

Educational licensing on a collective basis: The legal and licensing framework and WIPO's reprography projects around the world

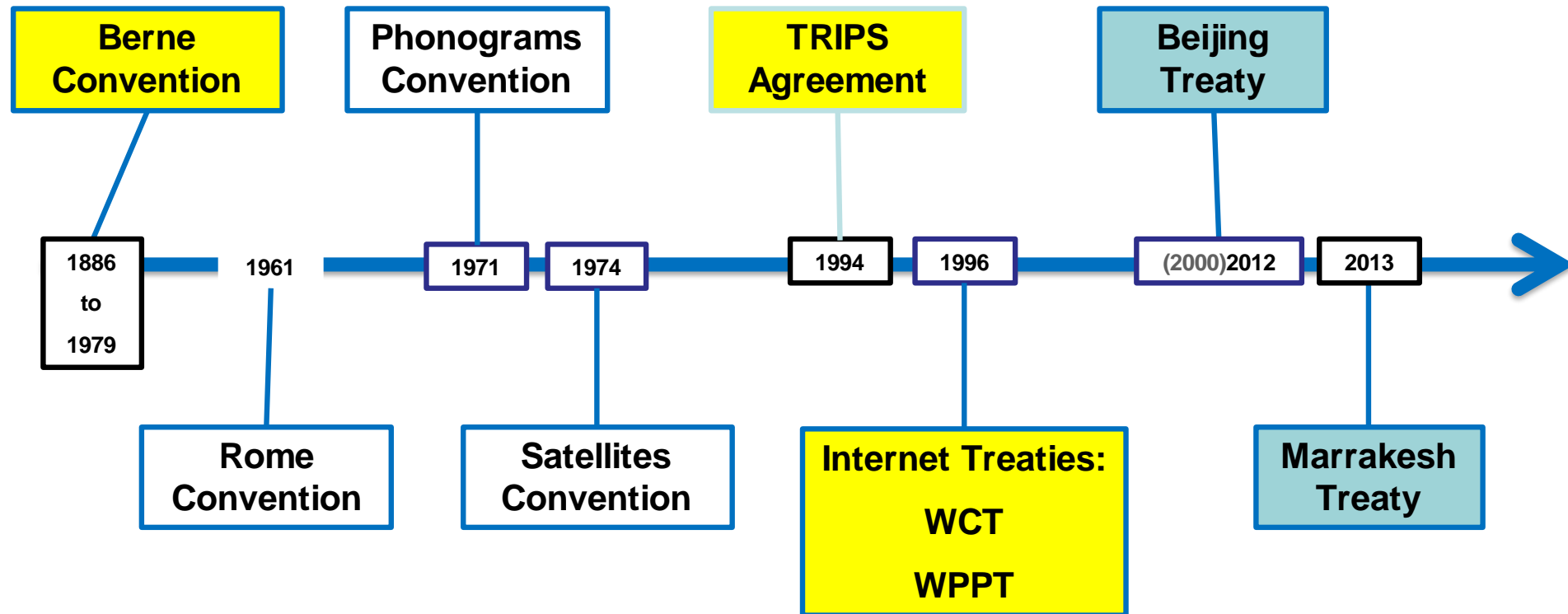
JIPO-TTIPO-IFRRO-WIPO Webinar on educational licensing in the Caribbean region

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March 21, 2022

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International framework in copyright



International legal framework – text/images

According to **Article 9 of the Berne Convention**, the author of a literary or artistic work has the exclusive right to authorize or prohibit the reproduction of his work “*in any manner or form*”. Reproduction, or copying, takes place in many different forms, such as:

- printing
- photocopying
- scanning
- digital copying
- electronic storage in databases.

The exclusive right to authorize or prohibit the reproduction of a work may be subject to **limitations or exceptions** under the Berne Convention, Article 9 (2), Article 13 TRIPS, and/or Article 10 WCT.

The three-step test

In the light of these regulations, limitations or exceptions are only allowed if three conditions are fulfilled (the so-called **three-step-test**), namely:

- Limitations or exceptions may concern only “special cases”, and must not be generalized;
- They cannot conflict with the normal exploitation of the work;
- They cannot unreasonably prejudice the legitimate interests of the rights holder.

The above criteria for restricting exclusive rights are ***cumulative***; they must all be met in order for limitations or exceptions to be permissible.

WIPO SCCR agenda Items

- Protection of broadcasting organizations
- **Limitations and exceptions**
- Other matters
 - Analysis of copyright related to the digital environment
 - **Resale right**
 - Theatre's directors
 - **Public Lending right**

(SCCR/42 - Information session on impact of Covid-19 on the copyright system)

Collective Management: WIPO Tools and Assistance

- WIPO non-normative tools and Member States-driven assistance:
 - Technical assistance, including legislative advice
 - WIPO Good Practice Toolkit for CMOs
 - WIPO Academy Distance Learning Courses
 - WIPO Connect
 - WIPO Arbitration and Mediation Center
 - Building respect for IP initiatives

Technical assistance – Some examples

- IFRRO-WIPO North and West Africa project for reprography (on-going, since 2018): cluster-based approach, involving Algeria (ONDA), Benin (BUBEDRA), Burkina Faso (BBDA), Cameroon (SOCILADRA), Côte d'Ivoire (BURIDA), Madagascar (OMDA), Mali (BUMDA), Morocco (BMDA), Senegal (SODAV), Togo (BUTODRA) and Tunisia (OTDAV)
- WIPO-IFRRO reprography project with Malaysia: establishment of the RRO, MARC (in 2021)
- Awareness-raising workshops, e.g. with Zambia (ZARRSO)
- Mentoring, e.g. by CopyGhana (Ghana) and COSOMA (Malawi), mentoring the CMO in the Gambia

