her real-life experiences, both positive and negative, and wishes to provide inspiration and encouragement.

The goal is to facilitate the work of an emerging RRO towards self-sustainable activity in the shortest possible time-frame. Local rightsholders make all strategic decisions and bear responsibility for their decisions. This needs to be made clear at the beginning of each mentoring relationship in the “rules of engagement”. For the mentoring RRO it is important that the persons working in the emerging RRO give fair and accurate information on their situation.

At the beginning of each mentoring relationship, the parties are advised to clarify the objectives of mentoring, specific rules of engagement as well as practical matters, such as reporting frequencies. These matters are dealt with more in detail in subsequent paragraphs.

### 1.4 Prerequisites for a mentoring relationship

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*Matching the requirements of the emerging and mentoring RROs typically means closeness in social, language, infrastructure or geographical positions and/or similarities in legislation. An important qualification is that the mentor understands the traditions and culture of the mentored organisation.*

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Language is a natural requirement, as the emerging RRO and the mentor need to understand each other. Similarities in legislation facilitate mentoring, in particular whether it is question of a civil or common law country.

As the mentoring relationship may require knowledge on different aspects of RRO operations, the mentoring RRO does not necessarily have all required skills. It is therefore possible to draw in expertise from other RROs, when and where appropriate.

For example, if the emerging RRO intends to use another distribution method than the one in the mentoring RRO, it is preferable to draw in special expertise from an RRO with a similar distribution method. Joint efforts may best serve the needs of the emerging RRO. Thus a pool of persons from different RROs may function together as a mentor on all or specific aspects of operations, provided that there is one key contact person.

### 1.5 The Role of IFRRO and its Regional Development Committees

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*IFRRO's Regional Development Committees decide the policy of development work in their respective region. The mentoring RRO reports to the Secretariat which is responsible for further dissemination of information to all relevant parties.*

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IFRRO has four Regional Development Committees:

- Development Committee for Africa and the Middle East
- Asia/Pacific Committee
- European Development Working Group
- Committee for Latin America and the Caribbean

Each committee monitors developments in the region and prepares action plans and budgets for development work. Priorities are discussed on a regular basis and priority countries decided on a yearly basis. The aim is to have a Business Plan for each region. The first such plan for Europe will be ready in spring 2007.

The Regional Development Committee decides on the policy of the development work for its respective region, in line with IFRRO's general policies and under the direction of the IFRRO Board. This includes decisions on priority countries. The practical work to implement the decisions of the committee is carried out by the Secretariat which can use and coordinate such resources as it may deem fit; it can, inter alia, task the Regional Development Representatives with specific projects. The Secretariat and the Regional Development Committees cooperate and both report to the Board.

The mentor works on a practical level and also functions as a liaison for the emerging RRO and the IFRRO community. The mentor is therefore invited to take on its role by the Secretariat, reports to it and can ask it for resources and assistance. The mentor can in particular ask the Secretariat if the Regional Development Representative might be available to carry on certain specific tasks. The Regional Development Representative is instructed by and reports to the Secretariat.

Mentoring may be needed for a regional initiative, such as the English speaking Caribbean countries, subject to a decision in the regional committee.

The role of IFRRO's Development Fund is crucial in development work. In cases where the emerging RRO needs funding, be it in form of a grant or a loan, the mentor normally needs to advise and help in preparing the application. IFRRO uses standard templates for all funding applications which facilitate both application and decision-making in the IFRRO Board.

## 1.6 Why become a mentor?

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*The possibility to participate in global development, enlarge one's own corporate knowledge and engage staff at home motivates established RROs to function as a mentor.*

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The success of IFRRO's development work lies to a large extent on the shoulders of its members. Thus, when more members actively participate in development work, more possibilities exist "to support and encourage the development of RROs and to nurture their development" as outlined in the Statutes. Copyright is only as strong as its weakest link, and the establishment of collective copyright management throughout a region helps to combat piracy and support the rights of copyright owners in each country.

As mentoring is a long term and time consuming activity, long term institutional commitment is needed. Before the mentoring relationship is formalised, staff of the mentoring RRO will normally have participated in seminars and similar short term activities over a period of time. They will thus be reasonably well aware of the task ahead of them and of the particular issues the new RRO will have to address.

A major motivation to become a mentor lies in the learning experience. The mentoring RRO is typically an established organisation with a staff where only a few have participated in the early development of their own RRO. It is truly a learning experience to facilitate the formation of an RRO in countries where the hurdles are normally high. The participation enlarges the views and sharpens argumentation which can be useful also in the mentor's own country. This is particularly valid for small RROs engaged in development work.

In some instances, many staff members of the mentoring RRO are engaged. For example, when persons from the emerging RRO are trained in the mentoring RRO the whole organisation has the opportunity to be part of development work. The impact on staff is normally positive. The same applies to representatives of authors' and publishers' associations, including visual artists' organisations, when they participate in development work.

The IFRRO network is a truly global network. Copyright is an international law, with each country's laws based on their obligations under international treaties. The digital environment has extended this global context to concrete everyday applications.

Occasionally, some stakeholders of the mentoring RRO are critical of the need and benefits of development work. It may be appropriate to remind them that:

- Copyright is only as strong as its weakest link;
- There are no borders in the digital world;
- RROs in their own countries work in isolation, and sharing experiences helps us to do a better job at home.

International engagement may also have a positive effect on the public image of the mentoring RRO.

## 2. Practical Matters in Mentoring

## 2. Practical Matters in Mentoring

### 2.1 How to train the personnel of the mentoring RRO

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*Preparations for a mentoring relationship mean acquiring necessary skills and getting mentally prepared. Understanding the tradition, culture, work environment and the legal system of the mentored RRO is important.*

---

How to prepare oneself and the staff for a mentoring relationship? What are the prerequisites for participation and success? This falls into two categories: training in knowledge and skills and training in mental preparedness.

Good general knowledge on copyright legislation, main international obligations, different RRO operational models and their consequences are necessary prerequisites. Recommended readings include the WIPO/IFRRO publication "Collective Management in Reprography" and the IFRRO Manual "How Reproduction Rights Organisations (RROs) Function." Participation in IFRRO's meetings and forums prepare the ground for international engagement.

A mentor also needs accurate information on local infrastructure and life. Prior general knowledge of the country greatly facilitates mentoring. It is important to understand that the size of the country and its different ethnic and regional differences can have an impact on the work ahead. General information and country profiles are important.

Mental preparedness is equally important. Mentoring is a long-term activity, normally with ups and downs. Slow progress in the emerging RRO may be largely due to matters that are outside the direct control of that RRO. The task is thus not easy, but challenging. It is important to prepare the staff of the mentoring RRO for their role as an adviser, not a decision-maker.

As a consequence, successes are attributed to the locals and so are the faults. It is not the fault of the adviser if there is slow or no progress, nor is it the merit of the mentor if there is good progress. But it is a true joy for the mentor when he/she sees the management develop, money coming in and distributions taking place for the first time.

### 2.2 Planning of practical arrangements

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*Proper planning of practical matters is necessary, and it may take more time than anticipated.*

---

This chapter deals with planning of practicalities in training. Training usually takes place in a mentoring RRO. Training abroad may be a sensitive issue, as circumstances in established RROs with a large staff may differ considerably from those at an emerging RRO. It may also be difficult for the only person working at an emerging RRO to be away for a long period. Therefore, training at an emerging RRO may in some cases be considered.

Proper planning of activities, including practical matters, is a key to success. This includes time frames, cost estimates, budgets, travel arrangements etc. Be prepared for the unexpected, have a contingency plan and prepare mechanisms to deal with it. Above all, it is important to realise that things normally take more time than anticipated.

Travel arrangements for local RRO representatives to be trained in the mentoring RRO serve as a practical example. These arrangements are outside regular tasks of the RRO staff and especially during the first event some outside help may be needed. The IFRRO Secretariat has a lot of experience and expertise and can be used as a reference.

Preparation and acceptance of a budget need to be cleared well in advance. The IFRRO Board meets three times a year and this needs to be calculated in the time frames. If outside funding is planned, for instance from WIPO, early preparation and budgeting are even more crucial.

Practical arrangements within the mentoring RRO often need special resources which need to be arranged and budgeted. It is efficient to allocate different responsibilities to different persons, thus saving the senior managers getting involved in all kinds of time consuming matters that regularly show up.

As a general rule, it is good to allocate responsibilities for substance and practical arrangements to different people, and to build up a team with several persons with clear roles but flexible skills and attitudes.

In cases where mentoring takes place in the emerging RRO the same principles apply. It is important to know in advance who is locally responsible for substance and for practical matters. Checking the practicalities before the mission is important. In order to be effective while on mission, practical matters need to be in place. Do not take anything for granted - for example, if you intend

to use a power point presentation, make sure that all facilities exist. Always have with you a back-up, in case technical equipment for some reason does not exist.

## 2.3 Contingency planning

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*Even with good planning, unforeseen things happen. Contingency planning or preparedness for unforeseen matters is essential. It is good to have a plan B.*

---

A training course in the mentoring RRO with ten selected participants from different emerging RROs serves as an example. As a rule, one or two will not show up due to illness, unexpected family matters or the like. It would make sense to have a pool of substitute persons to be invited in such cases. It takes the same effort to train eight or ten people, so for efficiency reasons it is better to have full participation.

Plan for the unexpected; for example a participant may need acute medical care, so medical insurance must be in place. Or luggage may be delayed and shopping for winter clothes is needed.

It is recommended that the budget includes a sum for unexpected matters. Mental preparedness is equally important.



# 3. Overview of Different Stages in Development Work

Overview of Different Stages in Development Work

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*This chapter gives an overview of different stages in IFRRO's development work. Chapters 4 to 9 take up the same issues and describe them more in detail.*

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The mentor may be involved from preparatory stages of a new RRO (chapter 3.3), but customarily comes into picture when the new RRO is getting operational (chapter 3.4 and onwards). The preceding chapters (3.1 and 3.2) are described shortly to give a comprehensive picture of different stages in development work and to provide background for the mentoring RRO.

## 3.1 Awareness raising activities among different stakeholders

---

*Awareness raising activities are important at the beginning, but follow-up activities should be planned from the beginning to lead into concrete action.*

---

Typically, general awareness raising activities are arranged by WIPO, often in collaboration with IFRRO and/or CISAC or other international organizations representing various categories of rightsholders.

The focus is often on the concept of collective management as a third pillar of a well-functioning copyright system - legislation and enforcement being the other pillars. Collective management of reprography is included in such activities with the aim to sensitise the audience and prepare the ground for future targeted actions.

How to address the queries of users and government is one of the most challenging topics to be tackled in general seminars and workshops. Be prepared to have alternative answers to issues relating to developing country perspectives and/or access to knowledge. For example:

- Broad exceptions and limitations on copyright rights will undermine protection of local culture;
- A country where pirated products are easily available and unauthorised copying is tolerated does not encourage national authorship and publishing;
- In a developing country where the demand for low cost education is imperative and the cost of textbooks and journals is high, collective management of reprography provides the only practical alternative to unauthorised copyshops;

- A well-functioning management system requires fewer exceptions and limitations, making it easier for a country to comply with international norms.

For IFRRO and RROs these general awareness raising activities provide an excellent opportunity to get in touch with local rightsholders. However, representatives of rightsholders are not always invited to such events. RRO representatives should request that rightsholders are invited, supplying the relevant government representatives with names and contact information that are known to them. Moreover, a separate meeting with rightsholders is recommended whenever feasible.

As a second step, specific activities for reprography may take place as a collaborative effort of WIPO and IFRRO. These events often include discussion of private copying at least in Europe. Such specific seminars and workshops are a gateway to enhanced cooperation and planning of practical steps towards the formation of an RRO.

As sustainability and long-term relations are vital, it is in the interest of IFRRO and its members that possible mentoring relations are reflected at this stage. One of the IFRRO representatives should preferably come from a potential mentor RRO.

There may be a danger that a country wishes to continue with awareness raising and ask for more and more seminars without concrete actions in between. It is therefore important to include a follow-up session in each seminar, where next steps are agreed upon, with clear responsibilities. It is important to move from awareness raising activities to fact finding as soon as possible. That leads to concrete measures towards the establishment of an RRO.

## 3.2 Advice on legislation

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*Advice on legislation requires solid knowledge of international obligations and national legislation of a country. Cooperation with the IFRRO Secretariat is recommended.*

---

In emerging markets, contact with government authorities is a key element. The ministry responsible for copyright (be it culture, education, justice or trade and industry) and the operational body responsible for all IPR matters or for copyright are the most important bodies. In many countries, Intellectual Property Offices (IPOs) are in charge of all IPR matters.

Advice on legislation is a challenging task. The person in charge needs to know international and regional copyright obligations and various RRO operational models in order to ensure balanced and objective advice. For IFRRO it is of crucial importance that its reputation as a good source of legislative advice is maintained. Contacts with the IFRRO Secretariat are recommended when advice on legislation is requested.

In matters of urgency, i.e. the introduction of legislation unfavourable for rightsholders, be it primary legislation, decree or regulation, the IFRRO Secretariat or Board may send an official letter to the relevant authorities. Such contacts should be made in the name of IFRRO, possibly supported by national RROs. In many cases, a coordinated and simultaneous action leads to the best result; the IFRRO Secretariat and the mentoring RRO send mutually supportive letters to the emerging RRO's legislator.

### 3.3 Preparatory stages of an emerging RRO

---

*A preparatory working body consisting of rightsholder representatives drafts a feasibility study which shows possibilities for future RRO operation.*

---

Awareness raising seminars are typically followed by practical workshops. The aim is to facilitate and encourage the establishment of a preparatory working body. A key issue is to find persons who have high ambition and sufficient knowledge concerning RRO activities and the markets in which a new RRO could function. That means finding the initiators and influencers among the rightsholders.

The aim of a practical workshop is typically to draft a feasibility study on future RRO operation. A feasibility study is based on market analysis; both the rightsholder market and the user market. Such a study is instrumental in encouraging rightsholders to form, join and financially support a new RRO, and to give them fair expectation of RRO activities. It is important to be encouraging, but realistic.

Associations of rightsholders, when they exist, are in an important position when contacting future members. It may be necessary to organize separate meetings for various categories of rightsholders to sensitise them about their copyright rights and the potential for a revenue stream from collective licensing. A key issue for the future success of an RRO is broad representation of various categories of rightsholders.

Governance issues, such as the scope and organizational form of the RRO, statutes and decision-making structures are decided at this stage. Countries with a multipurpose

CMO may pose special challenges when it comes to integrating reprography into the activities. This may require structural changes in the CMO, and this can take time to complete.

In many countries, a prior authorization or approval from government authorities is needed before starting CMO/RRO activities. The organisation normally needs to be registered as an association or another legal form, subject to the legislation in the country concerned, before it can apply for an official authorization or approval. It is important to clarify these legal requirements at an early stage to have a realistic time frame, understood and accepted by both the local rightsholders and the mentor.

### 3.4 Towards an operational RRO

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*Drafting a business plan, arranging initial funding and starting rights acquisition nationally and internationally are essential at this stage.*

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Training at this phase is arranged in the mentoring RRO or in the emerging RRO. It may be beneficial to consider if staff of more than one emerging RRO can be trained at the same time. This offers excellent opportunities for networking and is at the same time efficient from the mentor's viewpoint. Two or more mentoring RROs can share the responsibilities and the participants acquire experiences from different RRO operations.

Training on the spot of the emerging RRO has clear merits. It offers possibilities for wider participation. The mentoring RRO gets a realistic picture of local circumstances and challenges and may give more pertinent advice as a result. A proper mix of training on the spot and at the mentoring RRO may be a viable solution.

The aim at this stage is to prepare a proper business plan, as a follow-up to the feasibility study. Operational and financial requirements are crystallized in the business plan which includes milestones at short and medium term (1, 2 and 3 years).

Funding requirements necessitate a proper business plan, from one to three years. Potential funding sources include both local and international funding. The mentor needs to know the IFRRO Development Fund procedures.

Rights acquisition is an essential element and a prerequisite for licensing. Different categories of rightsholders merit attention at this stage. There are different ways to acquire national mandates, including:

- giving an individual mandate by each author and publisher;

- through associations of rightsholders; or
- a combination of the two

Legislation in countries where a legal license (statutory or compulsory scheme) is in place gives the authorization, but rights acquisition and/or contacts with rightsholders is needed for management of rights.

Planning for international rights acquisition is also relevant at this stage. Priorities are normally established through the feasibility study where usage patterns are examined. Those countries whose materials are mostly copied are logical priorities.

### 3.5 RRO operation in practice

*Licensing, collection of revenue and planning of distribution criteria and principles must be addressed, when the RRO has been established, before operation.*

Licensing and collection of revenue are the most urgent matters at the beginning. Information on the extent of copying is a necessary prerequisite for licensing. Some form of statistical survey or data collection is necessary. In the absence of such research results, benchmarking figures from other countries are important. The experiences of the mentoring RRO are of course important, provided that the circumstances are to some extent comparable.

Whereas the terms and conditions of licensing agreements are fairly generic, advice on tariffs is a delicate task. Knowledge of the local infrastructure is a necessity.

Distribution of revenue is normally the most important issue for rightsholders. Even though there would not be any money to be distributed for a while, it is relevant to think about a suitable distribution method. Again, it is the task of the mentor to clarify the rationale of different distribution methods and their applicability to different situations.

Distribution normally necessitates databases of both rightsholders and their works. It is important to start planning at an early stage, as building up of the infrastructure can be time and resource consuming.

International standards for identifying works and rightsholders are important for emerging RROs so that they can plan their activities early in full harmony with these standards. For repertoires where common work databases and/or data exchange routines exist, these are of great help in the early stages.

