

# NORCODE

## MASTERCLASS TRAINING PROGRAM ON COLLECTIVE MANAGEMENT OF COPYRIGHT AND RELATED RIGHTS Nairobi, May 18 to 25, 2022

### Call for Action

Participants from thirteen countries (Botswana, Burkina Faso, Cameroon, Ghana, Kenya, Malawi, Mauritius, Nigeria, Sierra Leone, South Africa, Uganda, Zambia and Zimbabwe) participated at the first MasterClass Training Program in Africa organized by the Norwegian Copyright Development Association (NORCODE), in cooperation with ARIPO, IFRRO, CISAC, IFPI and SCAPR.

The participants had previously participated at the NORCODE Regional Trainings in Africa in 2017 and 2019. They had been invited to the MasterClass Training based on their performance and continuous effort and commitment to the enhancement of collective management of copyright and related rights in the region.

The training in Nairobi, Kenya, was preceded by online sessions that took place in November of 2021, during which the participants prepared a SWOT analysis of their organization. Based on the analysis and discussions, the participants chose individual development targets for their organizations and key performance indicators (KPIs) to measure them. After the onsite training, the participants will continue to work on their development targets during the forthcoming six months. The results will be discussed and evaluated online towards the end of 2022.

To reap the full benefits of the training and continue the developments in the region, the participants wish to communicate the following areas of special attention in which action is needed. Continued cooperation with the partnering organizations will be of great importance in achieving the wanted end results in the following areas:

#### **Good Governance in CMOs**

- The importance of good governance within the CMOs both at the managerial and board levels is recognized as a key success factor in collective management.
- There needs to be a clear separation of powers and role clarity between the Board and management. They have a common goal to serve the rightsholders in the best possible manner, but different tasks and responsibilities.
- Training is needed on good governance, including the business of collective management.

#### **Cooperation between the Regulator and the CMOs**

- Cooperation between the regulator and the CMOs is needed to achieve a conducive framework for collective management.
- There needs to be a clear separation of powers and roles between the Copyright Offices and the CMOs. This leads to best results for all stakeholders.

- A coherent regulation on collective management can be achieved through the regulator working in collaboration with the CMOs. Guidelines and standards for regulation, including the relationship between the Copyright Offices and the CMOs, could serve as a useful tool for enhancing proper legislative framework for collective management.

#### **CMO Role, Communication and Reputation**

- The key importance of communicating in an understandable and clear manner to all stakeholders plays a key role in collective management.
- Improvements in communication can be achieved by developing a communication strategy, planning and policies, including a reputation management plan.
- Recognizing the target groups, analyzing how to best reach them and customizing the message to each target group are practical examples of working towards better communication.

#### **Management of Rights in Musical Works in the Digital Environment**

- The ratification and national implementation of the WIPO Copyright Treaty (WCT) is urgently needed for the protection of rightsholders' rights in the digital environment.
- There can be no effective collective management without proper data management and metadata. Proficient data flow from different stakeholders throughout the rights management process needs to be secured.
- The use of key identifiers, such as the ISWC and IPI, is recognized as an important success factor. The organizations responsible for these identifiers need to ensure their proper functioning.
- The existence of metadata is a prerequisite for licensing and invoicing the digital service providers (DSPs) and the lack thereof leads to loss of revenue.
- All CMOs managing rights in musical works need to have an online facility for registering rightsholders' works.

#### **Management of Rights in Sound Recordings**

- Sustainable management of rights in sound recordings is supported by the development of market studies to determine the size of the licensed and unlicensed markets.
- The development of key performance indicators (KPIs) on both strategic and operational levels is important for assessing the organizations' efficiency and performance.
- Tools to analyze the markets and to measure performance should be adopted by all CMOs.

#### **Private Copying Compensation**

- As private copying compensation has proved to be a major source of income for the creative sector, it is important to promote the implementation of private copying remuneration systems in all sectors in countries where such a system does not currently exist or is not yet implemented.
- In countries where the private copying compensation systems are already in place, it is important to develop the distribution systems to make sure that the collected compensation can be distributed to all entitled rightsholders.
- Guidelines on how to implement and manage the private copying compensation need to be in place. Regional implementation and action plans can be of use in promoting the implementation of the private copying compensation system.

