



## Collective Administration of Rights in Text and Image based Works

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*Beograd, 16<sup>th</sup> September 2009*

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## Creative Industries in Europe

- *5.3 % of GDP*
- *3.1 % of work force*
  
- *Software and Database*                      *1.35 %*
- *Print media*                                      *1.07 %*
  
- *(Radio, film, TV*    *0.41 %*
- *Music*    *0.06 %)*

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## Book Publishing

### *Driving force*

- *Textbook publishing*
- *Scholarly publishing*
  - *Canada 37%*
  - *Finland 35%*
  - *Ireland 31%*

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## Creators and Investor

- Authors of literary and artistic works
- Natural persons (authors) create works
- Publishers and producers invest in works
- All have rights based on copyright legislation

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## Creators Legislators Users

- How does (copyright) **legislation** protect the rights of creators?
- How are copyright rights **enforced** and **managed**?
- How can people enjoy of products and services protected by copyright?

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## Rights Management

- Individually
- Publisher/producer
- Intermediary
  - clearing house, agent
- Collective management organizations
  - Music, literature, audiovisual, visual

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## Collective Licence compliments Individual Licence

- Individual licence whenever possible
- Collective licence when individual licensing is
  - Impossible
  - Impracticable
  - Insufficient
- Many to Many = Collective licence
- **Clearly Defined Rights**
- **Proven Advantages**
- Agents

RRO licence **complements** Publisher's licence

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## Collective Management

- *Monitoring the use of works*
- *Negotiating with the users*
- *Giving Licences*
  - *Against appropriate fees*
  - *Under good conditions*
- *Collecting the fees*
- *Distributing the fees to rights owners*

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## IFRRO Core Values

### IFRRO

- allows creators and publishers to determine how their work shall be administered
- encourages the establishment of RROs
- is the leading international information provider on administration of reproduction rights
- provide opportunities for rights holders in the print media to meet and collaborate
- deploys the highest ethical standard in its work

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## Text & Image based Works Collective Administration

- Resale Rights
- Certain Primary Uses of Visual material
- Dramatic Works
- Public Lending Rights (PLR)
- Resale Rights
- Private Copying
- Reprography

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## Printed Material

- Publication of books and journals
  - Agreement author-translator/publisher
- Copying of whole publications
  - Piracy/enforcement
- Photocopying of chapters/articles
  - Collective management

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## Groups of Rightsowners

- Authors of fiction and non-fiction
- Journalists
- Translators
- Visual artists and photographers
- Composers and lyricists
- Publishers of books, periodicals, magazines, newspapers, sheet music

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## Reprographic Copying

- Copying on paper or similar medium
- Massive scale in education, administration, business
- Collective management organizations, called RROs (Reproduction Rights Organizations)
- Members of IFRRO (the International Federation of Reproduction Rights Organisations)

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## Reprography

- ***any reproduction on a graphic surface***

 ***photocopies***

 ***faxes***

 ***printouts***

 ***digitisation***

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## Reprography – legitimate use

- *Small parts*
- *Internal use*
- *Personal use*
- *Non commercial use*
  
- *Example: Student's need for a chapter of a book*

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## Berne Convention art. 9.1

### © Exclusive right

- *Granted to the author to*
  - ✓ *reproduce*
  - ✓ *authorise reproduction*
  
- *in any manner or form*

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## Berne Convention art. 9.2 - Limitations to exclusive right

- *may be made*
  
- © *In certain special cases*
- © *If not in conflict with normal exploitation*
- © *If no prejudice to legitimate interest of the rightsholder*
  
- *Cumulative*

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## © Exclusive right and Limitations

- ✓ *Berne Convention Art. 9*
- ✓ *TRIPs Article 13*
- ✓ *WCT Article 10*
  
- *EUROPEAN UNION DIRECTIVE Art 5*
  - *Limitation to exclusive right provided that rights holders receive fair compensation*

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## RRO – licensing Education

- ***Nearly all RROs licence education***
  - ***Most started by licensing schools***
    - *100 mill. EUR*
    - *+ Levies*
    - *High share of total revenues*
    - *25-40 %*
    - *For 12 % of RROs it represents > 50%*
- ***Blanket licences***
- ***Legislative support***

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## Berne Convention art. 9.2 – Copying in education

- Netherlands/Switzerland/Singapore/Australia***  
***a***
- ***© Statutory license***
- UK/Ireland/Hong Kong/Jamaica/Mauritius***
- ***© If a licence not offered***

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Go raibh máith agat

Thank you

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# Collective Management of Reprographic Reproduction Rights

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## Principles and Different Models of Operation

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## Role of Collective Rights Management Organisations

- To facilitate legal access to copyright works, and*
- To protect and remunerate the rights owners*

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## RRO – key facets of the work

- *Copyright awareness*
- *Copyright enforcement*
- *Licence users – Provide legal access to copyright works*

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## RRO – The Mandate

- *Reprography*
- *Digitisation / Intranets*
- *Foreign works*
  - *Bilateral agreements with other RROs*

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## RRO - Licensing

- *Blanket licence*
  - *Preauthorisation*
  - *Unified set of conditions*
  - *Reporting by users*
- *Transactional licence*

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## The Agreement – Basic Elements

- *Provide users with*
  - *Reasonable access*
  - *Cost efficient ways to pay for the copies*
  - *Conditions*
    - ▣ *Portion of the work 15%/25 pages/a chapter*
    - ▣ *Personal use*
    - ▣ *Internal use*