A new RRO should be advised to take into full

consideration the IFRRO Code of Conduct, ensuring that future operations follow the highest ethical and efficiency standards. It is important that the mentor RRO uses the IFRRO Code of Conduct throughout the work as a tool to ensure that operations follow accepted international standards within the IFRRO Community.

The Code addresses all vital aspects of operations, such as:

- RRO operations in general;
- Representation of rightsholders;
- Relationships with rightsholders;
- Relationships with copyright users; and
- Distribution policy.

### 3.6 How to acquire credibility and authority in the marketplace

*Credibility and authority in the marketplace can be built on litigation or information or combination of the two.*

Advice on litigation and compliance needs proper understanding of the general legal system. The IFRRO Secretariat may be a good place to ask for support or a colleague in another RRO, if the legal system of the mentor RRO is different from the local one.

It is important to define early on a good communication strategy. It will be the basis for all information activities. Good understanding of the socio-economics, including ethnic and regional issues of the country should underpin any information campaign, as different countries have different traditions to address the same issues. The general information templates of IFRRO concerning core messages are good guidelines.

### 3.7 Case studies

#### CFC experience in mentoring an RRO<sup>1</sup>

CFC was asked by LUXORR, the newly created RRO in Luxembourg, to be one of its RRO mentors. CFC was interested in the creation of an RRO in Luxembourg and was very willing to help and contribute to its development. LUXORR chose CFC as one of its mentoring RROs for several reasons. The proximity and the common language favoured a natural collaboration. Besides, LUXORR opted for a rights management system similar to the French one.

<sup>1</sup> Prepared by Jean LISSARRAGUE, General Director, Centre Français d'exploitation du droit de Copie (CFC), France

LUXORR faced a hard challenge, as an RRO setting up in a very demanding and complex market. LUXORR should develop its activities in different sectors both in the analogue and digital environment in a very short timeframe. Benefiting from the experience of its RRO mentors is crucial.

CFC saw its mentoring role firstly as sharing its experiences:

- The first step was to transmit CFC personal knowledge about licences, negotiation, tariffs, collection, and distribution. CFC organised training sessions with LUXORR to go through all the French licensing process and practical details like building a system to manage database of works, licensees and rightsholders, etc.
- CFC could use its experience to advise on the strategy to adopt towards different sectors. However, the mentoring RRO experience and system can just be used as guidelines, as the new RRO should build its own system according to its national circumstances.
- CFC provided LUXORR with a lot of useful material: model agreements for different sectors, mandates, studies and other documents. This can be used as a working basis and save the new RRO some time.
- LUXORR asked CFC to use a copy of the CFC management system in order to share the costs of development and have an immediate access to a well functioning and secure management system. Unfortunately, it was not possible to help LUXORR, as the design of the CFC management system design was not able to be replicated. The CFC management system was developed without having in mind the possibility to share it with another organisation.

Secondly, the question to extend the repertoire was important:

- The new RRO needs a wide repertoire to start negotiating licences with users.
- LUXORR collected mandates from the national rights holders and wanted to extend its repertoire to foreign publications. CFC signed a type A bilateral agreement regarding reprographic reproduction rights with LUXORR in the first months. A bilateral agreement for digital rights is under discussion.
- This strengthened LUXORR position towards users, and initiated the negotiation of bilateral agreement with other RROs.

Thirdly, supporting the development was important:

- LUXORR received IFRRO support via the developing fund loan.
- Besides, CFC granted LUXORR financial advantage and facilities through the bilateral agreement: LUXORR will keep the royalties collected for the reproduction of French works in the first few years of the agreement to finance its development, whereas, CFC will distribute royalties collected for LUXORR.

Although the collaboration is intense at the beginning, the developing RRO needs a constant support at different stages. The presence of a mentor and its moral support are really important.

### Preparing ground for a RRO activity in Fiji<sup>2</sup>

In Fiji, most of the conditions necessary for establishment of a successful RRO are present, including:

- national copyright legislation which provides legal protection for the operators and licensees under registered licensing schemes;
- an extended collective licence for educational copying;
- an authors' association, whose members are keen to see a system in place where they would be paid for the copying of their works;
- a major educational user (the University of the South Pacific – USP) that supports collective licensing, both as an educational publisher and to simplify administration of its copying for students throughout the region;
- a national copyright tribunal; and
- Fiji's position as a leader in the South Pacific, and as the home campus for the only regional university.

An additional inducement to Fiji rightsholders to the formation of an RRO is that the national copyright law provides for an unremunerated exception for use in libraries and in the primary and secondary education sectors, unless and until a collective licence is available.

However, despite strong interest in workshops and other education and awareness activities, an RRO has not yet been established. Recent political instability has moved collective copyright management to a low priority. In addition, no individual or organisation had offered to take the initiative to bring together the various rightsholders and form an RRO.

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<sup>2</sup> Prepared by Karen PITT, General Counsel, Copyright Agency Limited (CAL), Australia



# 4. Awareness Raising Activities among Different Stakeholders

## 4. Awareness Raising Activities among Different Stakeholders

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*Awareness raising activities are particularly important at the early stages when the concepts of collective management and reprography are discussed among different stakeholders.*

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Stakeholders have different queries that are discussed in the following, starting with the most important, i.e. the rightsholders.

### 4.1 How to encourage rightsholders to consider RRO operation

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*Different categories of rightsholders need to be aware of their rights in copyright legislation and become convinced that a concerted action is needed to license reprography and get some remuneration thereof.*

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Awareness among rightsholders about their rights may be vague or missing. If this is the case, awareness raising actions are urgently needed among rightsholders.

The role of rightsholders' associations is crucial, as it is easier to get contact to rightsholders through their associations than individually. In case a particular class of rightsholders does not have an organisation, there may be a need to support the formation of an association for such rightsholders, for instance for non-fiction writers. In some cases, different and competing associations exist. There may for example be many fiction writers associations that are not accustomed to cooperate. In many small or developing countries, there may not be any rightsholder associations at all. The introduction of an RRO and an awareness workshop may be the first opportunity for rightsholders to come together.

The most important message to rightsholders is that there needs to be a concerted action, based on cooperation between different categories of rightsholders: authors, visual creators and publishers alike. Rightsholders, in particular publishers, may be afraid that licensing reprography means legalizing piracy. It is therefore important to clarify the concepts of enforcement and licensing, both being necessary but separate actions to achieve a healthy publishing market.

Rightsholders' queries are best handled in separate meetings designed for rightsholders. Such meetings can be arranged in conjunction with general seminars, often held jointly with WIPO. It may be a good idea to devote half a day or a day after a general seminar to specific rightsholders' deliberations.

The sooner one has a chance to talk with rightsholders and make contact with potential forerunners of an RRO the better. Publishers take a leading role in most cases, as their associations are normally more active in copyright matters than those of authors, and they may be used to conducting anti-piracy campaigns. In general, they see the effects of unauthorised photocopying more directly than authors. On the other hand, there may be existing CMOs representing authors and they are in a good position to take concrete action.

Early on, rightsholders should get acquainted with RRO operations in practice so that they have a fair idea about the challenges that lie ahead of them. Information should be at the same time both encouraging and realistic - not always an easy task. Some concrete case studies on how an RRO has started its operation may be useful. Choose an example from the region and bring in the persons from that country to talk with their colleagues in the target country. Another possibility is to engage authors and publishers from your own country to talk with their colleagues. Authors speak to authors, publishers to publishers and their parlance is different from the mentoring RRO's message. Too much technical information concerning day-to-day practicalities may even be discouraging.

### 4.2 How to address government queries

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*Information on legislation and different alternatives to manage reprography is the most important message to government representatives.*

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Awareness raising activities among government representatives and legislators most often take place in collaboration with WIPO. That is a preferred route as IFRRO would seldom have access, in its own name, to the same representatives as WIPO has.

The WIPO/IFRRO publication "Collective Management in Reprography" is the tool for these awareness raising activities. IFRRO has also developed a set of standard presentations that can be used as templates. It is important that various operational models are described in an objective manner, with examples from the region, if applicable.

In many countries, government support is a prerequisite for RRO operation and it is important to build a good relationship with government representatives and persons working in intellectual property offices who are

in charge of copyright matters. Sometimes government representatives are more ready to encourage RRO operation than rightsholders themselves. This may even become a barrier if rightsholders continue to be “asleep”. An RRO operation cannot be started without proper enthusiasm and participation from the rightsholders’ side, and this needs to be made clear to government representatives.

Sometimes rightsholders have the view that the government should do all the work for them. In many cases, it is because the government is responsible for funding programs and other initiatives for creators and publishers. In these cases, it is important to emphasise that an RRO operation is the task of rightsholders, with proper support from the government.

General awareness raising seminars are good tools to bring these two together. Always make sure that rightsholder representatives are invited to these seminars, as it is by far not always the case with events organised by WIPO. This is explicitly the task of the RRO representative.

The groups of rightsholders that should be invited to awareness events include the following, with proper adjustments to the local infrastructure:

- Authors of
  - Non-fiction, including authors of teaching material
  - Fiction and drama writers
  - Journalists
  - Translators
  - Visual artists. Painters, sculptors, graphic designers and illustrators
  - Photographers
  - Composers and lyricists
- Publishers of
  - Books, journals, periodicals, magazines, newspapers and sheet music.

### 4.3 How to address user queries

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*Users are customarily invited to general awareness raising activities. Their worries concerning the availability of educational material, access to knowledge and similar issues need to be addressed.*

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Users are in many cases frightened about their potential new obligations. Lack of resources and money are most often behind this worry. It is thus important to get behind this reaction and try to achieve understanding for the concept of copyright and rights management.

In many cases users would not directly pay the required tariffs. Usually it would be the relevant ministry in the case of education or state budget in the case of libraries. It is

important to address the worries of users in issues like access to knowledge and lack of educational resources. If there is a local writing and publishing sector, it is normally easier to achieve understanding for licensing and revenue collection.

### 4.4 Information to existing CMOs and their staff

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*Existing CMOs, their managers and staff are important contacts when introducing reprography management, as they have experience from collective management in their respective field.*

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In almost all countries where reprography is introduced, a CMO in the field of music is already operating. Some of these CMOs are created as multipurpose organisations and could also manage reprography. The situation is very much country specific.

In all circumstances it is advisable to open a dialogue with existing CMOs, as there may be generic issues concerning collective management, such as approval and control procedures. In best cases, the experiences of existing CMOs can save a lot of unnecessary trial and error.

It is important to analyse the common features of collective management, but also to highlight differences in the management of musical works and reprography. The biggest difference customarily lies in authorizations; in case of musical works an exclusive assignment of rights to the CMO is common; in case of reprography mandates are customarily non-exclusive and they are not assignments of rights but mandates to administer. RROs are therefore not owners of rights.

Existing CMOs may be invited to general awareness raising activities, but it is also worthwhile to have specific meetings with them, to enhance their understanding and knowledge of reprography management. The IFRRO Code of Conduct is an excellent tool to describe reprography management and to highlight how important transparency and good governance issues are to IFRRO and its members.

As management of musical works and that of reprography have different clientele and markets, there are normally no competition issues to address. If the reputation of an existing CMO is bad, it can have an effect on the future RRO, and it is essential to be aware of the situation.

The structure of existing CMOs is a typical element in a feasibility study. As a pre-cursor to such a study, one can use so called country reports which participants in WIPO sponsored events, especially sub-regional events, are frequently asked to prepare before the meeting. A

template for such a country report exists for a training activity in Africa.

#### 4.5 Information on management of reprography to the general public

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*The general public does not belong to core information targets on RRO activity in the early stages. However, positive attitudes towards creative activity and copyright in general are important.*

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The general public should be informed about the importance of cultural industries to the GDP of a country, and in particular that of print and publishing industries. WIPO has developed a methodology for such studies and has published studies and comparisons concerning various countries. If there are existing studies in neighbouring countries, they would be powerful information tools.

Also, if well-known rightsholders are ready to talk to the public about the importance of copyright to their creative activity and publishers to their industry, that normally has a positive effect among members of the general public and to the politicians whom they represent.

#### 4.6 Case studies

##### Workshop on collective management of reproduction rights in the Philippines<sup>3</sup>

A workshop and symposium was held in Manila in September 2005, timed to immediately follow an ASEAN Book Publishers Book Fair also held in Manila.

The Philippine book publishing industry is strong and varied, publishing in the local language [Tagalog] and English in the education, lifestyle, fiction, religion and coffee table book sectors, and with active rightsholder associations for both publishers and creators. This is largely the result of the work of the Philippine National Book Development Board, established in the 1990's to foster a national publishing industry.

The workshop was held over 2 days in September 2005. The first day included the usual sessions on the various models for collective management and the practical issues faced in operating a copyright collecting society.

The evening of the first day and the whole of the second day was run as an interactive workshop for a number of small groups, each of which were asked to prepare a business plan for the establishment and operation of a RRO in the Philippines. While a draft business plan had in fact already been prepared, this format was intended to encourage the key stakeholders in a future RRO to

focus on the potential constraints and roadblocks in establishing an RRO, to give them a realistic view of the effort and support required and the time frame for results; and to identify those who would move the work forward.

The workshop participants were the staff of local publishing companies, some creators, plus a number of teachers and librarians to provide the users' perspective.

The format was quite demanding for the IFRRO speakers as they were required to assist the small groups and to speak *ex tempore* on the second day on a number of topics so as to enhance the understanding of the participants. Those topics included copy monitoring methods, distribution splits, and various Australian Copyright Tribunal decisions. This combination of a group exercise and informal tutoring did appear to substantially enhance the understanding of the workshop participants.

It also gave the IFRRO representatives insight into the difficulties a new RRO in that territory will face. For example, a considerable amount of unlicensed photocopying then took place in university and government libraries. This was because the vendors of photocopying machines had for some years offered to the libraries a percentage of the revenue from all copies made there. Therefore, a library that permitted illegal photocopying of large volumes of materials on copiers located in their premises would earn additional revenue. Hence, there was particular interest in the Australian litigation and subsequent changes to the law around deemed authorisation of infringement of copyright by providing the equipment or software which allowed that unauthorised copying to be done.

In a country with limited government spending on education and library acquisitions, it will often be necessary to have a legislative "stick" to compel institutions to relinquish any revenue from unauthorised copying, while at the same time putting in place an effective low cost collective copyright licensing system.

Unfortunately, since the 2005 workshop, two rival collecting societies have sought to be the official licensing and collecting society for the Philippines. This has delayed licensing in the territory, despite the major universities indicating their willingness to participate.

Nevertheless, there are grounds for optimism for commencement of licensing by 2009.

<sup>3</sup> Prepared by Karen PITT, General Counsel, Copyright Agency Limited (CAL), Australia

## Experience from a “targeted event”<sup>4</sup>

It is quite important that the programme for an event and the audience and their expectations match and that speakers are well informed about what to expect. We were two IFRRO speakers invited to a Workshop on Collective Management of Reproduction Rights for which we prepared presentations focused on reproduction rights for the print media and RROs. This name turned out to be a misnomer for what the government had actually organised: a widely publicised seminar with much local press, inviting a broad range of all types of rightsholders (some from the print world, but many more from music, radio and film). The government had, however, not provided for a programme and speakers to suit these ambitions. As a consequence, our presentations were received politely but the questions showed that the audience was expecting and was in need of a basic seminar on copyright in general rather than a workshop on reproduction rights for print media. This led to some disappointment for the participants and kept us from focusing our efforts on meeting the right stakeholders to discuss the virtues of an RRO. This is not to say that participating in a broad basic seminar is per se a bad thing. It can, on the contrary, be very helpful. Such an event must, however, be properly prepared and advertised, including speeches on basic issues by different stakeholders.

## 4.7 Toolbox: checklists and materials

Remember to:

- Invite representatives of rightsholders to general awareness raising activities, especially if events are arranged by groups other than IFRRO, such as WIPO;
- Organise a separate rightsholders’ meeting in conjunction with general meetings;
- Ask for country reports (a template is annexed) and include reprography specific information in it to get preliminary information for a feasibility study;
- Plan a follow-up session into every event to build a bridge to the next concrete action.

Make use of existing materials:

- WIPO/CISAC/IFRRO Publication “From Artist to the Audience”; available in English and French, also available on the IFRRO homepage;
- The IFRRO Brochure (directory of members) and member database on the IFRRO homepage;

- The IFRRO leaflet;
  - WIPO/IFRRO Publication “Collective Management in Reprography”; available in English, French, Spanish and Chinese, also on the IFRRO homepage;
  - Studies concerning the economic importance of creative industries;
  - Programmes of existing events (annexed);
- Country Report template (annexed);
- Standard presentations on RRO operational models (request Secretariat);
  - IFRRO Code of Conduct (annexed).

<sup>4</sup> Prepared by Franziska SCHULZE, General Counsel, IFRRO



## 5. Advice on Legislation

# 5. Advice on Legislation

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*Mentors will frequently be asked to give advice on the legal framework of the mentored RRO. Legal advice is an on-going task as the RRO develops and new draft bills emerge.*

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Before embarking on any detailed assessment, it is advisable to check with the IFRRO Secretariat to see if something has already been done. Coordinated action with the Secretariat is necessary.

## 5.1 The law and its economic, social and cultural background

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*The legal framework and how it is implemented are crucial elements in the infrastructure allowing the RRO to succeed, at any stage of its development. The economic, social and cultural realities play an important role.*

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The framework usually consists of the Copyright Act and its ancillary instruments. There may also be special provisions on the collective management of rights, either as part of the Copyright Act or as a separate piece of law. Other laws that may have a bearing on the RRO are competition and anti-trust laws, tax laws and laws on legal entities such as companies, associations etc.

