

# Roundtable discussion

Practice and challenges for national and regional educational licensing of schools and universities in the Caribbean region

**BECLA**

Belize Copyright Licensing Agency

**•B©OPY•**

THE BARBADOS COPYRIGHT AGENCY Inc.

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Trinidad and Tobago Reprographic Rights Organisation



## WEBINAR

### Webinar on educational licensing for the Caribbean region

organized by

the World Intellectual Property Organization (WIPO)

the Intellectual Property Office of Jamaica (JIPO)

the Intellectual Property Office of Trinidad and Tobago (TTIPO)

the International Federation of Reproduction Rights Organisations (IFRRO)

Virtual, March 21, 2021 (Port of Spain time)

# BEOLA

Belize Copyright Licensing Agency



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Belize Copyright Licensing Agency

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# Educational Licensing in Belize

Felene M. Cayetano • 21.03.2022  
Belize Copyright Licensing Agency (BECLA)

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Belize Copyright Licensing Agency

# Background

Copyright Act (Chapter 252, Revised edition 2000) Part VII includes provisions for Copyright Licensing schemes and licensing bodies such as Belize Copyright Licensing Agency (BECLA). BECLA was established in 2011.

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Belize Copyright Licensing Agency

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## Progress

BECLA's mission is to protect and remunerate owners of copyrighted works by establishing legal access through a comprehensive system of licences to key sectors of the community, including primary and secondary educational institutions; post-secondary educational institutions; the Government of Belize, copy shops and private corporations.

### Accomplishments

- Book Week 2009- 2021 Annual copyright presentations in honor of World Book and Copyright Day
  - Membership of 5 publishers, 1 photographer, 1 graphic designer, 16 authors.
  - Collaborations with Belize Intellectual Property Office (BELIPO) for public awareness sessions.
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Belize Copyright Licensing Agency

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## Challenges

- **Belizeans have a low appreciation for intellectual property.**
  - **BECLA engagement at the Board level has been inconsistent.**
  - **The prevalence of photocopied machines in primary and secondary schools, where entire textbooks and resource materials are photocopied and sometimes even sold.**
  - **The distribution of books on PDF format on memory sticks, mostly at tertiary institutions, sometimes by lecturers.**
  - **Impunity from the law. With all of the infringement that has taken place and continues to take place there has been no landmark case pertaining to copyright infringement in Belize.**
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Belize Copyright Licensing Agency

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## **(ii) Receptivity of institutional leadership and librarians**

The Belize National Library Service and Information System, the National Institute of Culture and History are two of the 5 publisher members of BECLA. Despite this awareness and therefore, advocacy is low within these organizations as it relates to licensing. Since 2009, during an annual book fair members have attended small group copyright presentations along with occasional larger intellectual property sessions.

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### **(iii) Negotiating of licence**

Belize has not been successful in negotiating any type of licence.

The closest we have come is in 2013. BECLA President and JAMCOPY General Manager met with administrators at two tertiary-level institutions. The educators and administrators attended BECLA's presentations to students prior or after the meeting, yet, did not agree to start licensing.

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Belize Copyright Licensing Agency

# Conclusion

Regional licensing through CARROSA is the solution to licensing locally, meanwhile

1. Equip current, and attract new, Board members to assist with advocacy and public awareness
2. Set the example for licensing compliance
3. Generate the funds needed to establish and maintain a consistent local presence for CARROSA in Belize.

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# BCOPY

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# BCOPY Licensing with Cave Hill Campus



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- The license was agreed on October 28, 2019
- We received payment from Cave Hill backdated for four years
- Total sum received was \$ 133, 766.00 for 2015-2016, 2016-2017, 2017-2018 and 2018-2019.
- We engaged our Accountants to clear outstanding debts
- And made a distribution to active members who have been very patient.
- Additionally Cave Hill has paid fees for 2019-2020, 2020-2021

# Additional Licensing

- Since finalizing the agreement with Cave Hill Campus we have requested that our Attorneys pursue licenses with the Ministry of Education
- These licenses are intended to cover Secondary Schools and Tertiary Institutions
- Including The Barbados Community College, Samuel Jackman Prescod Polytechnic and The Barbados Institute of Management and Productivity

