



Collective management: Functions and roles

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Objectives of collective management

- A right holder may opt for individual or collective management of his/her right (except for mandatory collective management)
- Individual management sometimes impracticable or impossible
 - For a right holder - License to mass users
 - For a user – Get authorizations from mass right holders
- Economics of scale - A CMO may simplify rights management:
 - Negotiate tariffs and conditions of use;
 - License and monitor use; and
 - Collect tariffs and distribute remuneration to right holders.

WIPO Good Practice Toolkit for CMOs

- Non-normative document; available in all UN languages
- *“The purpose of the Toolkit is to compile examples of legislation, regulation and codes of conduct in the area of collective management of copyright and related rights from around the world and to distil them into examples of good practice.”*
- *“Member States and other stakeholders may select tools from The Toolkit to choose an appropriate approach in view of their country’s particular circumstances, and decide on their own infrastructure for collective management.”*

(The Toolkit, Introduction)



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

A Bridge between Rightholders and Users

Author(s): WIPO | Publication year: 2021



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.

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Functions and roles of a CMO

Role:

- *“CMOs provide appropriate mechanisms for the exercise of copyright and related rights, in cases where the individual exercise by the Rightholder would be impossible or impractical.”*
- *“Collective management is an important part of a functioning copyright and related rights system, complementing individual licensing of rights, resting on robust substantive rights, exceptions and limitations, and corresponding enforcement measures. In this vein, CMOs can provide a bridge between Rightholders and Users, facilitating both access and remuneration.”*

(WIPO CMO Toolkit, 1.1.1)

Functions and roles of a CMO

Function:

- *“CMOs provide a mechanism for obtaining permission to use copyright materials, as well as for paying the corresponding fees or remuneration for certain uses of such materials, through an efficient system of collection and Distribution of license fees and/or remunerations.”*
- *“Some CMOs provide social, cultural and promotional services.”*

(WIPO CMO Toolkit, 1.1.1)

Spheres of collective management

- Music and sound recordings
 - E.g. Performance right and mechanical right
- Film and audiovisual
 - E.g. Cable transmission, secondary uses of radio and TV
- Print and publishing
 - E.g. Reprography
- Visual arts and photography
 - E.g. Resale right, reproductions and online uses
- Dramatic works and theatres
 - “Partial collective management”

Functions defining collective management

Core functions

- Obtaining the authority to license and collect remuneration
- Negotiating tariffs
- Licensing users
- Obtaining relevant usage data
- Developing and applying a method to distribute funds to represented rightholders and distributing payments with appropriate data reporting

Non-core functions of CMOs

- Playing a central role in the fight against piracy
- Providing legal support services to rightholders
- Undertaking educational and public relations activities to ensure better respect for copyright
- Representing their members' interests with national governments and in relation to intergovernmental bodies
- Deductions for social, educational and cultural purposes

Good practices - CMO's functions and roles: From WIPO CMO Toolkit

- *“1. A CMO is an organization with a primary responsibility towards the Rightholders it represents. A CMO should always act in the best interest of those Rightholders, in accordance with applicable law and its Statute.”*
- *“2. With respect to certain uses and/or rights, collective management may be the most cost effective mechanism to enable the effective exercise of copyright and related rights, in order to ensure these rights are duly represented and work in practice.”*
- *“3. A CMO provides licensing, collection and/or Distribution services to the Users/Licensees of copyright content.”*

Good practices - CMO's functions and roles: From WIPO CMO Toolkit

- *“4. CMOs play an important role in copyright, and most of them act as promoters of culture, by providing social, cultural and educational services for the benefit and welfare of Rightholders.”*
- *“5. A CMO should be governed independently and transparently, based on an appropriate legal structure, focusing on Rightholders it represents, and distributing remuneration to them.”*
- *“6. Rightholders entrust a CMO with the management of their rights. A CMO should undertake its services diligently, efficiently, and in a transparent and non-discriminatory manner.”*

Good practices - CMO's functions and roles: From WIPO CMO Toolkit

- *“7. Within the limits of the mandate provided by a Rightholder or granted by law, a CMO should:*
 - (a) license and/or collect remuneration for the rights it represents or conclude agreements for the use and/or collection of such rights, as the case may be;*
 - (b) collect all Rights Revenue in respect of the use of such rights or of relevant copyright remuneration schemes;*
 - (c) monitor the use of such rights;*
 - (d) prevent and act against the unauthorized use of such rights and enforce remuneration schemes, taking into account applicable provisions on limitations and exceptions, as well as relevant licensing arrangements; and*
 - (e) collect and process data on the use of such rights to enable the timely and accurate individual Distribution of monies.”*

Good practices - CMO's functions and roles: From WIPO CMO Toolkit

- *“8. Within the limits of its mandates and in the interest of the Rightholders it represents, a CMO may engage in activities aimed at increasing public awareness about copyright and related rights, collective rights management and CMOs, as well as highlighting evidence of their positive effect on the national economy and on cultural diversity, including its cultural and social activities.”*

Thank you.

Contact:

<https://www.wipo.int/copyright/ar/management/index.html>

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