It is important to understand how the relevant provisions in inter alia the Copyright Act fit into the total legal framework of the country: for example, are there adequate support mechanisms in the civil procedural rules to enforce debts or obtain information? How does the court system and public administration function?

Advising on legislation of another country is a delicate task. It is unwise to confine the analysis for such advice to the letter of the law alone. The way in which the community applies this and other laws will be determined by the economic, social and cultural realities of the country. They can lead to the implementation of the law which differs entirely from that which would have been the case in the home country of the mentor. It is therefore imperative to take local cultural, social and economic circumstances into account and not to assume that rules that work to the benefit of or are even essential to the RRO in the mentor's country would necessarily be beneficial in the country of the mentored RRO.

To alleviate this difficulty to some extent, an important criterion in the selection of the mentor / mentored RRO combination is the basic similarity of their systems, such as whether it is a common law or civil law country. It

is nonetheless essential for all concerned to remain aware of the potential differences in legal traditions and surrounding culture.

## 5.2 Good contacts with the Copyright Office

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*Government support in many countries is a prerequisite for operation, as private entities in their own name would have great difficulties starting revenue collection without recognition.*

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In many countries either the Ministry of Culture or the Ministry of Justice has one or several units in charge of intellectual and industrial property and, depending on the countries, there may be a separate entity dealing with copyright. For the purposes of this Manual we refer to this unit as a "copyright office," although its name and function may vary from country to country.

Often this entity will grant the initial approval for RRO operation and be in charge of supervising the RRO once established. It is also usually involved in policy making concerning collective management.

The support of the copyright office is crucial for an RRO and particularly so in its initial stages. The mentor will find it very useful to establish a good working relationship with the copyright office in order to hold awareness raising events as well as in creating a favourable environment for the RRO in terms of law, policy and supervision. The support of the copyright office is also helpful for the emerging RRO in gaining recognition in its country.

## 5.3 Crucial elements in the legislation

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*In general, it is important to examine the provisions on the exclusive rights of reproduction, communication to the public and making available to the public as well as the exceptions or limitations to them.*

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Of particular interest to RROs are exceptions and limitations relevant to the education sector and libraries. Any specific stipulations on reprography or regarding collective management are also very relevant.

As set out in Chapter 3 of the IFRRO Manual on How RROs Function, exceptions and limitations have to pass the "three-step-test"<sup>5</sup> of the Berne Convention

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<sup>5</sup> Article 9(2) of the Berne Convention, as expanded by Article 13 TRIPS and Article 10 WCT

as expanded by The WIPO Copyright Treaty (WCT) and TRIPS to be acceptable under international law. The three cumulative steps are:

- certain special cases
- not conflict with a normal exploitation
- not unreasonably prejudice the interests of the right holder

Exceptions and limitations which are too wide or vaguely drafted can have a very detrimental effect on the print media industry and the RRO up to the point of effectively undermining their activities.

The IFRRO Database on legislation includes relevant articles concerning the administration of reprography. It is a unique and focused source of information on the wording of relevant stipulations on reprography in various legislations.

In some countries, there are vast unremunerated exceptions for education, library and other uses until such a time as a RRO is registered and approved under those laws. Hong Kong and Jamaica with voluntary licensing systems and Fiji with an extended collective licence are examples of such countries.

In the case of an extended collective licence, the requirements for and the method by which the extension effect comes into realization are crucial. If the requirements of what is a representative share of rightsholders and/or works for the extension effect to materialize are non-existent or too low, there is a certain risk of abuse.

Where the law foresees remuneration for an exception in the form of a levy on equipment, it is important to examine whether the enforcement structures are adequate to compel importers of devices to cooperate with the RRO, providing information on how many devices and of which type have been imported and to enforce payments due. Provisions in the civil procedural rules and the way in which courts and custom authorities actually operate are also important matters.

## 5.4 Interrelation between legal framework and business

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*The success of the mentored RRO depends to a very significant degree on the extent to which its operational model and legal framework fit the circumstances in its territory.*

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It is always a good idea to make sure that the business plan complements the legal framework of the country.

You must ask yourself if the users are in a realistic position to pay. Before advocating for a payment from a certain user group, it would be useful to determine if they or anyone on their behalf could actually pay, and if so who. Are there any alternatives?

The presence and reputation of rightsholder associations can be a determining factor for the success of the RRO, particularly if its structure has been established so as to depend on them. It is therefore wise to examine the realities in the country before recommending a strategy that would heavily depend on the presence of a certain infrastructure.

## 5.5 Case studies

### Portugal and implementation of the EU Information Society Directive<sup>6</sup>

When the Portuguese stakeholders were in the process of discussing and negotiating the start of an RRO, the Secretariat, in close cooperation with the representatives of FEP (Federation of European Publishers), EVA (European Visual Artists) and EWC (European Writers' Congress), was active in the process.

Portugal implemented the EU Information Society Directive and asked for our assistance in interpreting it and how it would affect collective management of reprography. The Copyright Act was available in English but it referred to implementing legislation which was only available in Portuguese. This piece of legislation was however essential as it explained the type of devices subject to the equipment levy foreseen in the law and tariffs. We therefore had to cooperate very closely with the Portuguese stakeholders so as to obtain an accurate understanding of the law, its history and effect.

The wording of the Copyright Act in its English version allowed a number of different interpretations and only discussions with our Portuguese partners revealed the way in which the law was understood and applied locally which was sometimes quite surprising to an outsider.

The legal assessment had to be "de lege artis" in the way it analysed the law and how the Portuguese law and application complied with European Law and other international principles. It was, however, important to keep the project as a whole in mind. The legal assessment was not an end in itself but had to fulfil a purpose in the whole process of assisting local stakeholders to create an RRO. We therefore had to allow them to draw their own conclusions from it and to give it the part in their strategy they thought appropriate.

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<sup>6</sup> Prepared by Franziska SCHULZE, General Counsel, IFRRO

## Hong Kong law reform process<sup>7</sup>

Hong Kong Reprographic Rights Licensing Society (HKRRLS) was formed in 1995 supported by loans from IFRRO and its publisher members. By early 2000, the future of HKRRLS appeared to be assured, supported by strong copyright laws which imposed civil and criminal penalties on end users including commercial organisations which used or possessed copyright works without an appropriate licence agreement.

Thus, when the provisions imposing criminal penalties on end users came into effect early in 2001, every commercial and education organisation in Hong Kong was effectively obliged to obtain a licence from HKRRLS or risk liability for infringement. Shortly after the new laws came into effect, copyright users orchestrated a strong media campaign opposing the legislation, with dire predictions of commerce grinding to a halt for fear of the new infringement penalties. HKRRLS was not resourced to adequately respond to the demand for copying licences, and the availability of HKRRLS licences was not publicised in response to the users' media campaign.

As a result, the Hong Kong Legislative Council (LegCo) suspended the operation of the new laws until all interested parties had the opportunity to make further submissions. The date first nominated for the period of suspension was 12 months till June 2002, but that date was regularly extended as user groups continued to lobby to restrict the operation of the end user piracy provision.

The end result was a lengthy period of government reviews, lobbying and defence of the interest of copyright owners by the Hong Kong International Publishers Alliance (HKIPA) and HKRRLS, with the support of the Association of American Publishers (AAP), IFRRO and its members CAL and CLASS in Singapore.

Despite the proposed amendments, a concerted lobbying towards Parliamentarians by IFRRO and its members managed to keep in the obligation in the Copyright Ordinance for educational institutions to take up the license when it is offered.

## 5.6 Toolbox: checklists and materials

Remember to:

- acquire good information on:
  - the background of the national law;

<sup>7</sup> Prepared by Karen PITT, General Counsel, Copyright Agency Limited (CAL)

- international and regional law;
- which rules and models exist in other countries and where they are applied;
- why they work or do not work under which circumstances;

- get good contacts with the officials responsible in the country and such supranational bodies as might be in charge.

Make use of existing materials in the following sources:

- information on the regulatory framework for RROs in a number of countries as well as their models of operation – much of this exists at the IFRRO Secretariat;
- the IFRRO Database on Legislation;
- contacts with other international organisations that have experienced a similar issue, like CISAC, through the IFRRO Secretariat;
- Information on international legislation of interest to RROs is available on the websites of WIPO ([www.wipo.int](http://www.wipo.int)), UNESCO ([www.unesco.org](http://www.unesco.org)), WTO ([www.wto.org](http://www.wto.org)) as well as in the pertinent textbooks on the matter, in particular:
  - Berne Convention and World Copyright Treaty are available at: <http://www.wipo.int/treaties/en/>;
  - TRIPS and the WTO panel decisions on compliance with the treaty are available at: [http://www.wto.org/english/tratop\\_e/trips\\_e/trips\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/trips_e.htm) and [http://www.wto.org/english/tratop\\_e/trips\\_e/intel5\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/intel5_e.htm);
  - National legislation of most countries world-wide is available from WIPO (CLEA): <http://www.wipo.int/clea/en/index.jsp> and UNESCO; [http://portal.unesco.org/culture/en/ev.php-URL\\_ID=14076&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/culture/en/ev.php-URL_ID=14076&URL_DO=DO_TOPIC&URL_SECTION=201.html)
  - National legislation on Latin America (in Spanish and Portuguese) is available from CERLALC at: <http://www.cerlalc.org>.
- Information on regional law can usually be obtained through the regional body creating it, for instance:
  - ARIPO: <http://www.aripo.org>;
  - OAPI: <http://www.oapi.wipo.net/fr/OAPI/index.htm> ; the EU: <http://eur-lex.europa.eu/en/index.htm> and [http://ec.europa.eu/internal\\_market/copyright/index\\_en.htm](http://ec.europa.eu/internal_market/copyright/index_en.htm) ;
  - APEG/IPEC: [http://www.apec.org/apec/apec\\_groups/committees/committee\\_on\\_trade/intellectual\\_property.html](http://www.apec.org/apec/apec_groups/committees/committee_on_trade/intellectual_property.html) ;
  - the Andean Pact: <http://www.comunidadandina.org/propiedad.htm>;

# 6. Preparatory Stages of an Emerging RRO

Preparatory Stages of an Emerging RRO

## 6. Preparatory Stages of an Emerging RRO

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*Typically, this is the stage where a mentor steps in and a formal mentoring relation is agreed upon. Such a relation continues until the emerging RRO is fully operational.*

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Mentoring is a long-term relationship. It is important to establish clear rules for reporting and similar matters at the beginning. Whereas a mentoring relationship can be discussed in the Regional Development Committee, the mentor reports to the IFRRO Secretariat. The Secretariat is best placed to think of extra input and can assist in answering legislative questions, when needed.

For the Mentoring RRO it is important to consider outside assistance on special issues to best serve the interests of the mentored RRO. Hardly any RRO possesses all of the knowledge necessary to help for the mentored RRO, and circumstances vary greatly from country to country. The Regional IFRRO Development Representatives may be of great assistance to the mentoring RRO because they can be contracted to carry out specific tasks. Their incorporation into the process needs to be discussed with the Secretariat.

In cases where a regional business plan has been worked out, information on different countries is available on a country fact sheet. Such fact sheets may be available also on other countries, to be checked with the Secretariat.

### 6.1 Establishment of a preparatory working body or Interim Board

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*A preparatory working body or Interim Board functions until the RRO is formally incorporated. During previous discussions with rightsholders' representatives, possible initiators and influencers have been identified and they are to be encouraged to take concrete action.*

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Personal involvement of some individuals is necessary to start concrete preparatory actions. These persons may be found among the key players in authors' and publishers' associations, which is an optimal solution. If key players come from outside associations, or associations do not exist, it is important to secure a good relationship with other rightsholders. The establishment of an RRO is not a "one man or woman show".

Preparations often start within the publishers' association, and, if this is the case, it is important to incorporate authors at the very beginning. Otherwise suspicion may arise.

In general, the preparatory working party should be small to be effective, yet it needs to be representative. If some categories of rightsholders are not willing to join at this stage or they do not have proper associations, it is good to keep them informed. Coherence among rightsholders is a key success factor for an RRO.

The task of the preparatory working body is to examine the rightsholder and user markets in order to draft a feasibility study for the future RRO. Its task is also to discuss governance issues and prepare formalities that are tasked with the formation of a new CMO.

### 6.2 Workshops as a working method

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*Workshops provide a good opportunity to discuss preparatory matters with representatives of rightsholders and enlighten them about different options and their consequences.*

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Options are many and it is not always easy to understand consequences. The mentoring RRO's experiences and those of other RROs can provide valuable insight before decisive steps are taken. It is therefore important to incorporate a mentor or at least a possible mentor at this stage.

Workshops with representatives of the emerging RRO have proved to be a useful working method. During a one or two day workshop a lot of necessary ground can be covered and findings can be discussed and evaluated at the same event. Working groups can advance the preparation work and can study different issues in detail.

It is important to keep the momentum as it is not always easy to find time in the busy calendars of authors and publishers. Also enthusiasm is normally highest when there is a possibility to discuss questions and concerns with the mentoring RRO.

IFRRO has used this working method successfully in many places (programs for workshops are annexed.) During the preparatory phases and when moving towards the establishment of an RRO you may need two or three workshops with the representatives of rightsholders. Some of them may be small, for example talking with the members of the preparatory body or Interim Board; some may be for a larger audience of rightsholders.

In each case, it is important to include a section on follow-up. Otherwise there is a risk that nothing happens

in between. It really needs to be in the hands of local rightsholders to proceed systematically into concrete action.

### 6.3 Feasibility study on future RRO operation

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*A feasibility study is a key tool during the preparatory stages. The more thorough the work is at this stage, the better are the possibilities for future action.*

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A feasibility study includes a market analysis. An RRO typically functions between two markets; that of rightsholders and users. Both markets need to be examined. The preparation of a feasibility study of course demands manpower. In some cases such a study can only be drafted properly once permanent staff is in place, typically a general manager.

On the rightsholder side, it is important to identify relevant classes of rightsholders, their associations or other affiliations in order to know how large potential full representation of national rightsholders is. Not all rightsholders may affiliate at the beginning, but it is important to have an overview of the potential.

National writing and publishing and strengths therein are important elements to find out. While an RRO does not only serve national rightsholders, it is very difficult to establish an RRO without some direct benefits to the locals.

A feasibility study also includes an analysis of the user market, including all potential users of copied materials. Usage patterns may be different than in your own country, and it is important to secure legislation that allows collection from major usages. For example most copying may take place in copyshops, as universities and companies do not have copying equipment on site.

Information on key elements in the user market can normally be found from official sources, statistics concerning the number of students etc. Often sophisticated research work is needed to find out proper information to be included in a feasibility study.

The aim of a feasibility study is to extrapolate an idea about the emerging RRO's potential on both markets. Future collection potential can be calculated on the basis of the number of students, employees and other users, based on a proper idea of tariff level in the country concerned. It is important to identify possible payers of remuneration, in particular in educational institutions. These institutions do not normally have the necessary funding, but depend on the budget of the State, the relevant ministry or equivalent. Good contacts with the government representatives are important. It is vital to

have them in awareness raising activities from early on, so that they are used to the concept and prepared to act. Nevertheless, finding funds is never an easy issue.

Existing CMOs in the country form part of a feasibility study. Reprography management may be incorporated into the activities of an existing CMO, or a CMO may be ready to provide infrastructure. In any case, the experiences of existing CMOs are relevant. If, for instance, the CMO for music has already a few years' experience and its activities are well perceived, this is one success factor. In the opposite case it is a potential risk.

Listing critical success factors and potential risks is an element in the feasibility study. The Mentoring RRO can be of great help in providing real life experiences, so that the feasibility study is kept on a sound level. It is important to be encouraging and realistic at the same time.

### 6.4 Governance issues

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*Governance issues include defining the scope and organizational form of the future RRO, drafting statutes and preparing for incorporation. Thereafter an application for an official approval can be processed, if required by legislation.*

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Defining the scope and organisational form are among the first issues to decide.

The scope of activities may be reprography management only, or part of larger activities serving the same classes of rightsholders. If it is question of a multipurpose CMO serving different classes of rightsholders, it is important to make sure that the governance structure supports sufficient independence to different classes of rightsholders.

The organizational form comes usually from national legislation and the form may be an association, company limited by guarantee or any other appropriate organizational form.

Registration formalities differ from country to country, and such formalities need to be explored at an early stage. Local knowledge is vital at this stage and it may be necessary to consult professionals in these issues.

Drafting the statutes of the future RRO normally benefits from models of existing RROs. Examples can be found in the IFRRO Manual "How Reproduction Rights Organisations (RROs) Function". Statutes also include stipulation on the governing bodies. Rightsholder representation and decision-making are critical factors in the future operation. Representation should be fair and balanced, with sufficient rotation later on. It may be feasible to think about rotation already at this stage.

Examples are again ample and provide for recipes of success in different countries. But again, no country is the same. The most important factor is to ensure that there is sufficient representation from both sides – creators and publishers.

It is also important to have stipulations on the role of the general manager, and his or her powers. A manager is an independent professional vis-à-vis the Board. In some countries, a manager is chosen from among rightsholders, and in those circumstances it is especially important to manifest the independent role of a manager in the statutes. The mentoring RRO's role is important in explaining the role of the Board and the manager at an early stage.

Many countries' legislation requires an official authorization or approval before the RRO can start its operation. Incorporation as a legal body is needed first and thereafter the approval procedure. It is important to find out what formalities apply and how much time is needed for these prerequisites. Sometimes the lengthy procedures considerably diminish enthusiasm for future operation, if there is no realistic knowledge in advance.

The Government approval prior to the activities includes checking the representativeness of the RRO. It is therefore important to know the full potential of rightsholders which is an element in the feasibility study. More on mandates is written in chapter 7.

