

ONLINE®

Clearing Rights

COLLECTIVE LICENSING AROUND THE WORLD

by Victoriano Colodrón



Information sharing is vital for every type of organization. Increasingly, that's happening across national boundaries. Cross-border, or multi-territorial, use of copyrighted works poses specific compliance-related challenges to educational institutions, businesses, and other types of organizations. Rights licensing that allows people to use and share content from journals, books, newspapers, and other published materials varies from one country to the next. The purpose of this article is to shed some light on how copyright collective management organizations (CMOs) work with regards to textual and image-based materials. How do they address the complexities of differing copyright systems around the world? In addition, I will provide some guidance to information specialists who are responsible for licensing in a multi-territorial environment.

Let's begin with some definitions. In a collective licensing system, rights from many rightsholders are aggregated and available for content users through a single licensing organization. These CMOs typically license content on behalf of publishers, authors, and other rightsholders,

providing licenses to share material from many different publications in many different ways. CMOs collect royalties from content users and then distribute those royalties back to rightsholders, something that can be surprisingly complicated.

REPRODUCTIVE RIGHTS

CMOs specialize in licensing different types of works for different rightsholders. In the field of textual and image-based works, these organizations are known as reproduction rights organizations (RROs). These rights brokers license secondary or reuse rights, for example, to photocopy or email copyrighted material to share with colleagues, students, or other contacts. The content may come from a variety of print and electronic information sources, which can include sheet music and visual content such as photographs and illustrations.

RROs help academic, government, corporate, and other kinds of content users comply with copyright laws when reusing published material. They offer a single access point to massive collections of rights, giving users a more efficient way to clear permissions than pursuing rights on their own from thousands of individual

rightsholders. Rightsholders often turn to RROs to serve as a licensing channel for clearing rights they find too difficult to license themselves. They also benefit from the revenue RROs generate for them.

INTERNATIONAL ASPECTS OF RIGHTS

There are currently RROs located in about 70 countries. They vary in terms of their stages of development and their service options. Most RROs are members of the International Federation of Reproduction Rights Organisations (IFRRO, www.ifrro.org). How do all these organizations across the world operate? What are their collective licenses like? Operational models differ among RROs and are often configured to correlate with national copyright legislation. IFRRO categorizes the three basic types or "families" of RROs:

- Fully voluntary model
- Voluntary with legislative support model
- Legal license model

In fully voluntary systems, both rightsholders and content users opt in to participate. In other words, they can decide

whether or not to work with the RRO. Rightsholders do not have any legal obligation to mandate the RRO to license their content on their behalf, and users are not obliged by law to clear copyright permissions from that RRO.

Within this category, there are basically two kinds of licenses: general repertory licenses and transactional or “pay per use” permissions. Repertory licenses give licensees the rights to share content from many publications in multiple ways. Pay-per-use permissions allow for a specific use of a single work. Copyright Clearance Center in the U.S. is an example of an RRO with fully voluntary licensing solutions.

In some countries, RROs run partial voluntary licensing operations with some kind of specific legislative support. The legal framework gives RROs the right to issue licenses for the use of all content, including foreign works, even without the mandate of rightsholders. In these cases, content users participate voluntarily, but rightsholders do not. They may actually have to opt out of the license. An example of this system is the so-called Nordic model of the extended collective license in Norway (Kopinor), Denmark (Copydan Writing), Sweden (Bonus Presskopia), and Finland (Kopiosto).

Finally, legal licenses are those that are given by law and usually cover specific types of content use and users, such as educators. In this type of agreement, rightsholder consent is not required to allow use of their works within the legally established scope. The works of all rightsholders, usually including foreign ones, are covered by the license. Content users also have no choice. They must pay without the chance to opt out. In some cases, even the license fees are set by law. For example, Australian RRO Copyright Agency Ltd. operates a statutory system for the educational and government sectors.

Other countries have a legally established remuneration for rightsholders for the private copying of their works. The remuneration comes from an “equipment levy” imposed on certain devices and media that allow for the reproduction of works and/or from an “operator levy” payable by institutions making large vol-

Bibliography

International Federation of Reproduction Rights Organisations (IFRRO). Collective Management Presentation, at www.ifrro.org/content/education-0.

International Federation of Reproduction Rights Organisations (IFRRO). Collective Management in Reprography, (www.ifrro.org/sites/default/files/wipo_ifrro_collective_management_1.pdf; also available in Spanish, French, Russian, Chinese, Arabic and in an accessible version for the visually impaired from www.ifrro.org/content/booklets).

Victoriano Colodrón. “Copyright Compliance in Private Companies: Challenges and Solutions” at *WIPO* magazine, 3/2011, June 2011 (www.wipo.int/wipo_magazine/en/2011/03/article_0007.html).

Daniel Gervais, ed. *Collective Management of Copyright and Related Rights*. Kluwer Law International, 2010.

umes of copies. Systems of this kind are run by VG WORT in Germany, Reprobel in Belgium, OSDEL in Greece, and the RROs of other European countries.

Some RROs offer a combination of features from the three aforementioned licensing models. For example, CFC in France operates a compulsory licensing system through a legal mandate for photocopying in the business sector, but its licensing model for digital content uses in that sector is fully voluntary. In Spain, CEDRO collects an equipment levy for private copying and runs a voluntary licensing system for other types of content sharing.

PRACTICALITIES OF COMPLIANCE

The reality of vastly different licensing models from one country to the next has important practical implications for organizations with employees who need to share text content throughout multiple countries and across borders. For multinational or multi-territorial companies trying to ensure compliance with applicable copyright laws, here are a few important details to consider.

Not all licenses are created equal. RROs can vary significantly in terms of the content usage rights they offer, the markets they serve, and the licensing models they implement. For example, some RROs may offer copyright permissions only for photocopying privileges and not for digital uses, such as email. Some only provide licenses for academic institutions, while others license academic and business organizations. It all depends on local laws and the level of rightsholder participation.

Companies looking for multinational licensing should also check the breadth and depth of a license’s repertory. This can get complicated. Does the license offer consistent content usage rights for all the materials covered? This may not always be the case.

Businesses should also check the geographic scope of a license. This is crucial for organizations that need to use content in several countries and from country to country. Some RROs license content for use within national boundaries. Other licenses allow content sharing across organizations around the world. For example, the Multinational Copyright License offered by Copyright Clearance Center (www.copyright.com) and its subsidiary RightsDirect (www.rightsdirect.com) gives organizations the rights to share content from a range of information sources through photocopy, email, and intranets, in the country where the license is purchased, as well as across borders.

The significant differences between collective licensing models around the world are only one aspect of the complexities of global copyright. RROs deliver services that result in increased efficiencies for content users. To make the most of them, it is important for information specialists dealing with rights clearance to know the different models in place and assess the relevance of the licenses that RROs offer.

Victoriano Colodrón (vcodron@rightsdirect.com) is executive director of RightsDirect/Copyright Clearance Center.
Comments? Email the editor (marydee@xmission.com).