

International
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Reproduction
Rights
Organisations



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IFRRO submission on the consultation regarding the application of Directive 2004/48/EC on the enforcement of intellectual property rights

This submission is made by the International Federation of Reproduction Rights Organisations (IFRRO). IFRRO represents and links Reproduction Rights Organisations (RROs) worldwide. RROs administer reproduction and other relevant rights, including certain forms of digital uses, in copyright text- and image-based works on behalf of publishers and authors, including visual artists. Members of IFRRO include national RROs, and national and international associations of creators and publishers.

IFRRO agrees with the statement made in the Commission Staff Working Document¹ that the Directive 2004/48/EC on the enforcement of intellectual property rights “has provided a solid basis for the enforcement of intellectual property rights in the internal market and led to considerable improvements of the legal frameworks in place in the Member States”. A prime condition to foster creativity and innovation and to sustain cultural diversity is to maintain a balanced copyright framework, ensuring effective enforcement of intellectual property rights (IPR), the main guarantee that creators and publishers obtain a fair return for their efforts and investments, which, in turn, enables them to engage in new creations, innovations and ventures. The importance of this increases with growing online piracy. A healthy market requires efficient combating of illicit content, which is often offered to users for free, in competition with original products.

¹ Commission Staff Working Document, Analysis of the application of Directive 2004/48/EC of the European Parliament and the Council of 28 April 2004 on the enforcement of intellectual property rights in the Member States, 22.12.2010, SEC(2010) 1589 final

We will limit our further comments to questions which are the most relevant ones to the IFRRO membership.

ENFORCEMENT ACTIVITIES AND THE EUROPEAN OBSERVATORY

IFRRO supports the European Observatory on Counterfeiting and Piracy, which serves as a platform to join forces, to exchange experiences and information and to share best practices on enforcement. We also offer to share our and our member organisations' experiences on education and enforcement with the European Commission (EC), when appropriate.

IFRRO has established an Enforcement Task Force charged with encouraging members to develop copyright education and enforcement activities and sharing experiences. Best practices will be posted also to IFRRO's public website. This will be coupled with the establishment of an IFRRO Enforcement Fund, which aims at supporting direct costs incurred in pursuing litigation linked to the enforcement of copyright and related rights relevant to the text and image-based sector in areas that directly relate to the collective administration by RROs, and in cases that have a precedent and transnational impact. IFRRO would be pleased to share information on relevant best practices with the EC.

There is a need, at least in the text and image-based sector, for an institution to measure – as objectively as possible – the consequences of piracy, other forms of unauthorised copying and other uses, and provide corresponding reliable data. This work should be carried out in close collaboration with the various stakeholders concerned and their representative organisations. The EC could take a leading role in this. IFRRO would offer its collaboration.

EDUCATION AND AWARENESS ACTIVITIES

Education and awareness activities are closely associated and benefit from being combined with copyright enforcement initiatives. The EC should consider how it can best encourage and develop programmes in cooperation with rightholder organisations that would help the exchange of best practices including between collective rights managers.

IFRRO has a long experience in the field of copyright education and awareness-raising, also through collaboration with intergovernmental organisations at international, regional, sub-regional and national levels. IFRRO is cooperating with organisations such as the World Intellectual Property Organization (WIPO) to promote the protection of and educate on IPR throughout the world; we have experience from collaborating with UNESCO in Anti-Piracy Training-the-Trainers programmes. IFRRO education, training and mentoring programmes aim at enabling partners to carry out (jointly or separately) courses for the training of the staff of collective management organisations. Activities in various countries including in Central Asia and in Central and Eastern Europe comprise capacity-building, education, awareness-raising and copyright enforcement-related activities. In collaboration with regional intergovernmental bodies, IFRRO and WIPO run education programmes on copyright and management of rights: in Africa with l'Organisation Africaine pour la Propriété Intellectuelle (OAPI) and the African Regional Intellectual Property Organization (ARIPO); and in Latin America with el Centro Regional para el Fomento del Libro en America Latina y el Caribe (CERLALC).

At a local level, RROs, as well as authors and publishers associations, are providers of services to their members. In this vein, RROs have developed programmes, aiming at sensitising on the importance of copyright.

An example is CEDRO, the Spanish RRO, which has launched the fifth edition of “¡Es de Libro!”², an educational programme with the aim to encourage the appreciation of the value of books as a way to access information and knowledge. It has also the goal to spread the importance of creation and the character of the author, as well as the need to respect IPR that allow its development. Every year there is a competition organised through this programme in secondary schools, where students, led by their teachers, have the opportunity to create an original work. There are several and different categories with prizes (money to buy books, computers, etc.), for students, teachers and the school. During these five years, 14,508 students, 1,755 teachers and 1,246 have participated in ¡Es de Libro!”