# Meeting with Minister of Education

- I had an informal meeting with Minister Bradshaw just before the Covid-19 Pandemic devastated normal activities
- In recent times I have been making plans to request a meeting with the new Minister since the General Elections
- However, considering the current level of economic uncertainty I am being very cautious on this matter
- But noting Government's position of positioning Culture as one of the drivers of the economy, I intend to test the sincerity of that pronouncement

# Licensing for Private Schools

- Considering that we have one important license as a critical benchmark
- We also plan to pursue licenses with Private Primary and Secondary Schools
- These organizations have already been put on notice and having received letters from their attorneys we will take this action to its logical conclusion

# Housekeeping

- Our Auditors are currently preparing an Audit now that we have received some income
- We are also making provisions to start repaying our loan to IFRRO and to bring our membership fees up to date
- The strain of operating for so many years without an income from licenses has been debilitating and was only possible through the goodwill of **good friends**
- Through the years we have always received a modest cheque from Access Copyright for royalties.



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ECCLA

EASTERN CARIBBEAN COPYRIGHT LICENSING ASSOCIATION

REGISTERED OFFICES: CASTRIES, ST. LUCIA & BASSETERRE, ST. KITTS

# INTRO AND SUMMARY

ECCLA (Eastern Caribbean Copyright Licensing Association) is the umbrella Reprographic Rights Organisation for the six Eastern Caribbean sovereign states of ANTIGUA & BARBUDA; DOMINICA; GRENADA; ST. KITTS/NEVIS; ST. LUCIA, and ST. VINCENT & The GRENADINES.

ECCLA's Executive comprises of the individual island states representative, with Irvin C Durand of Dominica currently holding office of President and Chair.



# © APPRECIATION

Rights Holders/Creators of works are generally fairly well informed and have some under-standing and knowledge about copyright...music related.



Publishers are mainly independent individuals ready to have conversation of issuing mandates for licensing and collection

Majority of users, Institutions and Libraries are government owned and operated thus posing the challenges due to the low level of understanding and thus respect from the various Ministries of Justice within the OECS.

In recent times the turnover of retirees has allowed for a fresher and more accepting of Rights Holders rights more specifically Reprographic Rights. This has definitely presented a friendlier environment.

The chant for Sensitisation, Awareness and Training campaigns continue to resound among the OECS which understandably has been the least invested territories regarding copyright especially reprographic rights.

# AWARENESS & TRAINING

- PRIMARY SCHOOLS: VPA programs at the Primary School level as a partner to enhance the weak curriculum is a practical means of intervention to meet our awareness agenda.

- Incorporate challenges (monthly or semester) with some prize winnings and establishing Jr Ambassadors within the school systems. In short – Partnerships.

## SECONDARY SCHOOLS:

- Similar to Primary with appropriate adjustments and terms appropriate to age groups.
- Debate subjects again sponsored by CARROSA

## TERTIARY INSTITUTIONS:

- Partnership with State Colleges to encourage producing more works also with the likely support by CARROSA to encouraging Publishing Companies, Galleries and Museums.

## GENERAL PUBLIC:

- The mainstream (Radio, TV, Print) with more Social Media presence .



# SOCIAL/CULTURAL APPRECIATION OF COPYRIGHT ©

When you think of a more elegant approach to present than the dynamic presentation made to Grade Four pupils, basically eight (8) year olds of Primary Schools at which the IPO (Intellectual Property Officer) attached to the Registry of each territory, who also serves as representative of the Government for WIPO to show interest in bringing this treasure of information important as classics and traditions to the young and malleable minds whose understanding we could invest in for the short term, even long term although creators are becoming younger and younger every day.