## 6.5 Case studies

### Seminar for members of emerging or future RROs from African francophone countries<sup>8</sup>

The objective of the seminar was to deliver a consistent formation on "How to handle an RRO" to 9 managers from 5 different African francophone countries. The seminar was sponsored by IFRRO and WIPO. It was organised by IFRRO, WIPO, Repobel and CFC.

The meetings took place in the offices of CFC in Paris (2 days ½), of Repobel (2 days) and IFRRO (1/2 day) in Brussels.

Experiences and comments on the event:

- The definition of the program is very important. Good coordination was needed between IFRRO, WIPO, Repobel and CFC, with several steps for finalisation. It was important not to repeat twice the same things and not to forget important points.
- The practical aspects of such a seminar are not easy to handle and are time consuming.

To have good communication between the organisations in charge of the seminar is a real challenge. To organise and finance the transportation of the participants from their country to Paris, Brussels and back to their country needed some expertise. Happily IFRRO has great experience in these matters and works very efficiently.

- The cost of such a seminar is significant. A budget was approved by the Board of IFRRO. It was financed by the Development Fund of IFRRO and by WIPO.
- The participants were from different countries. They had different expertise and experience. It was impossible to get information from the participants on that point before the start of the seminar. So, this was a question asked to each participant at the beginning of the seminar.
- We discovered only at that time that they had skills in management of music rights: In almost every African francophone country, there is a bureau for music rights depending of the Ministry of Culture. So, it was not necessary to elaborate on rights and laws. But it was necessary to point out that to manage reprographic rights is not the same as to manage music rights. This was discussed in depth.
- To facilitate informal exchanges and to create a good feeling inside the group, we invited the participants to lunch in a nearby restaurant on the first day.
- The presentations at CFC were on Power Point. They were distributed to the participants in paper and digital formats at the end of the stay in Paris. An important documentation – including model mandates, model licences, pieces of communication, etc. – was distributed too.
- The seminar was a success both in the opinion of the participants and for the organising parties.
- Concerning CFC, it required 2 persons full time during the 2 ½ days, and the equivalent of 2 full time weeks for 1 person for preparation.
- Two of the 9 people were unable to attend the seminar because they did not get their visas in time.

## 6.6 Toolbox: checklists and materials

Remember to:

- Secure fullest possible rightsholder participation in the preparatory stages;

<sup>8</sup> Prepared by Jean LISSARRAGUE, General Manager, CFC, France

- Ensure information to all rightsholder representatives concerned;
- Identify a key representative;
- Set up a working party, whenever possible and appropriate;
- Be in touch with the IFRRO Secretariat to get information on equivalent activities in other countries;
- Invite participants from other existing RROs, whenever feasible;
- Inform the Secretariat and the Regional Committee.

Make use of existing materials:

- Template for a feasibility study or country report template;
- Programmes of former workshops (annexed);
- Samples of statutes that can be found in the IFRRO Manual “How Reproduction Rights Organisations (RROs) Function”;
- IFRRO Code of Conduct.



# 7. Towards an Operational RRO

# 7. Towards an Operational RRO

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*An emerging RRO needs a one to three year business plan for its development as well as to obtain funding, be it from local sources or from outside.*

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IFRRO provides a model business plan in its Manual “How Reproduction Rights Organisations (RROs) Function”. While it is helpful to develop the business plan on the basis of a template, there is no need to stick to it in every aspect.

## 7.1 IFRRO Code of Conduct

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*The goal of the IFRRO Code of Conduct is to encourage good governance of RROs, particularly in areas such as fairness, transparency and accountability.*

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When creating and building up an RRO, it is essential to keep in mind the provisions of the IFRRO Code of Conduct. The Code has been drafted to allow for each RRO to demonstrate how they meet or aspire to its principles, irrespective of the economic, social, political or legal circumstances in their country so that every RRO can adhere to the international good practices that are expected of them.

The Code is available on IFRRO’s website [www.ifrro.org](http://www.ifrro.org) (also annexed).

## 7.2 Business Plan

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*The business plan can build on the earlier drafted feasibility study. Now it is time to plan for concrete action with measurable goals and milestones.*

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The business plan needs to be realistic and address the circumstances in the country. The most efficient way is to develop the plan together. The mentor RRO will usually have experience in drafting business plans and this experience will be very valuable for structuring it and guiding the process.

As the emerging RRO needs a broad support from all types of rightsholders, it can be useful to involve a large number of representatives in formulating the broad principles at the beginning. Working out the details is, however, usually more efficiently done in a smaller group.

One way to develop the business plan is through a workshop. Whom to invite to the workshop will depend on internal politics and relations among rightsholders as

well as on the economic realities in the country. Usually the rightsholders concerned or their representatives are invited. The plenum could discuss the main issues and input principles. The plenum can then form a smaller working group for the nitty-gritty work on the actual business plan. The smaller working group would then have to report back to the plenum.

It can be useful to break the workshop plenum into smaller groups to develop their own business plan, as this will drive participants to consider real challenges and obstacles that local conditions will present to the new RRO. This can both enhance the understanding of the issues a new RRO will face and increase the support that the new RRO will need from its major stakeholders in the first years of operation.

An essential feature of business plans are milestones, i.e. goals to be achieved within a specified period of time. Suffice here to say that three milestones (with a timetable) are absolutely essential and should feature already in the first version of the business plan. A realistic appraisal of the nature, amount and expense involved in each task is essential.

Firstly, establish the organisation, i.e. obtain mandates, government approval and legal incorporation. This issue is discussed more in detail in chapter 6. In short, the relevant issues are:

- What are the requirements, what steps are necessary to achieve them?
- Who will be responsible?

Government approval may or may not be necessary and can be very expeditious in some countries and a longer and more cumbersome process in others.

The second issue is the first licence.

- Which is the most important target sector?
- How should it be approached?
- What will be necessary to achieve the aim?
- Who will be responsible?

Most RROs start with licensing or administering remuneration rights for the education sector, including

its libraries, which is an important user of print media material. It is, however, vital not to lose sight of public administration and the private sector as users. For example research departments of pharmaceutical companies tend to be important users.

Thirdly, preparation for the first distribution emerges. This topic is important to the stakeholders of the RRO, an agreement on who will prepare a distribution plan by when is therefore important at an early stage.

- What are the necessary steps?
- Who should decide on who is to receive which share?
- Who will be responsible?

Other milestones, such as hiring the first general manager, can be added. It is however advisable to keep the number of milestones manageable.

### 7.3 Follow-up activities

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*It is important to monitor progress as decided in the business plan at regular intervals and encourage the mentored RRO to continue and enhance its activities.*

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The mentor should agree on the modalities and frequency of contact and follow up: how, who, when etc. A timetable to achieve the milestones and for a review and follow up session is very helpful. The review session can be formal, in the form of another workshop, or informal as noted in the mentor's agenda. In both cases, it is a very useful tool to maintain momentum and to monitor the progress made. Six months can be used as a general timeframe, as it is a psychologically useful time period for the achievement of each goal.

IFRRO's Regional Development Representative can also play a role in the hands-on assistance to the emerging RRO. The availability of the Regional Development Representative for specific projects and events must be coordinated through the IFRRO Secretariat to whom s/he reports.

It can be a helpful exercise to focus also on critical success factors. This means that for each milestone the mentor and the emerging RRO may ask: what are the vital elements, events or facts, leading to success, i.e. what must definitely happen for the milestone to be achievable? Often they would be to obtain a sufficient repertoire, i.e. mandates and agreements or letters of intent from other RROs.

### 7.4 Acquiring repertoire

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*Repertoire needs to be comprehensive not only in quantity of mandates but also encompassing different categories of rightsholders. Mandates can be obtained from individual rightsholders or through associations of rightsholders or a combination of both.*

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Associations of rightsholders can either obtain the necessary mandates from their members and then channel them through to the RRO or they can act as a relay for individual mandates and not become members of the RRO. The method chosen has to fit local circumstances and legal requirements which may well differ from those the mentor RRO is used to.

The RRO needs to attempt to obtain a mandate from and distribute to all categories of rightsholders whose rights are affected by the licence: authors including translators, visual creators, composers of music, and publishers of all types of material. In many countries CMOs for music exist and their involvement in the RRO operation may ensure valuable repertoire to the rights portfolio.

Studies show that the largest share of the material copied is non-fiction material and in particular educational, academic and scientific texts. It is therefore very important to include rightsholders of this type of material in the RRO early on.

The split between different categories of rightsholders can either be predetermined in the law or be negotiated collectively and incorporated into the statutes or be determined in individual contracts, depending on the legal environment of the country. Again, this may well indicate a different decision from the one chosen in the mentor's country. An important task for the mentor is, however, to remind the emerging RRO of the importance of an inclusive mandate. Specificities of a mandate are described in the IFRRO Manual on "How Reproduction Rights Organisations (RROs) function." Remember to have the importance of digital mandates in your mind when advising the mentored RRO.

Users are likely to copy not only domestic but also foreign works. It is therefore important to devise a strategy to obtain the necessary rights. An important method to secure the rights is through agreements with other RROs. While the negotiation of such agreements may take different amounts of time, letters of intent from RROs representing the repertoires most often used in the country can be useful, for example, for the purposes of obtaining government approval. Such letters of intent are also essential in early licensing negotiations in persuading the licensee of the breadth of the new RRO's repertoire.

Finding out which type of foreign works is copied most is important in identifying the most important partners for first negotiations. For example, an emerging RRO in an English-speaking country would find agreements with RROs from other English-speaking countries very important. The same would of course apply amongst French or Spanish speaking countries etc.

## 7.5 Funding

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*The business plan would need to assess the funding of the RRO – project the income from licensing or administration of remuneration rights and plan the expenditure.*

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At the outset, the RRO is the project of the local stakeholders and it should be attempted to obtain funding primarily from local sources. Funding does not necessarily always have to be in the form of financial contributions, contributions in the form of office premises, facilities and manpower can be equally valuable to start the organisation.

Funding can also be made available from local stakeholders in the form of long-term loans which can finance start up costs. When these solutions are chosen, it is wise to formulate a governance model because financial contributions may lead to an expectation of influence on the policy of the organisation which may have to be carefully steered.

For instance, in a number of countries in Latin America local publishers' associations provided the fledgling RRO with office space in the beginning of its existence. This is a very helpful form of assistance in the beginning when the RRO does not have much or any income. It is however important for the RRO to be independent and to be seen as independent of other organisations so that RROs have tended to move to their own premises within a few years.

Other potential sources of funding for all or parts of the funding needs of an emerging RRO are the IFRRO Development Fund<sup>9</sup>, WIPO, national governments' development aid or cultural programmes (such as e.g. the British Council<sup>10</sup>, Canadian International Development Agency (CIDA)<sup>11</sup>, and others), the World Bank<sup>12</sup> or Development Banks<sup>13</sup>.

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<sup>9</sup> grants and loans – please refer to [www.ifrro.org](http://www.ifrro.org) for the rules and policies on the use of the development fund

<sup>10</sup> [www.britishcouncil.org](http://www.britishcouncil.org)

<sup>11</sup> <http://www.acdi-cida.gc.ca/index-e.htm>

<sup>12</sup> [www.worldbank.org](http://www.worldbank.org)

<sup>13</sup> African Development Bank [www.afdb.org/](http://www.afdb.org/) European Bank for Reconstruction and Development [www.ebrd.com/](http://www.ebrd.com/) Asian Development Bank [www.adb.org/](http://www.adb.org/) Inter American Development Bank [www.iadb.org/](http://www.iadb.org/)

All these institutions have their own rules and procedures to handle applications.

## 7.6 Training the emergent RRO

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*It is important to include training of the emerging RROs representatives, as a joint venture of all resources that are available.*

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The mentor will play an important part in training the emerging RRO. It is not necessary that the mentor carries out all training activities himself. His task is to cooperate with the Regional Development Committee and the Secretariat, including the Regional Development Representative in developing an appropriate training programme for the emerging RRO. Together they identify the most appropriate training methods and partners.

The effects from training can be increased by training groups of participants from similar backgrounds together. The group benefits not only from presentations and hands-on exercises during the sessions but from being able to discuss their impressions with each other during and after the sessions. Participants have often found this exchange of views of particular value. This approach will also facilitate network building within the region which will be of benefit to all in the region.

## 7.7 Case Studies

### GEDRI workshops<sup>14</sup>

Once a year, CERLALC organises a workshop for IFRRO and CEDRO for the benefit of Spanish speaking RROs on a different topic. For example, licensing arrangements and negotiation strategies were discussed and tested in group exercises in a two-day workshop in 2005 in Montevideo, Uruguay. The topic was dealt with in a combination of presentations by RROs and the IFRRO Secretariat on the legal basis and licensing in different sectors (corporations, educations, and public administration) as well as negotiation strategies and "marketing" with group exercises per subject through three mock negotiations. Repertoire building and data management were tackled in 2006. In 2006 we also invited guest speakers from outside IFRRO to explain identifiers and how to use them. The benefit of this format is that through the annual occurrences it creates a community which feels comfortable learning and practising the exercises together and its targeted approach to subjects of common interest.

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<sup>14</sup> Prepared by Franziska SCHULZE, General Counsel, IFRRO

## 7.8 Toolbox: checklists and materials

Remember to:

- Use the IFRRO Code of Conduct as a tool when talking about governance, efficiency and transparency issues;
- Insist on exploration of all funding sources, both locally and from outside;
- Incorporate a follow-up or review plan when discussing the business plan.

Make use of existing materials:

- The IFRRO Manual on “How Reproduction Rights Organisations (RROs) Function” and its sections on:
  - IFRRO development fund procedure ;
  - Business plan template;
  - Mandates or affiliation agreements;
  - IFRRO sample bilateral agreement, type A and B.
- Homepages of RRO members of IFRRO;
- IFRRO Brochure (directory of members);
- IFRRO Code of Conduct;
- Development Fund Procedures on. <http://www.ifrro.org/upload/documents/IFRRO%20Development%20Fund%20Procedures.pdf>.



# 8. RRO Operation in Practice

## 8. RRO Operation in Practice

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*Perhaps the most important assistance can be provided in operational issues. As these issues are addressed for the first time at the emerging RRO, support and expertise from the mentor can be a real added-value.*

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RRO operations in practice are described in detail in the IFRRO Manual on “How Reproduction Rights Organisations (RROs) Function”, Chapter 6. It includes text and case studies on the following matters:

- RRO operation in a nutshell;
- Data collection;
- Information on the extent of copying;
- Licensing areas;
- Terms in license agreements;
- Tariffs;
- Collection through equipment and operator levies;
- Distribution of remuneration;
- Operations;
- Cultural and social purposes.

These matters are dealt with in the following paragraphs only from the mentoring RRO’s perspective.

### 8.1 Licensing prerequisites

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*It is not always obvious to the emerging RRO that licensing necessitates information on the extent of copying. The mentor can be instrumental in advising proper ways to collect such data and/or to conduct statistical surveys.*

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Payment and reporting goes hand in hand in licensing agreements. Before an emerging RRO can negotiate a meaningful licensing agreement, it needs to know how much is being copied in broad terms. It may be difficult or inappropriate to study actual copying without an agreement, in a situation where copying de facto is illegal.

Reference data from other countries may provide a starting point. When this is the case, such reference needs to come from circumstances comparable to

local ones, or include adjustments to that effect. It can be stipulated in the agreement that actual copying is examined as soon as feasible and that actual figures will be used as calculation basis in the future.

Average figures of annual copying per student in universities vary considerably from country to country. Differences in average copying per pupil in schools are even greater than those in universities. This is in part due to different data collection methods, in part to differences in behaviour, accessibility of material and similar matters. Teaching methods and different costs of photocopying are also reasons for variations. Use such average figures with care and try to find out how the calculation in a given country has taken place, what the market looks like, etc.

The emergent RRO should be in a position to gather its own data as soon as possible. Advice on a suitable data collection method and/or statistical survey is essential, and alternatives include:

- Physical by providing an extra copy;
- Diary;
- Questionnaire;
- Interview, in person or by phone;
- Research.

The choice of the data collection method and/or statistical survey may have an effect on the distribution method as well. That is also why this issue is of such strategic importance.

Information in the IFRRO Database (available in IFRRO’s Members Only site as “database”, [www.ifrro.org](http://www.ifrro.org)) concerning distribution can be of interest. If you do not already have a password, the Secretariat will provide you with one.

### 8.2 Licensing areas and how to set priorities

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*The choice of first licensing target is a strategic one and may have longstanding consequences for the emerging RRO. Setting priorities is therefore of utmost importance.*

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The choice of the first licensing target is crucial. In general, it is in the interest of an emerging RRO to sign agreements with users already prepared to sign or in favour of copyright, or at least not opponents. It gives to the RRO an opportunity to report results quickly and to get credibility. It also gives experiences in management of rights. The users against copyright or against the local RRO may be approached at a second stage.

Whether it is feasible to start with educational institutions, governments and other public bodies, within industries and associations, or copyshops is a decision that demands good knowledge of local circumstances. Obviously legislation plays a major role, but so do economic and cultural matters.

It is important to have awareness raising activities before actual licensing negotiations, to ensure that there is an anticipation of forthcoming responsibilities. If government support can be incorporated into the strategy at the beginning, it may greatly facilitate negotiations. It is even better if the government shows leadership and is willing to sign the first license, as has been the case in some countries; Jamaica as an example. Some licensing areas may be tiny in their size, but important in their PR value, such as the Supreme Court in Mexico.

One important aspect in planning licensing and first targets is the portfolio of rights that the RRO has. If the RRO has mandates covering photocopying only, the first licensing target should probably not be picked up from among universities with large distance learning programmes.