- The devices and media covered by the private copying compensation need to be in line with the technological advances, including cloud computing.

### **Management of Audiovisual Rights**

- The ratification and national implementation of the Beijing Treaty on Audiovisual Performances (BTAP) in the form that supports collective management is needed to ensure remuneration to performers in the audiovisual sector.
- In the region, there are audiovisual CMOs that manage the rights of all rightsholders in the audiovisual sector, i.e. authors, actors and producers.
- As there is no single international body that could assist these CMOs, promotion of good collaboration between the international organizations representing the rightsholders in audiovisual works (SCAPR, CISAC and FIAPF) is needed.
- Easier access to the different international organizations, including membership policies and fees, should be ensured for the African CMOs.
- The development of audiovisual CMOs is also a prerequisite for proper functioning of the private copying compensation systems.

### **Management of Rights in the Text and Image Sector**

- It is of great importance to ensure the possibility of using quality educational materials by promoting licensing solutions to educational institutions in both analogue and digital forms.
- Clear and precise legislative framework with exceptions and limitations compliant with the three-step-test, as stipulated in the international treaties, is crucial in ensuring remuneration for rightsholders for mass uses of their works.
- The importance of metadata, including the use of identifiers, needs to be fully recognized in the text and image sector. The applicability and functioning of the relevant technological infrastructure, such as WIPO Connect, in this sector needs to be ensured.
- Ensuring the sustainability of the operations needs to be the key consideration, both in existing organizations and when considering setting up new RROs.

### **Visual Artists' Resale Right**

- Many countries in the region have not yet adopted the resale right in their legislation. Since works of African artists are being sold in international auction houses and art galleries, the promotion of the national implementation of the visual artists' resale right is of paramount importance.
- As evidence-based information is important for legislative decision-making, showing concrete examples is important. For example, at Sotheby's bi-annual Modern & Contemporary African Art auction in 2021, Nigerian artist Ben Enwonwu's sculpture "Atlas" was sold for USD 519,826. No resale remuneration was paid for this sale due to the lack of legislation in the country of the artist.

Thankful for the assistance of the international organizations, ARIPO, IFRRO, CISAC, IFPI and SCAPR, the participants emphasized how insightful it had been to learn about the current trends and most topical issues in all sectors of collective management, be it music, audiovisual or text and images. While there is no one-size-fits-all solution and every country needs to assess its unique infrastructure, it is important to understand the different options that exist. The sharing of best practices across different sectors was viewed as a value-added to all participants and partnering organizations.

The valuable presentations and comments of the participants formed an integral part of the sessions, this being a MasterClass course. The team of excellent resource persons both onsite and online added great value to the success of the training course. The interactive and participatory atmosphere throughout the training session was considered to be a success factor in the learning process, taking everybody – the participants and resource persons alike – as teachers and learners. The leadership that Ms. Tarja Koskinen-Olsson and Mari Wallgren showed as the moderators of the training course was much appreciated, laying ground for a good atmosphere and an inclusive learning process.

The participants thanked sincerely NORCODE for its generous support and funding of the training. Thankful to NORCODE for organizing the training and facilitating all aspects of the training, the participants thanked warmly Ms. Inger Dirdal, Managing Director of NORCODE, and through her the Board of NORCODE, for organizing the training program in Nairobi.

## List of participants

Letlhogonolo MAKWINJA	COSBOTS	Botswana
Chantal FORGO KABORE	BBDA	Burkina Faso
Christopher Fru CHUNGAG	SOCILADRA	Cameroon
Samuel Awuku GYEKETEY	Copyright Office	Ghana
Lillian KALELA		Kenya
Milcah KULATI		Kenya
Lightwell KACHIGAMBA	COSOMA	Malawi
Hansley ANTOINE	MASA	Mauritius
Olubukola ADEYEMI	AVRS	Nigeria
Bernice ERIEMEGHE	COSON	Nigeria
Amadu BAH	ARIPO	Sierra Leone
Jotam MATARIRO	CAPASSO	South Africa
Jane NAMBASA	UFMI	Uganda
Ruth SIMUJAYANGOMBE	ZARRSO	Zambia
Polisile NCUBE	ZIMURA	Zimbabwe