WIPO Good Practice Toolkit for CMOs

- **Non-normative**
- Compiles **examples of legislation, regulation and codes of conduct** in the area of collective management of copyright and related rights from around the world and distils them into examples of good practice
- Member States, CMOs and other stakeholders may select tools from the Toolkit to choose an **appropriate approach** in view of their **particular circumstances**

WIPO Good Practice Toolkit for Collective Management Organizations (The Toolkit)

A Bridge between Rightholders and Users

Author(s): WIPO | Publication year: 2021



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The WIPO Good Practice Toolkit for Collective Management Organizations (CMOs) brings together examples of legislation, regulation and codes of conduct in the area of collective management from around the world. Member states and other stakeholders may use relevant parts of the document to help them design an approach suitable for their particular context. Note - The Toolkit is not a normative document. The first version of the Toolkit was published in 2018. The current version was published in September 2021, and reflects the submissions received from WIPO Member States and other stakeholders throughout the consultation process in 2021.

<https://www.wipo.int/publications/en/details.jsp?id=4561&plang=EN>

Content

(in the updated version)

- 1. Providing information about the CMO and its operations
- 2. Membership: information, adherence and withdrawal
- 3. Members' rights to fair treatment; their position in the CMO
- 4. Particular issues concerning the CMO–Member relationship
- 5. Governance
- 6. Financial administration, distribution of revenue and deductions
- 7. Relationship between CMOs
- 8. Relationship between CMO and User/Licensee
- 9. Processing of Members' and Users/Licensees' data
- 10. Importance of IT infrastructure
- 11. Development of staff skills and awareness
- 12. Complaints and dispute resolution procedures
- 13. Supervision and monitoring of CMOs

WIPO Connect

- Challenge in digital era and CMO documentation and other management skills
- International identifiers and industry standards
- Support for CMOs to acquire technological infrastructure and documentation skills
- Music, audiovisual, and (soon) text and image works
- Access to industry data sources (e.g. CIS-Net, IPI, etc.) and facilitating cross-border licensing

https://www.wipo.int/copyright/en/news/2021/news_0001.html

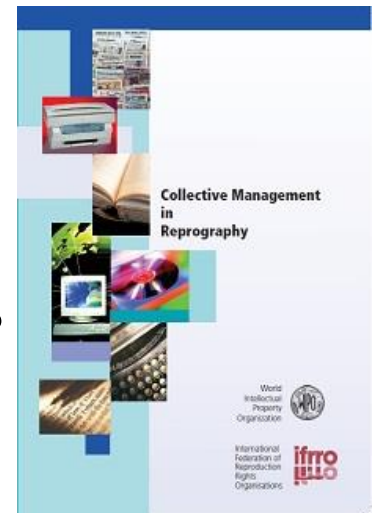
WIPO Copyright Infrastructure Webinars / WIPO for Creators

- **WIPO Copyright Infrastructure Webinars:** featuring speakers from the public and private sector on topics relevant to copyright infrastructure, e.g. metadata, identifiers, technology solutions and WIPO services; series is open to the public, on a bi-weekly basis, one-hour lunch events; text publishing industry on March 30, 2022: [Copyright Infrastructure Webinars \(wipo.int\)](https://wipo.int)
- **WIPO for Creators:** a public-private partnership, which aims at raising awareness about intellectual property rights: [WIPO for Creators - Promoting Rights Awareness](#)

Further references

- Educational Material on Collective Management of Copyright and Related Rights
- How to Make a Living series
- Mihaly Ficsor: Collective Management of Copyright and Related Rights
- Collective Management of Reprography

<https://www.wipo.int/publications/en/series/index.jsp?id=180>



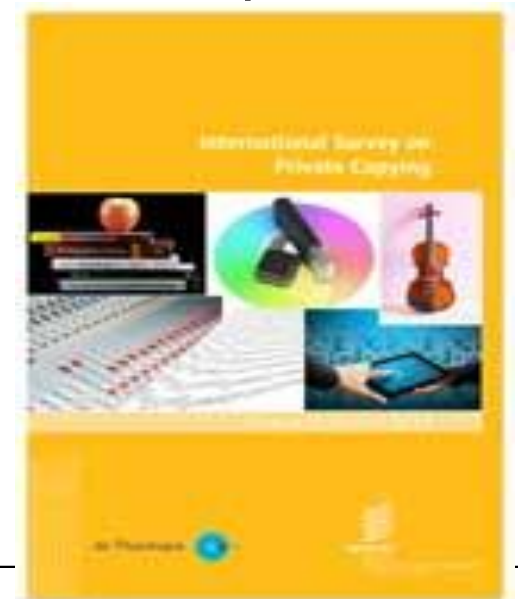
WIPO surveys (1)

■ International Survey on Private Copying - Law and Practice

Author(s): Stichting de Thuiskopie | Publication year: 2017

- Global view of private copying compensation
- Aims to facilitate evidence-based decision-making and to provide an update on important developments in private copying law and practice

<https://www.wipo.int/publications/en/details.jsp?id=4183>



WIPO surveys (2)

■ International Survey on Text and Image Copyright Levies

Author(s): IFRRO | Publication year: 2017

- analyzes the origins, scope and current use of text and image (TI) levies around the world, and their role in ensuring easy legal access to copyright material
- shows how and why TI levies are different from audio and audio-visual private copying levies

<https://www.wipo.int/publications/en/details.jsp?id=4192&plang=EN>



Thank you!

<https://www.wipo.int/copyright/en/management/>

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