As digital usages become more and more common, it is desirable to convince rightsholders in emerging RROs to entrust sufficient rights to the RRO, to enable licensing. User needs are an important aspect, especially if the RRO wants to offer "easy and legal access".

### 8.3 Licensing agreements and tariffs

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*What repertoire the RRO can offer forms the basis of any licensing agreement. In cases of legal licenses the relevant stipulation in the law can form the point of departure.*

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The users would like to copy all kinds of protected material, by the technique of their choice. The RRO is not often in a position to offer all encompassing licenses, which may bring in extra challenges to negotiations. Marketing and selling techniques are often needed, besides legal thinking. Packaging the license so that it is interesting to the users may become important.

Terms and conditions in licensing agreements vary from country to country, but all agreements set some

limits on the amount of copying. This is largely a matter for local rightsholders to decide but the mentor may be instrumental in emphasising that user needs are important. In the beginning, publishers may be cautious and wish to secure their own market. Open dialogues on this issue may be needed, and the expertise of the mentor can be of great help.

Pricing and tariffs are delicate issues. It is important to understand the pricing parameters. The RRO needs to know the volume of copying per student/employee and decide the price per copied page. The license agreement can define the price to be paid either as a per page price or per student/employee price. In copyshops, the price can be a per machine price.

Whereas local circumstances have an impact on pricing, the price level should ensure that the revenue brings in adequate remuneration for rightsholders. Examples from different countries exist both in the IFRRO Manual on How Reproduction Rights organisations (RROs) Function and in the Joint WIPO-IFRRO Publication Collective Management in Reprography.

The mentoring RRO's advice on a clear pricing structure can be important, as the user needs to understand what he pays for. In many developing countries it is clear that the ability to pay will influence the tariff.

In all cases, coherence of pricing in different user groups is also vital from competition law point of view, to avoid arbitrary discrimination. Other competition law issues might be relevant as well.

Monitoring is needed to ensure that the users keep within the limits of the agreements. For instance in Brazil, clear abuses of licenses led to copying of whole books and was detrimental for the activities of ABRD.

### 8.4 Collection through equipment and operator levies

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*Many countries have chosen to compensate private copying by levies on equipment, supplemented by operator levies. Whereas the coverage and scope of levies vary from country to country, it is important to share information on common features.*

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Data collection is important to ensure that all the importers and local manufactures that are legally responsible to pay comply and pay the levy. In some countries customs control can play an important role, but within the European Union such control does not exist. It is therefore particularly important that countries within the European Union exchange information among themselves. Within IFRRO, the Equipment Levy Forum is the place to discuss these issues.

Mentoring of a levy country is best done by another levy country, as private copying remuneration is a special way of remunerating rightsholders. However, many levy countries have voluntary licensing outside the scope of private copying, which may necessitate more than one mentor.

Comparison of income and equipment units in different European levy countries is done within the Regional Business Plan for Europe. Income in countries with a flat fee (fixed amount per equipment) is in general considerably higher than in countries with a percentage based tariff. Average figures per capita, also adjusted with the GDP of the country, can provide valuable information when making business plans for levy countries.

The enforcement of payments due from equipment manufacturers/importers in theory and practice deserves particular attention.

## 8.5 Distribution of revenue

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*Distribution of remuneration to rightsholders is a crucial matter that merits attention right from the beginning of operations.*

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At the outset, the main decision to make is whether distribution is going to be title-specific or non-title-specific. As it is question of management of individual rights, remuneration should in principle be distributed to rightsholders according to the actual use of their works, or as close as it is economically and practically possible. In a series of teaching material, IFRRO has a Detailed Paper on Distribution. Information on distribution of collected revenue by RROs can also be found at the IFRRO Homepage/Members Only.

A general requirement is that the distribution method needs to be transparent and easily understood. This cannot be emphasised too strongly. Credibility in the marketplace requires that users and society at large can understand how the money is distributed to rightsholders. They also need to understand that cost efficiency has a bearing on the choice of the distribution method. Rightsholders need to agree on the distribution plan and policies.

The IFRRO Manual on How Reproduction Rights Organisations (RROs) Function includes information on shares to different rightsholders, frequency of distribution and dispute settlement mechanisms.

If non-title-specific distribution is the choice of local rightsholders, the RRO needs to be in a position to allocate the share of foreign material. Statistical surveys are customarily used to know the country of origin of copied material. The mechanisms of distribution need to

be worked: who should receive the funds and how do individual rightsholders get their shares?

From the mentoring RRO's perspective it is important to remain neutral as to the choice of the distribution method. If the local choice is different from that in the mentor's country, some additional resources may be needed in advising distribution techniques.

In some cases, distribution may be done by another organization or RRO, for an initial period. Sometimes so called back-office- functions, such as distribution, can be done in collaboration between various RROs as a long-term solution. For example, CAL in Australia has done back office tasks for CLL in New Zealand since CLL started licensing. Originally boxes of paper copy records forms were posted to CAL for analysis by CAL staff, but now CLL staff log on to the CAL system. Process their own data, and manage their own distributions. Also, CLL staff are trained at CAL at least twice a year to familiarise themselves with updates to CAL's systems and expand their skills.

## 8.6 Databases of works

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*Databases and systems are needed for distributing remuneration on a title-specific basis. An RRO needs to identify rightsholders, publications and works.*

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For automatic data processing, rightsholders, publications and works need to be identified so that machines can understand and process the information. It is important for an emerging RRO to understand what purpose different identifiers serve and how they can be incorporated into their systems. The mentoring RRO typically has specialists who can be instrumental in advising; in those cases it is important to brief specialists on local particularities. Even if more sophisticated systems are only to be employed at a later stage, it is important that any structure established does not form an impediment to later development.

The issue of funding typically arises as the establishment of distribution systems entails heavy costs. Partnerships are worth exploring, especially in countries where common language unites. For French-language printed works a regular exchange of data concerning the works that exist in the databases of the participating RROs (Copibec, CFC and Reprobel) facilitate distribution and save time and money.

## 8.7 Case Studies

### JAMCOPY in Jamaica and licensing government<sup>15</sup>

Access Copyright was closely involved in establishing JAMCOPY and in assisting with its first license. The Executive Director visited Jamaica to work with the solicitor retained to process the incorporation, the cost of which was paid by Access Copyright. He also met with the Permanent Secretary and other officials in the government department responsible for copyright. At that meeting, he explained how the Government of Canada had supported Access Copyright by committing early on to a licensing agreement.

One of Access Copyright's licensing managers spent a month at JAMCOPY. She drafted budgets and licensing agreements, and also attended meetings with government officials to explain the nature of collective licensing generally and the Access Copyright agreements with the federal and provincial levels of government.

Access Copyright staff reviewed draft licenses and advised on tariff structures and levels, based on the Canadian experience. These were obviously adapted to the Jamaican context. Bilateral agreements needed to support the negotiating position of JAMCOPY were arranged by Access Copyright's Executive Director and Deputy Director.

Explanatory materials produced for the Canadian government license were used as the basis for the Jamaican license. The final licence was drafted by local Jamaican counsel and JAMCOPY and the signing and administration of the licence has been handled by JAMCOPY. All subsequent licensing opportunities have been handled by JAMCOPY who has taken advice on strategy from numerous other RRO's including Access Copyright.

### Equipment and operator levy comparison<sup>16</sup>

Comparison of present equipment and operator levy systems in European countries is carried out within the framework of the Regional Business Plan for Europe. The results provide valuable guidance for countries that plan to introduce private copying remuneration schemes and estimate their potential income. They also show that a combination of private copying levies and voluntary licensing outside private copying leads to the most profitable economic outcome.

<sup>15</sup> Prepared by Brian O'DONNELL, Director of Business Development, Access Copyright (Canada)

<sup>16</sup> Prepared by Tarja KOSKINEN-OLSSON, Honorary President of IFRRO

### Title-specific distribution and French-language countries<sup>17</sup>

A regular exchange of data concerning the works present in respective databases of participating RROs (at present Copibec, CFC and Reprobel) is called PIF. This allows each of the respective databases to be more comprehensive and save time and money as it is no more necessary to research data concerning works published in the countries of the other RRO participating in the PIF program. This program is open for new RROs from other French speaking countries to join at any moment.

## 8.8 Toolbox: checklists and materials

Remember to:

- Study jointly with the emerging RRO and analyse the consequences of different alternatives concerning licensing and distribution (Chapter 6 in the Manual).

Make use of existing materials:

- IFRRO Detailed Paper on Distribution;
- IFRRO Manual on How RROs Function:
  - Agreement models: both transactional online license and blanket photocopying agreement ;
  - Sampling plan model;
- Ask more information from countries whose case studies seem to be interesting;
- Study IFRRO's homepages/Members Only/database:
  - Status reports;
  - Levy information;
  - Relevant information may be retrieved for further analysis.

<sup>17</sup> Prepared by Jean LISSARRAGUE, General Manager, Centre Français d'exploitation du droit de Copie (CFC), France



## 9. How to acquire Credibility and Authority in the Marketplace

# 9. How to acquire Credibility and Authority in the Marketplace

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*Every new organisation needs to acquire standing in the community. Rightsholders, users, the government and society at large need to be acquainted with the idea of an RRO, its purposes and the way it functions.*

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General considerations in this area are described in Chapter 2 of the IFRRO Manual on How Reproduction Rights Organisations (RROs) Function.

## 9.1 Communication strategies

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*The need to pay for something that in many cases users will have become accustomed to doing for free and without restrictions requires carefully considered communication.*

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General experience shows that positive messages work best, i.e. communication presenting the RRO as advantage rather than as a disadvantage to the user. "Easy legal access" is one of the cornerstones in communication.

IFRRO recommends a set of key messages for the IFRRO communication strategy when communicating a positive image of copyright and RROs

Main messages:

- Copyright and RROs contribute to the establishment of an economic basis for CULTURE, KNOWLEDGE and EDUCATION;
- RROs provide legal access to copyright works in these areas through easy licensing mechanisms at a fair price.

Additional messages when appropriate:

Knowledge industries, creators and publishers contribute to cultural diversity, economic growth of nations and the creation of employment;  
Cultural and knowledge industries contribute largely to the GDP (Gross Domestic Product) of nations.

IFRRO and other RROs can provide examples of successful campaigns in other countries. They can be of great inspiration but should not be simply recycled. The messages have to be carefully tailored to the country in which they are to be used. Cultural sensitivities are of obvious importance but may not always be obviously apparent to the outsider.

A crucial part of all endeavours to gain respect and authority in the country is that the emerging RRO follows clean business practices. The IFRRO Code of Conduct is a useful general point of departure.

Meetings in the country, for instance, an IFRRO Committee meeting involving several RROs may be an essential tool in communication. This shows that the new RRO is not alone, that there are similar organisations in other countries and that the emergent RRO belongs to and has the support of a worldwide network.

Such meetings can be used to meet with the authorities and other key players, and may take place with the representatives of IFRRO: CEO/ General Counsel, Presidency or Regional Development Representative, or with the mentor RRO.

Essential tools may include:

- Letters from RROs and the IFRRO Secretariat in support of the RRO;
- Press conferences with other RROs or IFRRO representatives;
- Contact and public support from national key players.

## 9.2 Legal actions

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*Where litigation is chosen as a method of gaining authority, the cases pursued have to be selected carefully. Litigation strategy has to be adapted to the country of the emerging RRO.*

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In some cases, awareness raising and information campaigns may not be sufficient to convince the community that users should obtain licences and it may become necessary to take legal action. This has to be carefully considered against the social and cultural background of the emerging RRO. In some countries litigation is a common feature of society while it signals the end of relationships in others. It is important to bear in mind how the society commonly resolves conflicts. The length, expense and efficiency of court proceedings have to be taken into account.

An important decision is who should sue:

- the RRO in its own name;

- the RRO on behalf of rightsholders, or
- the rightsholders with the RRO assisting in preparing the litigation

This decision depends also on the legal framework, whether or not the RRO would have the requisite standing to sue, and how convenient or inconvenient this might be. The type of defendant, available evidence and the probability of success in the particular case are all relevant considerations. There can be negative PR backlashes from suing particularly vulnerable defendants or certain groups associated with public interest. Finally, funding is an important consideration.

The mentor RRO may be in a position to provide helpful guidance on the strategies and tactics it found useful. Whether or not these strategies are likely to also work in the country of the emerging RRO depends on:

legal system: common law, civil law, such as Napoleonic/Roman traditions or Germanic traditions etc (there are also variations within each system);  
 type of procedural system: adversarial or inquisitorial;  
 soft factors as culture.

All indicates thorough local research before deciding on whether to pursue which case with which strategies.

### 9.3 Case studies

#### Information campaigns in Singapore<sup>18</sup>

A freshly minted organization needs to generate suitable publicity in order to develop. The mass media is obviously an important vehicle to help drive this.

When CLASS first started in late 1999, its early pioneer members realized the necessity to publicize its formation. And the newspapers were the media they used to introduce Singapore’s first RRO.

If funding is available, other awareness promotions through mass media advertisements would be useful too. But like most small RROs, CLASS did not have such a luxury. Instead it launched a “Respect for Copyright” poster drawing competition for tertiary students nationwide to drive the publicity. The winners were then publicly heralded by a government minister in the full glare of publicity in the newspapers, radio and TV.

Perhaps it is useful now to say that friends in the mass media are necessary. If not, it is good to “cultivate” them to help champion the RRO cause. CLASS was fortunate to have allies in the press, and the fact that the then

General manager of CLASS was a former newspaper, magazine and TV journalist, helped a lot too.

Apart from contacting the media to issue “breaking news” – news that can affect the public – it is also good to provide the media with relevant features and photographs on copyright both on the local scene and overseas. Fresh RROs may also like to note that when issuing information, they should ideally provide as much as possible without the media having to work hard to dig through for the basic ingredients of the story itself.

#### Litigation against a copyshop in Canada<sup>19</sup>

Access Copyright has found that it has been necessary on a number of occasions to institute legal proceedings against copyshops and in particular, those stores located close to university campuses that illegally reproduce and sell text material to students. These proceedings have not been commenced in order to encourage licensing, but rather to discourage the pure piracy of books and course packs (compilations of excerpts of written material)

A recent example of litigation brought by Access Copyright was against a copyshop located near a major Toronto university. The action was commenced against the copyshop and its proprietor personally. In order to collect the evidence necessary to institute this proceeding, Access Copyright utilized the services of a private investigation firm. The investigators attended at the location posing as students in order to collect preliminary evidence. Once a substantial body of preliminary evidence had been gathered, Access Copyright asked the Court for an Anton Piller Order, which order was granted. This order allowed a representative of Access Copyright to attend at the premises of the infringing shop and seize all material that would be evidence at the trial. To take the best advantage of this order, Access Copyright executed the Anton Piller Order at the start of an academic term when the volume of reproduction at the location would be at its highest levels.

When Access Copyright commenced its proceedings, it was able to provide the Court with evidence that more than 200 different works had been infringed by the copyshop and its proprietor. In response to this evidence the Court granted Access Copyright a judgment in excess of \$250,000 CAD against the copyshop and the proprietor personally. The Court also ordered that this judgment could be enforced against any related company or any successor company that was controlled by the proprietor. As the judgment was not paid in full, Access Copyright was able to attend at the premises of the copyshop using a Writ of Seizure and Sale and seize

<sup>18</sup> Prepared by Paul Wee, Director, CLASS, Singapore

<sup>19</sup> Prepared by Brian O’DONNELL, Director of Business Development, Access Copyright, Canada

all of the photocopiers, binding equipment, cash and other supplies that were related to the operation of the business. Through execution of the Writ of Seizure and Sale, Access Copyright was successful in closing this location down. Due to the scope of the order, should the proprietor reopen, Access Copyright will be able to seize the assets of that business in satisfaction of its existing judgment without further order of the Court.

### **Litigation in Mexico<sup>20</sup>**

CeMPro has been asked by rightsholders to assist them with anti-piracy enforcement as an additional service to our activities as an RRO. It is important to clarify that the anti-piracy legal actions are financed by a fund created with extraordinary contributions made by members of CeMPro. We act on tips from the public and we cooperate with the police and state prosecutors. For example in March 2006, with the support of Mexico's federal authorities, we raided two secret warehouses in central Mexico City and confiscated 48,000 pirate books of different rightsholders associated to CeMPro. The suspects were captured and at the time of writing this case study they are in prison awaiting sentencing. As piracy is a very serious problem for all rightsholders in Mexico and particularly for authors and publishers of books, our members appreciate our assistance and this helps us to recruit more members.

## **9.4 Toolbox: checklists and materials**

Remember to:

- Propose for consideration the recommended set of key messages of IFRRO in general communication;
- Use the IFRRO Code of Conduct as a communication tool when talking about credibility and authority;
- Contact the IFRRO Secretariat for available examples of public relations/communications campaigns in other countries;
- Consider whether there is a need to propose an IFRRO meeting to take place in the country.

Make use of existing materials:

- The IFRRO Manual on "How Reproduction Rights Organisations (RROs) Function and its sections on (all in Chapter 2):
  - Litigation and Compliance;
  - Awareness Activities;
  - Credibility and Authority in the Marketplace.

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<sup>20</sup> Prepared by Maria Fernanda Mendoza, General Manager, CeM-Pro, Mexico

# 10. Follow-up Activities

## 10. Follow-up Activities

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*Follow-up is an essential part of mentoring. Success is not built over one month or one year. Rather, it is realistic to foresee a mentoring relationship from three to five years.*

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Building up good reporting practices from early on is important. This benefits most of all the emerging RRO that needs to review its own activities regularly. At the beginning of each operation the staff has its hands full of day-to-day activities. This easily sets aside control and follow-up activities. It is most beneficial if the emerging RRO can use the same material when talking with the Board and with the mentor RRO.