# ECCLA CHALLENGES IN OECS

## NEGOTIATIONS & COLLECTION OF FEES

- LEGAL STATUS IMPEDIMENT
- UNRECOGNISED IN FOUR (4) OF SIX (6)
- INVISIBLE MEMBERSHIP DESPITE DRIVE(S)
- CABINET INTERVENTION AS ACTION PLAN
- DRIVE FOR INSTITUTIONS & LIBRARIES



# OUTLOOK 2022 and BEYOND

ECCLA: Castries, St. Lucia. OECS

ECCLA gives full support to the immediate mobilisation and implementation of regional activity for the that glimpse of HOPE left to the newly formed and duly registered Regional Reprographic Rights Association, CARROSA.

ECCLA endorses and supports on behalf of our Rights holders the umbrella organisation whose regional latent force and strength is yet yet unknown...

CARROSA: Kingston, Jamaica. Caribbean.



# Thank You!



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# Jamaican Copyright Licensing Agency (JAMCOPY )

- ❖ Established in 1998
- ❖ 1st Royalty Distribution: 2005  
US \$8,500 to 46 affiliates
- ❖ December 2021 Distribution:  
US \$228,000 to nearly 800 eligible affiliates
- ❖ (as at *March 2022*) 34 licensees:
  - ❖ Gov't of Jamaica
  - ❖ 95% of the tertiary/ post-secondary institutions
  - ❖ All public primary and secondary public schools  
(under the *Ministry of Education*)

# Practice of pursuing licences

- Identity entity
  - Carry out Due diligence – Approach leadership
  - Meet with institution's Librarian
  - Librarian makes recommendations to leadership
  - JAMCOPY and institution negotiate and agree on tariff
  - Signing of licence and Press Release marking the occasion
  - Conduct Awareness seminars for categories of users: students / lecturers / library staff – *Annually and On-demand*
- ❖ JAMCOPY demonstrated sensitivity to the challenges caused by school closure due to Covid-19. Offered a temporary relaxation in copying limits and non-increase of licence fee for one academic year.

# Challenges in pursuing licences

- Recurring, protracted delays to either commencing negotiations or concluding negotiations
- Lack of understanding of copyright and related rights, and the legal obligation to secure a licence and pay fees
- Mistaken belief that:
  - Fair Dealing
  - valid purchase of hard copy materials
  - online subscriptions
  - Open Access...are sufficient to cover the institution's various uses of copyright protected works
- Financial challenges

*Looking ahead  
to the Future:*

*24 years and  
counting !*



Trinidad and Tobago Reprographic  
Rights Organisation



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# **TTRRO's experiences with Educational Licences**

*Nicholas Lue Sue  
Vice President, Board Member, TTRRO*

# Timeline for Educational Licensing in Trinidad and Tobago

- Began negotiations in 2008 to license major tertiary educational institutions who are the largest users/infringers of copyright material.
- First met with the Ministry of Education in 2012 to initiate licensing process for Primary and Secondary schools. Latest meeting 2020.
- Remote education and “printables” have highlighted the need for an agreement to allow teachers access to materials without violating copyright.

# Obtaining mandates from right-holders

- New mandates
  - Authors, publishers, affiliates
- Expanding mandates
  - Required to adapt to the transition from physical to electronic/digital/virtual

# Receptivity of institutional leadership and librarians

- Leadership
  - Refusal, avoidance, delay
  - All require greater understanding of the need for licences
- Librarians
  - Possess better understanding of copyright
  - Almost always interprets the Library exception more broadly than the law allows.
    - Some do so conveniently



# Negotiating of licences

- Experienced Negotiators available
- Skill in Drafting of licence agreement available
- Speed of negotiations generally slow
  - education of Licensees' personnel must precede actual negotiations
- Insufficient body of local case law available to guide licensees

# The Benefit of Licences to Educational Institutions

- Industry and Institutional
  - Access to content
    - Freeing up resources to focus on delivery of content rather than content creation
- Economic
  - Investment in the Growth and development of content through publishers and authors
- Institutional and personal
  - Reduction of legal risk to personnel of and the institutions themselves

# TRAINING

- In most cases training of both leadership and librarians required
- However, training will not help those who deliberately avoid a licence
  - here infringement action becomes necessary

# CHALLENGES

- Culture of Non-Compliance
- Low awareness of practical implications of Copyright, IP in general
- Case law underdeveloped
- Culture of using the property of others without permission

# OUTLOOK

- Virtual, digital, online distribution of content
- Online (synchronous or asynchronous) or hybrid delivery of education
- Social Media Platforms used for distribution of content and delivery of content



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**Pioneering regional  
educational licensing  
in the Caribbean**

The Caribbean Reproduction Rights Organizations' Agency (CARROSA) was established in May 2017 by the five RROs in the region, to facilitate regional/multi-territorial licensing in the Caribbean.