The Portuguese RRO, AGE COP, runs an education programme in cooperation with other national collective management societies representing authors, artists, producers and publishers. This project, Big ©³, is designed for schools and students aged 12 to 20, and is based on a behavioural, innovative and creative approach to education on IPR respect in the digital era. The purpose is to involve students and encourage them to produce original works in seven areas of creation – music, lyrics, video, design, online promotion, writing and media. The winners are rewarded with the production, distribution and selling of their works. Copyright royalties will then be distributed to the creators, students and teachers.

Outside Europe, the Mexican RRO, CEMPRO, is organising children's workshops and fora on copyright, performed with the economic support from public or private educational institutions that are beneficiaries from these activities. The promotional material is based on caricatures, while the other “material” is human, provided in accordance with the needs of schools or libraries.

The EC could benefit from studying closely such programmes, also with the view to considering various ways as to how it could lend its support to them. Education, mentoring and training-the-trainers programmes are appropriate means in a knowledge-dissemination and intellectual property enforcement strategy. IFRRO offers to collaborate with the EC in such programmes when appropriate including sharing information in activities we and our members are already engaged in.

TECHNICAL STANDARDS AND IDENTIFIERS AND RIGHTS INFORMATION INFRASTRUCTURE AS CONTRIBUTORS TO RIGHTS ENFORCEMENT

Wider legal access to works can only be achieved through appropriate mechanisms, which include direct licensing by authors and publishers and collective management of rights for secondary uses, combined with financial incentives, protection against copyright infringement and copyright enforcement, including efficient combating of piracy and other forms of unauthorised reproduction. RROs play an indispensable role in assisting authors and publishers to enable wider legal access to their works, in awareness-raising and the enforcement of rights.

Information and Communication Technologies (ICT) is a true enabler to facilitate the management of rights, with interoperability being a key issue. The EC could consider how it could lend its support to the further development of standards and protocols such as those

² http://www.esdelibro.es/index.php?id_seccion=7&id_contenido=263

³ www.grandec.org

under the ONIX⁴ family, the International Standard Text Code (ISTC)⁵ and the International Standard Name Identifier⁶ (ISNI).

Arrow, the Accessible Registries of Rights Information and Orphan Works⁷, is another example, where rightholders and their representative organisations, including IFRRO and RROs, are working together with libraries to simplify the identification and management of rights information. The objective is to overcome the challenges of identifying rights, rightholders and rights status in works, including whether they are orphan or out-of-print, and to provide information on the clearance of rights to protected material. Rights information infrastructures have the potential to contribute to copyright awareness raising and compliance. The EC is already supporting financially the development of Arrow. It could look further into how it could assist in its deployment including enabling public institutions in the Member States to make use of it for free through assuming their financial obligations towards Arrow.

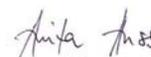
A real and effective collaboration with Internet Service Providers (ISPs) and search engines to address copyright infringement and enforcement issues is required. The use of filtering technologies by ISPs and others as well as systems to inform about authorised use (e.g. through search engines using the ACAP⁸) should be mandated as these are mechanisms which have the inherent capacity to help in enforcing contractual terms and preventing the networks from being used to infringe intellectual property. Laws requiring filtering by ISPs would place the burden of enforcement on those entities profiting from infringement, as opposed to placing the burden on the victims, and would prevent the continued proliferation of business models based almost entirely on infringing the rights of others. Likewise, parties posting infringing content should be subject to clear penalties and fines.

We believe that the EC, in collaboration with stakeholder representatives, could contribute to existing projects, and also develop new ones to complement existing initiatives, with the objective to enable a better understanding of the value of copyright and how it can benefit the development of intellectual property. This includes considering whether the EC Observatory could take on a leading role in measuring the consequences of piracy and other forms of unauthorised uses of intellectual property; supporting existing and encouraging new awareness-raising programmes; and assist, including financially, the further development and deployment of apposite rights information infrastructure systems and technical standards and identifiers.

Respectfully submitted,



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⁴ For instance ONIX for licensing, ONIX for books, ONIX for RROs, etc.

⁵ <http://www.istc-international.org/html/>

⁶ <http://www.isni.org/>

⁷ <http://www.arrow-net.eu/>

⁸ Automated Content Access Protocol, <http://www.the-acap.org>