### 10.1 Follow-up of the business plan

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*The Business plan is a natural tool to be used in follow-up activities. It customarily entails a plan for three years, including details for the first, second and third year.*

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The plan for the first year forms the basis for follow-up. Subject to development, future versions of the Business Plan may include revisions to medium term plans. It is important to record deviations and reasons for them.

It is recommended that the mentor and the emerging RRO agree on a set of criteria that are reported at regular intervals, for instance once a month. Reporting intervals should not be longer than 3 months.

Developments in both markets – rightsholders and users – should be included. Financing issues and costs are important factors, in particular if a loan arrangement has been concluded to finance partly the early stages of the emerging RRO. The plan should also include building up the organisation and its structure, and formulating its corporate strategy.

### 10.2 IFRRO Code of Conduct as a tool

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*Following good business practices is of utmost importance at the beginning of operation when the RRO is under the scrutiny from the society, authorities, users, and last but not least rightsholders.*

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The sooner the Emerging RRO is in a position to formally adhere to the IFRRO Code of Conduct the better. It can be of great value in gaining authority and credibility. It can enhance relations with the authorities.

Even when such a formal acceptance would not be

possible at the very beginning, the Code of Conduct is an important tool against which to check operations. Such a comparison can be incorporated to the follow-up activities, for instance on a yearly basis. The mentor and the emerging RROs agree that once a year they make a formal comparison and analyse the results.

The Code of Conduct is annexed.

### 10.3 Reporting to and from the IFRRO Secretariat

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*It is vital to keep the IFRRO Secretariat informed of developments at regular intervals. Equally, it is important for the mentor to get relevant information and assistance from the Secretariat.*

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It is recommended that the mentoring RRO and the IFRRO Secretariat agree on reporting procedures and intervals. The mentor should report to the Secretariat prior to the Board meetings which are held three times a year.

When knowledge on good practices and possible problems is gathered at the Secretariat, this knowledge can be used in other countries. Future operations can be planned in a meaningful manner and thus the global IFRRO community benefits from changing experiences and knowledge.

Usually the mentor would report progress, difficulties and if he or she used resources provided by the Secretariat or recommended by it, and how these worked out.

As the mentor, consider your information needs carefully and express them clearly and in time to the Secretariat. Your rights to be informed and get necessary decisions from the Secretariat and/or the Regional Development Committee require an active role and a cooperative approach from all involved.

The Secretariat is the central focus point that can allocate additional resources, if needed.

### 10.4 Toolbox: checklists and materials

Remember to:

- Agree on regular reporting procedures at the beginning of the mentoring relationship;

- Make reporting an added-value to the emerging RRO and its Board;
- If reporting is missing, react quickly and firmly;
- Specify your needs and requirements on assistance, material or information and on necessary decisions from the Regional Development Committee and/or the Secretariat;
- Report on development at agreed intervals to the IFRRO Secretariat.

Make use of existing materials:

- Follow the structure of business plan in reporting, when feasible;
- IFRRO Code of Conduct and transparency/efficiency checks.

# Annexes

## Annex 1 IFRRO Code of Conduct

### IFRRO Code of Conduct - Reproduction Rights Organisations

Revised by the IFRRO Board 20 September 2007

Reproduction Rights Organisations (RROs) are collective management organisations which act as intermediaries/facilitators between rightsholders\* and users in the fields of reprographic reproduction and certain digital uses.

The International Federation of Reproduction Rights Organisations (IFRRO) links together Reproduction Rights Organisations (RROs) around the world.

RROs provide valuable services to rightsholders and copyright users. They promote the creation and dissemination of copyright material, act in the interests of rightsholders and facilitate legal access to copyright material.

IFRRO's Code of Conduct (the Code) sets out the standards of service that rightsholders 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 rightsholders.

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.

\* The term "rightsholders" refers to authors and publishers

#### Values

##### RROs:

- Maintain fair, equitable, impartial, honest, and non-discriminatory relationships with rightsholders, users and other parties;

- Respect copyright, contracts and applicable national and international laws;
- Act with integrity in the collection and distribution of funds received;
- Minimise their costs while providing efficient services to rightsholders and users of copyright.

#### In order to give effect to these values, each RRO aspires to:

- Be responsive to the needs of its rightsholders and licensees;
- Achieve efficiency in the process of allocating and distributing payments, and
- Be accountable, ensure transparency and strive for best practice in the conduct of its operations.

#### Scope

The operation of the Code and the extent to which it can be adopted by a RRO is dependent upon national laws which may provide legal and regulatory mechanisms for RROs.

#### 1. General

##### RROs

- 1.1 Act according to their governing rules and constitution as well as applicable national and international law;
- 1.2 Provide information about their operations that is clear and easy to understand;
- 1.3 Educate and train their staff to meet the standards of this Code;
- 1.4 Work to maintain, protect and value copyright laws where required and appropriate;
- 1.5 Organise and publicise appropriate procedures to manage complaints and resolve disputes;
- 1.6 Deal with confidential information appropriately, respecting agreements and applicable laws while respecting privacy rights of rightsholders and users;
- 1.7 Administer rights efficiently, including where they involve other organisations, so as to minimise total administrative costs that are being deducted.

#### 2. Representation of Rightsholders

##### 2.1 RROs:

- 2.1.1 Have open representation for all eligible rightsholders in accordance with applicable national and supranational laws, including competition law;

2.1.2 Ensure that their dealings with their constituents are transparent by publicising and explaining their operations, practices and procedures.

### **3. Relationships with Rightsholders**

#### **3.1 RROs:**

- 3.1.1 Manage their relationships with rightsholders efficiently, equitably and impartially;
- 3.1.2 Treat all rightsholders in accordance with applicable statutes and national laws;
- 3.1.3 Collect and distribute remuneration in a diligent, efficient and transparent manner; and
- 3.1.4 Explain clearly and regularly the basis of their operations.

### **4. Relationships with Copyright Users**

#### **4.1 RROs:**

- 4.1.1 Manage their relations with copyright users and their representatives efficiently and equitably;
- 4.1.2 Collect payments in a diligent, efficient and transparent manner;
- 4.1.3 Explain clearly the source and content of their repertoire.

### **5. Distribution Policy**

5.1 RROs distribute remuneration received to rightsholders:

- 5.1.1 Efficiently and expeditiously;
- 5.1.2 Approximating actual use as far as possible;
- 5.1.3 Transparently, by publicising distribution plans which explain the manner and frequency of payments with sufficient detail;
- 5.1.4 In accordance with applicable national and international laws.

5.2 RROs clearly explain the management of funds not yet distributed.

5.3. RROs deduct from collections amounts of which they inform rightsholders as appropriate for their expenses and operating costs which:

- 5.3.1. Are proper and reasonable and in proportion to their actual efforts and services delivered;
- 5.3.2. Accord with and are authorised by applicable statutes and by national laws.

5.4 RROs observe the principles that:

- 5.4.1 charging and deduction practices are transparent and, as far as possible, based on choices and options;
- 5.4.2 equivalent transactions are subject to equivalent charges.

5.5 RROs deduct from collections, if authorised by national law and/or their statutes and/or distribution plan rules so to do, allocations for social and/or cultural purposes; and whenever they do so,

the authorisation for, as well as the amount and nature of the allocation, is clearly explained to the rightsholders concerned. RROs avoid discrimination on grounds of nationality or otherwise.

5.6 RROs endeavour to ensure that the total of the amounts deducted by organisations involved from sums collected is reasonable and reflects the service delivered.

## Annex 2 Country report template

### WIPO/ARIPO/IFRRO Training on Collective Management of Reprography

#### Country Report Template

##### Introductory Note:

*Before the training session participants are requested to prepare a 3-5 page report containing an analysis and review of the copyright and related rights situation in their country. The report should reflect legislation, enforcement and management of rights, with special emphasis on reproduction rights and prerequisites for reprography management. It should be concise and highlight the areas of interest to the exercise herein and it should as far as possible, reflect facts and figures.*

The composition of the Country Report should be as follows:

Name of the country:

Size of country population:

Name of the representative:

Organization of the representative:

Position of the representative:

#### 1 General information on copyright legislation

- 1.1 Copyright law (name and year)
- 1.2 Relevant Government body in charge of copyright legislation
- 1.3 Adherence to international treaties (treaty and year)
- 1.4 Stipulations on traditional cultural expressions/folklore
- 1.5 Pending legislative changes

#### 2 Information concerning the right of reproduction

- 2.1 Right of reproduction (paragraph and text)
- 2.2 Right of reprographic reproduction (if special stipulation; paragraph and text)
- 2.3 Exceptions and limitations to the right of reproduction, such as private use, library uses, etc. (text of relevant paragraphs)
- 2.4 Fair use or fair dealing provisions, if any

#### 3 Information concerning collective management of rights

- 3.1 Special regulation on management of rights
- 3.2 Government control (if any)
- 3.3 Relevant Government body in charge of control
- 3.4 Competition legislation and its applicability to collective management

- 3.2 Existing collective management organizations (list all)

- Name, categories of rightsholders or rights, field of operation, year of incorporation, collection in 2005

#### 4 Print and publishing market

- 4.1 Publishing of books
  - Number of publishing companies, number of published titles per year
- 4.2 Publishing of newspapers, periodicals and magazines
- 4.3 Publishing of scientific journals and other scholarly material
- 4.4 Publishers' organizations
  - List all including their field of activity and representation

#### 5. Authors and their organizations (if any)

- 5.1 Writers of fiction and their organizations
  - Authors of fiction, novels, poems
- 5.2 Writers of non-fiction literature and their organizations
  - Authors of teaching material and other non-fiction material, academic authors
- 5.3 Journalists and their organizations
- 5.4 Visual artists including photographers and their organizations
  - Painters, sculptures, illustrators, graphic artists and photographers

#### 6 Educational system and relevant institutions

- 6.1 Short description of the educational system
  - How many institutions at different levels
  - Private or public institutions
- 6.2 Number of students in schools
- 6.3 Number of students in further education
- 6.3 Number of university students
- 6.4 Main educational material used in universities

#### 7 Photocopying facilities

- 7.1 Copy shops and their importance in providing photocopying services
- 7.2 Cost of photocopying
- 7.3 Photocopying in companies and administration

#### 8 General infrastructure, libraries, reading etc.

- 8.1 Reading habits and literacy rate
- 8.2 Number of libraries and their role as part of the book culture

*Please answer the questions to the extent that you can acquire information from available sources. This information will be of great significance in developing a study of reprography management in your country.*

*You will present your Country Report at the outset of the training session. Fifteen minutes have been reserved for the presentation, followed by questions. The report will be of value throughout the training session. Thank you!*

## Annex 3 Development Fund Procedures and templates

### IFRRO Development Fund Procedures and Templates

#### Contents

- 1 Funding Criteria
- 2 Two-tier Structure
- 3 Who Can Apply
- 4 Applications
  - 4.1 Activity Grant Applications
  - 4.2 Project Loan Applications
- 5 Approval Process
- 6 Reporting and Monitoring
- 7 Project Completion

#### 1 Funding Criteria

All applications of Development Funds must be consistent with IFRRO's long-term goals and objectives. Accordingly, all requests for Development Funds must:

- support collective administration of copyright in the recipient country;
- be self-sustainable in the long term; and
- reflect any other objectives and funding criteria of IFRRO

The beneficiary should explain the needs that led to the particular projects for which funds are requested.

#### 2 Two-tier Structure

IFRRO has established a two-tier system for Development Fund grants:

- Activity Grants – which can include study visits, in-country workshops and training, research projects and translation - and
- Project Loans – which are normally granted to support the establishment and initial operating costs of a new RRO.

Activity Grants may be sought for any activity which will support collective copyright licensing in a country, and will develop a strong collective copyright legislative or administrative infrastructure, or better inform local stakeholders of the advantages of collective copyright management.

The upper limit for an Activity Grant will normally be EU 15,000. That limit is both subject to periodic review and may be exceeded in special circumstances.

#### 3 Who Can Apply?

Applications for Activity Grants may be submitted by new RROs, rightsholder groups, government offices or established RROs on their own behalf or as a mentor RRO.

#### 4 Applications

An application for an Activity or a Project Loan must be in writing, and must follow the template application published on IFRRO's website for grants (<http://www.ifrro.org/upload/documents/ACTIVITY%20GRANT.FORM%202004.%20STANDARD1.doc>) or for loans (<http://www.ifrro.org/upload/documents/PROJECT.LOAN.2004.FINAL.AFTER%20BOARD%20FEBR%2020041.doc>)

##### 4.1 Activity Grant Applications

The Activity Grant Application must describe the activities for which funding is sought, and background information, such as recent IFRRO or WIPO activities, national copyright laws, existence of rightsholder groups and government support. The applicant must also describe how the activity will support long-term collective copyright management, the support of any mentor RRO and publicity to be given to IFRRO.

A budget must be attached. It should be noted that IFRRO may approve a contribution to the travel costs of mentor RRO staff to the lesser of 25% of travel costs of mentor RRO staff or 15% of the total Activity Grant. IFRRO will only contribute to the cost of economy class airfare.

IFRRO will usually pay after completion of the Activity on submission of the basis of a documented reconciliation. However, in special cases, IFRRO may consider advancing funds for Activity Grants. Activity Grants are generally non-reimbursable.

Any unspent amounts will be retained by IFRRO in the Development Fund.

##### 4.2 Project Loan Applications

Applications for Development Fund loans will usually be for the support or establishment of a new RRO, and must address all the matters listed below. A template may be downloaded >here<.

#### 4.2.1 Project Origin and Background

The circumstances that lead to the Project Application, including earlier Activity Grants, and recent copyright related initiatives in the applicant's country, copyright laws, exceptions and the relevant collective licensing structure, support of local rightsholders, the amount, purpose and proposed duration of the loan.

The local financial circumstances as well as any particular national requirement concerning international bank transfers should be communicated to IFRRO before the signature of the contract, especially if it expected that these will influence the (re)payment of grants/loans from or to IFRRO. The applicant must advise if the loan agreement will have to include provision for inflation rates, special bank charges, taxes on grants, etc.

IFRRO will endeavour to provide in each case, the best transactional arrangements, in order to minimise the impact of national financial disturbances on the capacity of loan reimbursement of the beneficiary.

#### 4.2.2 Analysis and Compliance with IFRRO Funding Criteria

In applications for loans to support a new RRO, the application must describe how the following Development Fund criteria are satisfied:

- The Project must reflect IFRRO's long term objectives – that is it must:
  - support the collective administration of copyright; and
  - have the potential for long-term sustainability in the recipient country.
- The applicant must have sufficient support from local stakeholders, including rightsholders, government and, where possible, user groups. Details of continuing liaison with those groups should also be supplied.
- Where the Project is to support an emerging RRO, membership of that new RRO should include both authors and publishers or, at least, representatives of author and publisher organisations.
- The IFRRO contribution should be matched with proportional cash or in-kind contributions of local stakeholders that would reflect a real commitment from their part towards the implementation of the project. A schedule of promised contributions must be included. Contributions in know-how, man power, premises, equipment, or other own additions are acceptable and have to be mentioned in the application forms.
- Where the Project is to support an emerging RRO, it

is preferred that strong local copyright legislation be in force with legislative endorsement of collective copyright administration by:

- a compulsory or statutory licence, including a levy system;
- extended collective licensing schemes; or
- some form of legislative back-up for voluntary collective licensing schemes.

Where that legislative structure is not in place, the application must set out why a new RRO is expected to be successful.

As emerging RROs will also require bilateral rights exchanges with international RROs, the emerging RRO must have sufficient local mandate to satisfy international RROs that it is an appropriate body with which to enter into an agreement of this nature.

##### 4.2.2.1 Eligible Costs

The following costs are eligible for grants application:

- Consultancy fees
- Travelling and accommodation costs
- Conference organisation costs
- Translation and interpretation costs

The following costs are eligible for loans applications:

- Consultancy fees
- Administrative fees, including staff and equipment costs
- Marketing
- Travel and accommodation
- Bank and other loan related charges (in special situations and upon previous agreement)

These lists are not exhaustive.

##### 4.2.2.2. Non –eligible costs

IFRRO's Board has the discretion to refuse a grant or loan if it considers that this one does not correspond to the priorities and rules of the organisation. The decisions of the Board are definitive. Hereunder a list of costs that may not be applied for. This list is not exhaustive.

- Costs outside the programme period

- Litigation and arbitration costs
- Bad debts
- Staff redundancy or business termination costs

#### 4.2.3 Project Description and Business Plan

Applicants must describe the proposed activities the RRO will undertake to develop and increase licensing revenue, and the planned milestones (e.g., execution of first licensing agreements, planned first distribution, etc). Training and other support to be provided by the mentor RRO, local stakeholders and government must also be described. The applicants have to provide details on the expected outcomes of the project and the manners in which they intend to achieve them.

These matters must also be set out in a year-by-year business plan for the applicant RRO for the duration of the funding. The business plan should include projected cash flows and balance sheets and explain the information on which those projections are based.

Although predicting milestones such as the first distribution to members is difficult at the initial planning stage, the business plan should at least refer to distributions to members as a long-term goal. The loan agreement will acknowledge that such distribution may be an event which will trigger partial repayment of the loan.

In considering the application, IFRRO may recommend changes to the business plan, particularly if projections of licensing revenue are considered too optimistic. If the Project Application is approved, the final business plan will be annexed to and form part of the loan agreement.

#### 4.2.4 Costs and Budget

The Project Application must include a budget. IFRRO funding should normally be matched wholly or partly by the cash or in-kind contributions of local rightsholders (such as rent-free premises). The budget must show the contributions of all parties.