# Introduction

## CARROSA

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- JAMCOPY (Jamaica), TTRRO (Trinidad & Tobago) BCOPY (Barbados), BECLA (Belize) and ECCLA (OECS).
- CARROSA is a non-profit company, based in Jamaica
- JAMCOPY, with support from IFRRO (Development Fund), CCC and CLA has been the incubator for CARROSA.







## Journey to the Caribbean Gateway to Copyright Content

- Proposed Feasibility Study (2003) for investigation of a regional confederation of reproduction rights organizations in the Caribbean.
- IFRRO Legal and Feasibility Study (2006) (benefits of a regional RRO, centralized support for core services, multi-national licensing in the region) (supported by Access Copyright of Canada)



## Journey to the Caribbean Gateway to Copyright Content

- Regional Plan to advance RRO activity in the Caribbean (*Andrew Martin May 2016*) - (*Structure of a regional licence, tariff, staffing & resources, operational plan, financial support, budgets*)
- Recommended Form & Structure of CARROSA, constitutive documents, mandating agreement etc. (*Andrew Martin, 2017*)



## PRACTICE

- August 21, 2017 - CARROSA's first Interim Board meeting
- IFFRO's Caroline Morgan called CARROSA "a brave initiative to consolidate on a regional basis around licensing and back-office operations"



## PRACTICE

- October 2017 - Licensing Brief for the UWI
- June 5, 2018 - Inaugural CARROSA/UWI Negotiation meeting, presented the rationale for One UWI Copyright Licence and a working draft licence.

# Practice – CARROSA's Flagship Licence

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## CARROSA's proposed pan-Caribbean licence for The University of the West Indies (UWI):

- allow the university to make copies for “all purposes within or in support of the mandate of the Institution”
- extend to all the university's students and faculty regardless of location.
- eliminate potential problems with migrant students between campuses in the region or to one of the partnering universities outside of the Caribbean.





# PROGRESS

By 2019 the negotiations on the main terms and conditions of the licence were completed.

Thanks to CARROSA Board Members, the JAMCOPY management, IFRRO and our International Consultant Andrew Martin.

# Challenges

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- The projected timeline for the signing of the Licence was May - August 2019.
- However, to date the Licence has not been finalized despite our best efforts.
- Encountered protracted delays in signing off on the applicable licence fees (tariffs).



# Challenges

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## FACTORS

- Several layers of administration and decision makers causing internal administrative delays on the part of the UWI.
- Increased bureaucracy when engaging with a regional institution.
- Involvement of Governments.





# Challenges

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## FACTORS

- Different fee structures, tuition costs, & student populations.
- Whether cost per person basis should be standard for all campuses.
- Prejudice to existing Licences & Legacy Issues (national licences)
- Novelty of the transaction for the institution.



# Challenges

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## ACTION

- CARROSA continues to engage with decision makers at UWI Regional Headquarters (Jan 27, 2022) who confirmed that all outstanding issues were on the UWI's end but hopeful for finalization of the Licence this year.
- CARROSA continues to expand its repertoire through Bilateral Agreements with RROs outside of the Caribbean Region.



# Outlook

## 2022-2023

With the continued support of IFRRO, WIPO & our bilateral partners we are aiming to:

- ✓ Sign **CARROSA-UWI** Licence - **September 2022**
- ✓ Pursue other regional educational licences opportunities – **2023**
- ✓ Develop strategic plan for non-educational regional licensing – **2023**