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## The Agreement - Revenues

- *Reprographic levies*

### *WHEN LICENSED*

- *A*
  - *Price per Page x Number of pages*
- *B*
  - *Price per student/employee*

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## Distribution

- *Distribution scheme by rightsholders*
- *Authors and publishers*
- *Members and non-members*
- *Different methods*

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## Licensing Areas

- *Education – at all levels*
- *Public Administration*
- *Trade and Industry*
- *Public and Research Libraries*
- *Copy Shops*

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## Different Legal Regimes

- **Voluntary Licensing**
  - *completely voluntary*
  - *back-up systems in legislation*
- **Non Voluntary Schemes**
  - *legal licence*
- **Private Copying Compensation**
- **Free Uses**
  - *fair use / fair dealing*

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## Different Models of RROs in practice

- **Voluntary licence**
- *Luxembourg, Malta, Russia*
- *UK and Ireland (obligation to take up licence)*
- **Voluntary licence with legislative support**
- *Extended collective licence; the Nordic countries*
- *Obligatory collective management; France, Estonia*
- **Non-voluntary licence**
- *Legal license; Italy, Netherlands, Switzerland, Australia*
- *Private copying compensation (Levies)*
- *Bulgaria, Czech Republic, Greece, Latvia, Lithuania, Poland, Romania, Slovakia, Spain*
- *Austria, Belgium, Germany, Hungary, Portugal, Slovenia*

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## Voluntary Licensing

- *Completely Voluntary – USA*
- *Legislation Encourages – UK, Ireland*
  - *Representation through mandates*
  - *Different Licensing methods*
  - *Repertory and transactional licences*
  - *Analogue and digital uses*

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## Voluntary Licensing with a Back Up System

- *Extended Collective Licence*
- *In all Nordic Countries*
- *Reprography, cable distribution ...*
  - *good representation needed*
  - *different licensing methods*
  - *different distribution methods*

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## Voluntary Licensing with a Back Up System

- *Obligatory Collective Management*
- *Introduced in France in 1995*

*- management of rights is voluntary*  
*- rights owners are legally obliged to make claims only through a collective management organisation*

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## Legal Licences

- *Compulsory licence/statutory licence*
- *No permission, but remuneration*

*The Netherlands – education & government*

*Australia – educational institutions*

*Switzerland – all areas*

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## Legal Licence – Levy System

- *All kinds of copying need a licence*
- *Legal licence for private (and personal) uses*
  
- *Germany since 1985*
- *Equipment levy and operators' fee*
- *Photocopying machines, fax machines, scanners*

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## Which Model to Choose

- *The answer is based on your legislation*
- *National circumstances play an important role*
- *All options support national rights holders*
- *They all give incentive to write and to publish*

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## European RROs – Main Models

- **Voluntary licence (4)**
  - UK, Ireland, Luxembourg, Malta
  
- **Voluntary licence with legislative support (10)**
  - Nordic countries (including Faeroe Islands and Sapmi), Estonia, France, Russia
  
- **Non-Voluntary licence (18)**
  - Italy, Netherlands, Switzerland
  - **Bulgaria, Czech Republic, Greece, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Spain**
  - **Austria, Belgium, Germany, Hungary, Slovenia (+Serbia)**

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## Countries with RROs

<i>Asia/Oceania</i>	<i>America</i>	<i>LatAm./Caribbean</i>	<i>Africa</i>
Australia	USA	Argentina	Benin*
New Zealand	Canada	Brazil	Burkina Faso
Hong Kong		Chile	Cameroon
Japan		Colombia	Ghana
Korea		Costa Rica*	Kenya
Singapore		Ecuador*	Malawi
India		Mexico	Mauritius
Malaysia*		Peru*	Namibia*
Philippines		Uruguay	Nigeria
Taiwan			South Africa
Jamaica			Zimbabwe
Trinidad/Tobago			
Barbados			

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## Countries with RROs - Europe

Austria	Belgium	Bulgaria	Czech Republic
Denmark	Estonia*	Finland	Faeroe Islands
France	Germany	Greece	Hungary
Ireland	Iceland	Italy	Latvia*
Lithuania	Luxembourg	Netherlands	Norway
Poland	Portugal	Romania	
Russia	Sapmi	Slovakia	Slovenia
Spain	Switzerland	Sweden	UK

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## IFRRO Membership Categories

- RRO Members (56)
  - Collective Management Organisations
    - Represent both authors and publishers
    - Mandated to license reprography
  
- Associate Members (61)
  - CMO representing authors or publishers (13)
  - Authors' associations
  - Publishers' associations

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## IFRRO Main Goals

- **Increase copyright awareness**
  - Co-operation with
    - WIPO and UNESCO
  - **Foster establishment of RROs**
  - Regional Committees
    - European Development Committee
    - Asia Pacific
    - Africa and the Middle East
    - Latin America and the Caribbean
  - **Facilitate reciprocal contact and agreements**

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## IFRRO Main Goals

- **Facilitate bilateral contact/agreements**
  - Technical Working groups
    - Musical Works
    - Technical Standards Committee
    - Newspapers and similar publications
    - Visual Material
    - Legal Issues
  - Equipment Levy Forum
  - Digital Issues Forum
  - Business Models Task Force
  - Standard Model Agreements

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