The budget must be consistent with the business plan and the funding and repayment milestones described below. That is, if a funding milestone is EU 10,000 of licensing revenue by the end of Year 2 of the loan, then that amount of revenue should appear in the projected budget for that year. The template sets this out by way of example.

The budget must also specify the financial year for the recipient RRO, as this will be the period to which the

recipient RRO will prepare annual reports to IFRRO.

#### 4.2.5 Funding and Repayment Milestones

Applicants should include a schedule of funding and repayment milestones using the template to be found under I. Funding and Repayment Milestones of Application Form for Project Loans. Again that template is a guide and is not intended to restrict the flexibility of IFRRO and the applicant RRO in agreeing upon funding and repayment milestones appropriate for local conditions. That schedule will also form a part of the loan agreement.

Milestones may include the acceptance by the IFRRO Board or the relevant regional committee of an annual report and updated business plan, or the signing of a nominated value of licensing agreements.

The projected repayment schedule may refer to events rather than dates, and will usually be linked to distributions to members. As a general rule, where the recipient RRO has an operating surplus that could otherwise be distributed to members, it should pay up to one third of the distributable amount to IFRRO to reduce the loan.

#### 4.2.6 Mentor RRO

While the responsibility for the correct implementation of the project and the proper expenditure of Development Fund money remains with the beneficiary, the mentor RRO will do its utmost to support and guide this one throughout the whole duration of the project.

The mentor RRO will encourage the beneficiary to respect the quality and timeframe of activity and financial reports towards the donor organisation.

The applicant must describe the role and support to be provided by the mentor RRO. IFRRO will accept a budget allocation of up to 10% of the loan, as a contribution of up to 25% of the non-salary costs of the mentor RRO in providing support. It is expected that those costs will usually be travel expenses of mentor RRO staff to assist in licence negotiations or implementation of surveys or distributions.

Details of any training by the mentor RRO must also be provided. It is expected that training will be appropriate both for the trainee, the recipient RRO and the legislative system in which the new RRO will operate.

Separate applications can be made for Activity Grants for training for new RRO staff, or government or judicial staff engaged in copyright administration, where that training can be expected to contribute to the long-term sustainability of a new RRO.

Applicants should also include information on the geographic proximity and support capacity of the mentor RRO and any similarity of collective copyright legislative systems.

#### 4.2.7 Constraints and Risk Assessment

Applicants must include a statement of the legislative, economic, social or cultural constraints which may affect the success of the new RRO, and an outline of any strategies to address those constraints.

For example, social and cultural constraints can include community distrust of private ownership of intangible property, or a perception that collective copyright management primarily benefits foreign rights holders. Economic constraints can include the need of a country to provide low cost primary education, which may result in very low or nominal rates for copying in that sector.

Legislative restraints may include the structure for collective licensing envisaged under the local copyright laws. Applicants will also have referred to some of these issues as part of the analysis and compliance with IFRRO's funding criteria, described above.

## 5 Approval Process

Applications for both Activity Grants and Project Loans will be considered by the relevant regional committee, who will make a recommendation to the Board. The regional committee may request applicants to provide further information.

## 6 Reporting and Monitoring

All recipient RROs must submit an annual report during the loan term to their regional committee and to IFRRO Board the reporting date will be to the last complete financial year of the recipient RRO prior to 1 October in each year. The report will include:

- a brief narrative description of licensing activities since the date of the last report;
- an audited statement of income and expenditure for that year, distinguishing revenue from licensing income from contributions by stakeholders and IFRRO;
- a balance sheet as at the end of that year;
- financial projections for the next year;
- a description of the licensing and other activities in that year;

- a description of proposed licensing and other activities for the next year, outlining any changes from the business plan; and
- copies of bank statements for the separate account into which the IFRRO payments were deposited.

Recipient RROs may also be required to submit interim reports on dates nominated by the relevant regional committee, or/and in the Loan Agreements, to be considered at subsequent meetings of the regional committee.

All reports must be submitted to the relevant regional committee, which will consider and make appropriate recommendations to the IFRRO Board. If acceptance of the annual report is a funding milestone and the regional committee is not prepared to recommend acceptance, then the regional committee may request the recipient RRO to provide further information.

## 7 Project Completion

### 7.1 Activity Grants

The applicant must submit a report on the Activity, together with a documented reconciliation of the Activity Grant.

The report will include:

Background - legislative summary, comments on local publishing industry and copying practices, other relevant information

Description of the activity and participants

Particular issues raised in the course of the activity

Outcomes and proposed follow-up activities.

### 7.2 Project Loans

At the end of the loan period, the recipient RRO must submit a project completion report with an analysis of the factors which contributed to the success of the recipient RRO, and those which restricted its operations.

If the loan has not been repaid, the recipient RRO must submit to IFRRO an analysis of the factors which contributed to its inability to repay, together with a revised business plan and repayment schedule. The recipient RRO must continue to submit annual reports until such time as the loan is repaid.

### 7.3 Timescale

The application forms for both grants and loans will include the date of the start of the contract and the date of its completion. In case of loan the form and contract should include the estimated repayment date. Expenditure must

be completed during the programme timescale.  
If money is not spent in the given framework the Board will have the discretion to reallocate it. The distribution of funds is reviewed by IFRRO's Board of Directors at its last meeting in the year.

#### **7.4 Publicity**

The beneficiary has the obligation to make public IFRRO's funding, by mentioning its name in all documents related to the project, including press releases, and by using on all related documents IFRRO's logo followed by "project sponsored by IFRRO's Development Fund".

## Annex 4 Examples of Event Programmes

### A4.1 Bucharest, May 22 and 23, 2008, WIPO-IFRRO subregional SEMINAR

wipo-ifrro subregional SEMINAR ON COPYRIGHT AND RELATED RIGHTS AND COLLECTIVE MANAGEMENT OF RIGHTS  
organized by  
the World Intellectual Property Organization (WIPO)  
in cooperation with  
the International Federation of Reproduction Rights Organisations (IFRRO)  
the Romanian Office for Copyright (ORDA)  
and  
the Copyright Collective Management Society (COPYRO)  
**Bucharest, May 22 and 23, 2008**

#### PROVISIONAL PROGRAM

*prepared by the International Bureau of WIPO*

**Thursday, May 22, 2007**

**9.00 – 09.30 Registration**

**09.30 – 10.00 OPENING CEREMONY**

Welcoming address by:

Mr. Adrian Iorgulescu, The Minister of Culture and Religious Affairs

Rodica Parvu, Director General, the Romanian Office for Copyright (ORDA), Bucharest

Mr. Olav Stokkmo, Chief Executive Officer, International Federation of Reproduction Rights Organisations (IFRRO), Brussels

Mr. Eugen Uricaru, President, Copyright Collective Management Society (COPYRO), Bucharest

The representative of the World Intellectual Property Organization (WIPO), Geneva

**10.00 – 11.00 Theme I Copyright and Related Rights International Conventions Administered by WIPO**

The 1996 WIPO Treaties and Their Implications; Recent Developments on the Exceptions and Limitations

Speaker:

Mr. Richard Owens, Director, Copyright

E-Commerce, Technology and Management Division, WIPO

**11.00 – 11.15 Coffee Break**

**11.15 – 12.30 Theme II The Protection of Copyright and Related Rights in Romania**

The National Experience of Romania

Speakers:

Mr. Laurentiu Oprea, Director of Registers, Collective Management and Public Relations Direction, ORDA

Mr. Eugen Uricaru, President, COPYRO  
Mr. Mircea Felix-Melimesti Ionescu, Lawyer, COPYRO

**12.30 – 13.00 Discussion**

**13.00 – 14.30 Lunch Break**

**14.30 – 15.45 Theme III Collective Management of Reprographic Reproduction Rights**

Collective Management of Reprographic Reproduction Rights: Principles, Role, Different Models of Operation

Speaker:

Ms. Samantha Holman, CEO of ICLA, Chair of IFRRO's European Development Committee, Dublin

Collective Management in Different Sectors in Europe

Speaker:

Mr. Olav Stokkmo, Chief Executive Officer, IFRRO

Administration of Rights in Text and Image based Works in Europe

Speakers:

Ms. Myriam Diocaretz, Secretary General, European Writers' Congress (EWC), Brussels

Ms. Carola Streul, Secretary General, European Visual Artists (EVA), Brussels

Ms. Olga Martin Sancho, Legal Advisor, Federation of European Publishers (FEP), Brussels

**15.45 – 16.15 Coffee Break**

**16.15 – 17.30 Why Do Creators and Publishers Support the Establishment of Reproduction Rights Organisations (RROs)?**

Speakers:

Ms. Myriam Diocaretz, Secretary General, European Writers' Congress (EWC), Brussels

Ms. Carola Streul, Secretary General, European Visual Artists (EVA), Brussels

Ms. Olga Martin Sancho, Legal Advisor, Federation of European Publishers (FEP), Brussels

**Friday, May 23, 2008**

**9.00 – 10.30 Theme IV Collective Management of Reproduction Rights – National Experience**

Reprography and Private Copying in Romania

Speaker:

Mr. Ionescu Mircea Felix Melimesti, Lawyer & Ms. Guiu Rodica, Jurist, COPYRO

Reprography and Private Copying in Bulgaria

Speaker:

The representative of BULREPRO&COPY, Sofia

The Role of IFRRO – the International Body in the Field of Reprography

Speaker: Mr. Olav Stokkmo, Chief Executive Officer, IFRRO

Discussion

**10.30 – 10.45 Coffee Break**

**10.45 – 12.00 Theme V Current Status and Future Needs in Establishment of RROs**

How Can Governments Sustain Copyright Management Organizations (CMOs) and Their Activities?

Speaker:

The representative from the Bulgarian Government/ Intellectual Property Office, Sofia

Current Status and Future Needs for RROs in the Countries Present

Speakers:

The representatives of all countries present

Discussion

**12.00 – 12.30 Theme VI Management of Rights in the Digital Environment: International Issues and Trends**

Speaker:

The representative of WIPO

**12.30 – 13.00 Management of Rights in the Digital Environment: European Issues and Trends**

**i2010 the European Commission Digital Libraries Initiative**

Speaker:

Mr. Olav Stokkmo, Chief Executive Officer, IFRRO

**13.00 CLOSING CEREMONY**

**A4.2 Taiwan, 2 July 2007 Seminar on Operating a Collective Management Organizations of Oral and literary Works**

## Agenda

July 2

Time	Issues	Chair/Speaker
09 00 – 09 30	Registration	
09 30 – 09 40	Opening Speech	Chair
09 40 – 10 10	Rationale for Collective Copyright Management of Reprographic Reproduction. Different Models of Operation	IFRRO representative
10 10 – 10 40	The International Role of IFRRO and Collective Copyright Management in the Print Media in the Asia Pacific Region	IFRRO representative
10 40 – 11 00	Tea Break	
11 00 – 12 00	Successful Practices in Operating an RRO: Membership and Mandating	IFRRO representative
12 00 – 14 00	Lunch	
14 00 – 14 45	Successful Practices in Operating an RRO: Licensing and Monitoring	IFRRO representative
14 45 – 15 30	Successful Practices in Operating an RRO: Revenue distribution	IFRRO representative
15 30 – 15 40	Tea Break	
15 40 – 16 10	Administration of Copyright in the Digital Environment	IFRRO representative
16 10 – 16 40	Business Plan of COLCIA	COLCIA representative
16 40 – 17 30	Open Discussion	Chair, Speakers and Audience

### **A4.3 Bulgaria, 3-4 October 2007, WIPO–IFRRO–CISAC NATIONAL CONFERENCE**

wipo–ifrro–cisac  
national conference on copyright and related rights and collective management of rights

organized by  
the World Intellectual Property Organization (WIPO)

in cooperation with  
the International Federation of Reproduction Rights Organisations (IFRRO),  
the International Confederation of Societies of Authors and Composers (CISAC),  
and the Ministry of Culture of the Republic of Bulgaria

**Sofia, October 3 and 4, 2007**

**Provisional Program**  
*prepared by the International Bureau of WIPO*

**Wednesday, October 3, 2007**

**9.00 – 9.30 Registration**

**9.30 – 10.00 OPENING CEREMONY**

Welcome addresses by:

The representative of the Government of Bulgaria, Sofia

The representative of the International Federation of Reproduction Rights Organisations (IFRRO), Brussels

The representative of the International Confederation of Societies of Authors and Composers (CISAC), Paris

The representative of the World Intellectual Property Organization (WIPO), Geneva

**10.00 – 10.30 Coffee Break**

**10.30 – 11.00 The Economic Contribution of Copyright-based Industries in Bulgaria**

Speaker:  
from the Government of Bulgaria / Ministry of Culture of Bulgaria

**Theme One: Copyright Conventions and Legislation**

**11.00 – 11.30 International Conventions in the Field of Copyright and Related Rights and Recent Developments. Exceptions and Limitations under the International Conventions**

Speaker:  
Miss Carole Croella, Counsellor, Copyright Law Division, WIPO, Geneva

**11.30 – 12.00 The Bulgarian Copyright and Related Rights Legislation, its Exceptions and Limitations**

Speaker:  
from the Government of Bulgaria / Ministry of Culture of Bulgaria

**12.00 – 12.30 Discussion**

**12.30 – 14.00 Lunch**

**Theme Two: Collective Management of Rights – General**

**14.00 – 14.30 The Establishment, Functioning and Importance of Collective Management of Rights**

Speaker:

Mr. Mihály Ficsor, Chairman, Central and Eastern European Copyright Alliance (CEECA), Budapest

**14.30 – 15.00 Recent International Developments in the Copyright and Related Rights Sector**

Speaker:

Miss. Carole Croella

**15.00 – 15.30 Recent European Union Developments in the Field of Collective Management of Rights. The Position of the Small and Medium Sized Societies from Central and Eastern Europe**

Speaker:

Mr. Mitko Chatalbashev, Director of European Affairs (CISAC / BIEM), Budapest

**15.30 – 16.00 Collective Administration of Rights in Text and Image based Works in Europe**

Speaker:

Mr. Olav Stokkmo, Secretary General, IFRRO, Brussels

**16.00 – 16.15 Coffee Break**

**16.15 – 16.45 The Role of the Government of Bulgaria in Relation to the Establishment and Sustainability of Collective Management Organization in Bulgaria**

Speaker:

from the Government of Bulgaria / Ministry of Culture of Bulgaria

**16.45 – 17.15 Discussion**

**Thursday, October 4, 2007**

**Theme Three: Collective Management of Reproduction Rights**

**9.00 – 9.45 Collective Management of Reprographic Reproduction Rights: Principles, Role, Different Models of Operation**

Speaker:

Ms. Raymonde Kilpatrick, IFRRO Regional Development Representative (Europe), London

**9.45 – 11.00 Collective Management of Audio and Audio-visual Reproduction Rights (Private Copying): Principles, Role, Different Models of Operation, the French Experience**

Speaker:

Mr. Charles-Henri Lonjon, General Manager, SORECOP & COPIE FRANCE, Paris

**11.00 – 11.30 Coffee Break**

**11.30 – 12.00** *Reprography and Private Copying in Bulgaria*

Speakers:

from BULREPRO&COPY, Sofia

from COPY BG, Sofia

**12.00 – 12.30** *Discussion*

**12.30 – 14.00** *Lunch*

**Theme Four:** *Management of Rights in the Digital Environment*

**14.00 – 14.30** *Effective Management of Copyright in the Digital Economy*

Speaker:

Mr. FX Nuttal, Senior Consultant, Technology Intelligence, CISAC, Paris

**14.30 – 15.00** *Emerging Digital Technologies: New Prospects and Opportunities for Creating New Business Models*

Speaker:

Mr. Olav Stokkmo

**15.00 – 15.30** *Discussion*

**15.30 – 16.00** *Coffee Break*

**Theme Five:** *Improving Access to Works and the Administration of Rights through Exchange of Regulatory and Practical Experiences*

**16.00 – 17.00** *Panel Discussion*

Moderators:

Miss Carole Croella

Host Country Official

Panelists:

all Speakers and Participants / Delegates

**17.00** *CLOSING CEREMONY*

#### **A4.4 Moscow, 30-31 May 2007, WIPO-IFRRO NATIONAL CONFERENCE**

WIPO-IFRRO NATIONAL CONFERENCE ON  
COPYRIGHT AND RELATED RIGHTS AND  
COLLECTIVE MANAGEMENT OF REPROGRAPHIC RIGHTS

organized by  
the World Intellectual Property Organization (WIPO)

in cooperation with  
the International Federation of Reproduction Rights Organizations (IFRRO), the Russian State Institute of Intellectual Property (RGIIS), the Federal Service for Intellectual Property, Patents and Trademarks (ROSPATENT)

**Moscow, May 30 and 31, 2007**

#### **Provisional Program**

*prepared by the International Bureau of WIPO*

**Wednesday, October 3, 2007**

**9.00 – 9.30      *Registration***

**9.30 – 10.00    *OPENING CEREMONY***

Welcome addresses by:

The representative of the Government of the Russian Federation, Moscow,

Ms. Carole Croella, Counsellor, Copyright Law Division, Copyright and Related Rights Sector, World Intellectual Property Organization (WIPO), Geneva, and

The representative of the International Federation of Reproduction Rights Organizations (IFRRO), Brussels

**10.00 – 10.30    *Coffee Break***

**10.30 – 11.00    *Keynote Speeches : Protection of Copyright and Related Rights in Russia as a Basis for the Development of Cultural Industries***

Speaker:

a representative of the Russian  
Government/ROSPATENT, Moscow

**11.00 - 12.30    *Theme I: Copyright Conventions and Legislation***

International Conventions in the Field of Copyright and Related Rights and Recent Developments

Speaker:

Ms. Carole Croella

The Russian Copyright and Related Rights Legislation and its Exceptions and Limitations

Speaker:

a representative of the Russian  
Government/ROSPATENT

***Discussion***

**12.30 - 14.00 Lunch**

**14.00 - 17.00 Theme II: Collective Management of Rights – General**

The Establishment, Functioning and Importance of Collective Management of Right

Speaker:

Mr. Mihály Fiscor, Chairman, Central and Eastern European Copyright Alliance(CEECA), Budapest

The Role of the Russian Government in Relation to the Establishment and Sustainability of Collective Management Organizations in Russia

Speaker:

a representative of the Russian

Government/ROSPATENT

**15.15 – 15.45 Coffee/Tea Break**

**15.45 – 16.15 Collective Administration of Rights in different sectors in the European Union Countries**

Speaker:

a representative from IFRRO

**17.00 Discussions**

**Thursday, May 31, 2007**

**9.00 – 9.45 Theme III: Collective Management of Rights in Reprography**

Collective Management of Reprographic Reproduction Rights: Principles, Role, Different Models of Operation

Speaker:

a representative from IFRRO

**9.45 – 10.30 The Role of an RRO: Issues Relating to the Licensing, Collection and Distribution of Remuneration**

Speaker:

a representative from CopyRus

**10.30 – 11.00 Coffee/Tea Break**

**11.00 – 11.45 The Role of IFRRO: The International Body in the Field of Reprography**

Speaker:

a representative from IFRRO

**11.45 – 12.30 Theme IV: Management of Rights in the Digital Environment**

Emerging Digital Technologies: New Prospects and Opportunities for Creating New Business Models

Speaker:

Mr. Mihály Ficsor

**12.30 – 14.00 Lunch Break**

**14.00 – 15.30 Effective Management of Copyright in the Digital Networks**

Speaker:

a representative from IFRRO

**15.30 – 16.00 Coffee/Tea Break**

**16.00 – 17.30 Theme V Panel Discussion: Improving Access to works and the Administration of Rights**

### **through Exchange of Regulatory and Practical Experiences**

Moderator:

a WIPO official and a representative of  
the host country

Panelists:

All speakers and participants

### **17.30 Closing Ceremony**

## **Annex 5 Examples of Workshop programmes**

### **A5.1 Philippines 2-6 September 2005**

#### **Symposium: Can a Reproduction Rights Organization (RRO) Curb Illegal Photocopying in the Philippines?**

**September 2, 2005**

- 1:00 - 1:30**      **Registration**
- 1:30 – 1:45**      **Welcome and Presentation of Symposium Objectives**  
by Dr. Micheline Intia-Manalastas, PRRO Chair
- 1:45 - 2:00**      **Opening Remarks by Dr. Dennis T. Gonzalez, NBDB Chairman**
- 2:00 - 3:00**      **“Why do we need a Collective Copyright Management Organization? International Framework, Outline of Different Models and Collective Copyright Management in the Asia Pacific Region “**  
by Olav Stokkmo, IFRRO Secretary General
- 3:00- 3:45**      **Legal Bases for a National RRO or a Collective Management Society by Ms. Carmel Peralta, Director, Intellectual Property Office**
- 3:45 - 4:00**      **Open Forum**
- 4:00 - 4:30**      **Snacks**
- 4:30 - 5:00**      **Awarding of Certificates and Closing Ceremonies**

### **2-Day Seminar on Operating a Reproduction Rights Organization**

**September 5 Day 1**

- 7:30 – 8:30**      **Registration / Room Assignments**
- 8:30 – 8:45**      **Briefing / Orientation of House Rules**
- 8:45 – 9:15**      **Welcome and Presentation of Seminar Objectives/Expectation Check**
- 9:15 – 10:00**      **Legal Bases and Role of a National RRO or Collective Management Society by Ms. Carmen G. Peralta, Director Intellectual Property Office**
- 10:00 - 10:15**      **Snacks**

- 10:15-10:45** *“Rationale for Collective Copyright Management, International Framework, Different Models” by Mr. Olav Stokkmo, IFRRO Secretary General.*
- 10:45 – 11:15** *“IFRRO and Its International Role” by Mr. Olav Stokkmo, IFRRO Secretary General*
- 11:15 – 11:45** *“Operating a National RRO: Case Study of Copyright Licensing and Administration Society of Singapore” by Mr. Paul Wee. CEO, CLASS*
- 12:00 – 1:00** *Lunch*
- 1:00 – 2:30** *Illegal Photocopying and Book Piracy in the Philippines and its Effects to the Local Book Industry with inputs from (1) Philippine Educational Publishers Association (PEPA), (2) Book Development Association of the Philippines (BDAP), (3) Publishers’ Representative Organization of the Philippines (PROP)*
- 2:30 – 4:00** *Successful Practices in Operating an RRO: Membership, Licensing, Monitoring and Revenue distribution under a voluntary licensing model by Ms. Karen Pitt, Corporate Counsel, Copyright Australia Limited*
- 4:00 – 4:30** *Snacks*
- 4:30 - 5:30** *Open Forum*
- 5:30 - 6:30** *Workshop: Preparation of Business Plan for 2005-2010 (Format on the business plan shall be provided)*
- 6:30 – 7:30** *Dinner*
- 7:30 – 8:00** *What is PRRO? What are its services or programs? Who are its target clients? by Dr. Micheline Intia-Manalastas, PRRO Chair*
- 8:00 – 8:30** *Experiential Sharing on the Effects of Book Piracy and Illegal Photocopying on their businesses and what they can do to help PRRO?*
- 8:30-10:00** *Briefing and Business Plan Preparation by Groups*
- September 6 Day 2**
- 7:00 – 8:00** *Breakfast*
- 8:30 - 10:00** *Presentation and Discussion of Business Plans*
- 10:00 - 10:30** *Snacks*
- 10:30 -12:30** *Continuation of Presentation*
- 12:30 – 1:30** *Lunch*
- 1:30 – 2:30** *Continuation of Presentation and/or Evaluation by IFRRO Resource persons of three (3) business plans presented*
- 2:00 - 4:00** *Recap of the 2-day Seminar and Open Forum*
- 4:00 - 4:15** *Snacks*
- 4:15 - 5:00** *Brief Message from Dr. Dennis T. Gonzalez, NBDB Chair  
Distribution of Certificates by IFRRO, PRRO and NBDB Representatives. Closing Speech by Ms.*

**Breezy Santiago, PRRO Vice-Chairman**

**5:00 - 6:00 Fellowship Dinner  
Check out**

## **A5.2 Yaoundé, 1 – 3 July 2008**

ATELIER DE TRAVAIL OMPI/IFRRO SUR LA GESTION DES DROITS DE REPROGRAPHIE POUR DES RESPONSABLES  
DU BÉNIN, BURKINA FASO, CAMEROUN, MADAGASCAR ET DE L'ÎLE MAURICE

organisé par

l'Organisation Mondiale de la Propriété Intellectuelle (OMPI)

en coopération avec

la Fédération internationale des organisations de droit de reprographie (IFRRO)

**Yaoundé, 1 – 3 juillet 2008**

**Mardi 1 juillet 2008**

**8 h 30 Ouverture de l'Atelier**

9 h 00 – 9 h 30 Rapport sur la situation en matière de reprographie : Burkina Faso

Orateur :

Le représentant du Bureau Burkinabé du droit d'auteur (BBDA), Ouagadougou

**9 h 30 – 10 h 00 Rapport sur la situation en matière de reprographie : Bénin**

Orateur :

Le représentant du Bureau béninois du droit d'auteur (BUBEDRA), Cotonou

**10 h 00 – 10 h 30 Pause café**

**10 h 30 – 11 h 00 Rapport sur la situation en matière de reprographie : Île Maurice**

Orateur :

Le représentant de la Société mauricienne des auteurs (MASA), Quatre bornes, Île Maurice

11 h 00 – 11 h 30 Rapport sur la situation en matière de reprographie : Madagascar

Orateur :

Le représentant de l'Office malgache du droit d'auteur (OMDA), Antananarivo

**11 h 30 – 12 h 00 Rapport sur la situation en matière de reprographie : Cameroun**

Orateur :

Le représentant de la Société civile des droits de la littérature et des arts dramatiques (SOCILADRA), Yaoundé

**12 h 00 – 12 h 30 Les principes juridiques fondamentaux applicables au droit de reproduction  
reprographique**

Orateur :

M. Mesmer L. Gueyou, Paris

**12 h 30 – 13 h 00 débat**

**13 h 00 – 14 h 30 Pause déjeuner**

**14 h 30 – 15 h 00**      **Les trois modèles principaux de gestion des droits de reproduction reprographique**

Orateur :

M. Olav Stokkmo, Directeur Exécutif, IFRRO

**15 h 00 – 16 h 15**      **Table ronde : L'application des trois modèles principaux de gestion (licence collective volontaire ; licence collective fondée sur la législation ; licence prescrite par la loi y compris perception sur les machines reprographiques) aux pays présents**

Orateurs :

BBDA, BUBEDRA, MASA, OMDA, SOCILADRA

**16 h 15 – 17 h 00**      **débat**

**17 h 00**                      **Suspension**

**Mercredi 2 juillet 2008**

**8 h 30 – 10 h 30**      **Stratégies pour recevoir des mandats des ayants-droit**

Orateurs :

Mme. Hélène Messier, Directrice Générale, COPIBEC (Canada)  
SOCILADRA

**10 h 30 – 11 h 00**      **Pause-café**

**11 h 00 – 13 h 00**      **Les redevables et perception sur les machines. Stratégies et application**

Orateurs :

M. Alexander Wybo, Directeur juridique, Repobel (Belgique)  
BBDA

**13 h 00 – 14 h 30**      **Pause déjeuner**

**14 h 30 – 16 h 00**      **Conclusion d'accords avec les grands utilisateurs, tarifs et perception des droits**

Orateurs :

Mme. Hélène Messier, COPIBEC  
MASA  
BBDA

**16 h 00 – 17 h 00**      **débat**

**17 h 00**                      **Suspension**

**Jeudi 3 juillet 2008**

**8 h 30 – 10 h 00** **Les études statistiques et la répartition des droits perçus**

- l'expérience canadienne, Mme. Hélène Messier, COPIBEC
- l'expérience belge, Alexander Wybo, Repobel

**10 h 00 – 10 h 30**      **Pause-café**

**10 h 30 – 12 h 30**      **Mettre en application un système de gestion des droits reprographiques**

Orateurs :

BUBEDRA

SOCILADRA

Alexander Wybo, Reprobel

Mme. Hélène Messier, COPIBEC

**12 h 30 – 13 h 00**      **débat**

**13 h 00 – 14 h 30**      **Pause déjeuner**

**14 h 30 – 15 h 30**      **Le rôle de l'IFRRO, les droits des détenteurs des droits étrangers**

IFRRO et les accords bilatéraux

Orateur :

M. Olav Stokkmo, IFRRO

**15 h 30 – 15 h 45**      **Pause**

**15 h 45 – 17 h 00**      **Table ronde :**

- Récapitulation, question et réponse
- Évaluation du stage
- Évaluation des besoins
- Prochaines étapes
- Maintenir le réseau établi

**17 h 00**      **Cérémonie de clôture**

### **A5.3**    **Montevideo, 25-27 April 2005**

Practical workshop with RROs from Ibero-America

#### **Monday 25 April**

**9:00 – 9:30**

**Opening**

**9:30-9:45**

**Introduction and presentation of the methodology by Monica Torres (CERLALC)**

**9:45-10:45**

**Types of Licences and their use by Franziska Schulze (IFRRO)**

**10:45-11:00**

**Coffee Break**

**11:00-12:30**

**Experiences with licensing in the educational, public and private sector, questions and answers by Des Brennan (CLA)**

**12:30-14:00**

**Lunch Break**

**14:00-17:00**

**First Round: Mock Negotiations with Universities**

**17:00-17:30**

**Evaluation First Round**

#### **Tuesday 26 April**

<b>9:30-10:30</b>	<b><i>Digital Licensing by Marta Malmierca (CEDRO)</i></b>
<b>10:30-11:00</b>	<b><i>Coffee Break</i></b>
<b>11:00-12:30</b>	<b><i>Negotiation Strategies for licences by Marta Malmierca (CEDRO)</i></b>
<b>12:30-14:00</b>	<b><i>Lunch Break</i></b>
<b>14:00-17:00</b>	<b><i>Second Round: Mock Negotiations with copyshops</i></b>
<b>17:00-17:30</b>	<b><i>Evaluation Second Round</i></b>

**Wednesday 27 April**

<b>9:00-12:00</b>	<b><i>Third Round: Mock Negotiation with private enterprise</i></b>
<b>12:00-12:30</b>	<b><i>Evaluation Third Round</i></b>
<b>12:30-13:00</b>	<b><i>Discussion and conclusions</i></b>

Methodology:

Each Mock Negotiation Round will take three hours and will have the following structure:

1. A case study will be handed out and first questions clarified (15 min)
2. The plenum will be split into three groups (of 2-3 members each). Each group will be assigned a role (rightsholder, RRO or user) and retire into a different room to prepare a mock negotiation in front of the plenum. Every group will get to play every stakeholder in a different round. (45 min)
3. Mock negotiations by each of the three groups (90 min)
4. The rest of the group will give each group feedback on the presentation and draw conclusions on negotiation strategies (30 min)

Each workshop will deal with the following items:

Defining the terms and conditions of the licence  
 Defining tariffs  
 Collection and Distribution  
 Digital uses

## Annex 6 Resource Materials and Persons

### A6.1 Resource material

The following material is accessible from the IFRRO website (<http://www.ifrro.org/show.aspx?pageid=library/publications&culture=en>) or from the IFRRO Secretariat.

- Collective Administration (1997)
- Reprographic Reproduction (1997)
- RROs and IFRRO (1997)
- Emergent RROs (1997)
- Distribution of Remuneration (1998)
- IFRRO Manual on how to establish an RRO
- Art of Copying
- Collective Management in Reprography
- IFRRO Members Directory (apply to IFRRO Secretariat)

### A6.2 Resource Persons

The following persons are useful contacts:

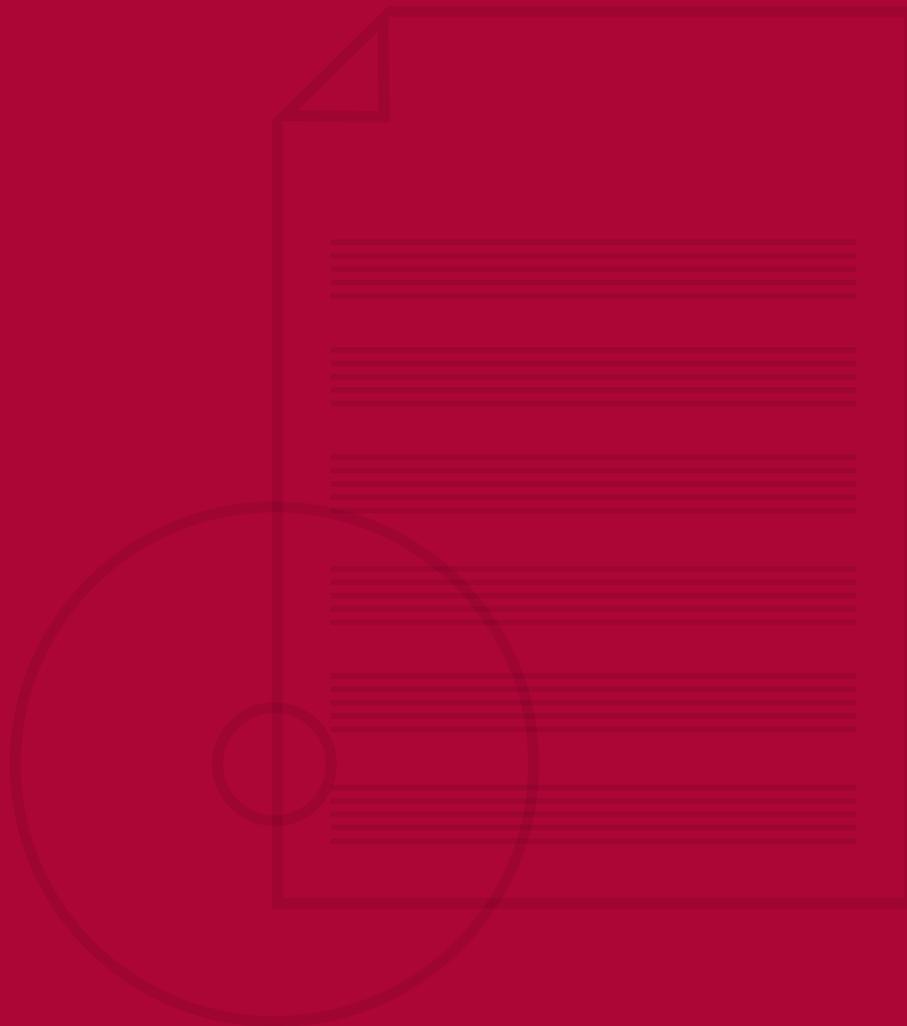
- IFRRO Secretariat – contact [secretariat@ifrro.org](mailto:secretariat@ifrro.org)
- Regional Development Representatives reporting to the IFRRO CEO – contact [secretariat@ifrro.org](mailto:secretariat@ifrro.org)
- Regional Committees Chairs and members. The current members are listed on the IFRRO website under Activities,
- Regional Development:
  - Asia Pacific
  - Latin America and the Caribbean
  - Africa and the Middle East
  - Europe

## Notes

## Notes

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