



Survey on the status of Collective Management Organizations in ARIPO Member States

Keitseng Nkah Monyatsi

Conducted in collaboration with
NORCODE

With the support of the Ministry of Culture, Sports and Tourism of the Republic of Korea, through WIPO Funds-in-Trust Korea Copyright



Survey on the status of Collective Management Organizations in ARIPO Member States

*Report by
Keitseng Nkah Monyatsi*

FOREWORD

We are delighted to present the first Survey on the Status of Collective Management Organisations (CMOs) in the African Regional Intellectual Property Organization (ARIPO) Member States.

CMOs have grown in importance globally in their work of collectively administering the mandates from the right holders by negotiating royalties, collecting royalties from users and distributing the royalties to the right holders. In the African context, though a number of CMOs have been operational, there is little information available on their operations and understanding the impact of their work. It was within this context that ARIPO undertook this survey in collaboration with the Norwegian Copyright Development Association (NORCODE) to have an understanding of what is happening at grass roots level in so far as the administration of CMOs is concerned and to gather information on the relevance of CMOs in promoting and protecting the works of right holders within the ARIPO Member States.

The findings indicate that CMOs in the ARIPO Member States are growing in numbers. It was also found that there is growth in collections of royalties and distributions. However, CMOs are also facing challenges which include insufficient or lack of awareness of copyright laws by users and the general public, users' unwillingness to pay royalties, piracy of the copyrighted works, inadequate resources and manpower within the CMOs and inadequate availability of technologies that can be used by the CMOs.

There is a growing call for transparency within the CMOs in-order to ensure that users continue to have confidence in CMOs in Africa. Also, given the growing global nature of trade and use of works in the copyright and related rights industries, it calls for the CMOs to sign reciprocal agreements so that the right holders can benefit when their works are used in other markets outside their home countries. This call is of utmost importance for CMOs within and outside the ARIPO bloc.

Member States of ARIPO and the general public are encouraged to use this Survey report on the Status of Collective Management Organization in ARIPO Member States for more information. This is the first phase of the report and we look forward to phase two of the report.

Special thanks go to the Author Keitseng Nkah Monyatsi for working tirelessly to come up with this very important survey report. ARIPO appreciates NORCODE collaboration and the CMOs who provided the data. We are also grateful for the World Intellectual Property Organization (WIPO) for supporting this project through the Korea-Fund-in Trust provided for in collaboration with the Ministry of Culture, Sports and Tourism.

F.A. dos Santos

Director General

Table of Contents

Title Page..... 3

Foreword 5

ACKNOWLEDGEMENTS..... 8

Disclaimer 8

ACRONYMS AND ABBREVIATIONS..... 9

Executive Summary 10

I. BACKGROUND..... 11

II. COUNTRY PROFILES 12

 Copyright Laws of Member States 13

 Provision for CMOs in the Copyright Act. 15

 Economic Status of Member States. 15

III. CMOs IN ARIPO MEMBER STATES 17

 Number of CMOs in Each Member State..... 17

 Period of Establishment of the CMOs..... 18

 Rights Managed by the CMOs and Memberships. 22

IV. GOVERNANCE ISSUES IN ARIPO MEMBER STATES CMOs 26

 Board Members..... 27

 Employees in the CMOs..... 28

 Availability of Information Publicly and Transparency Issues..... 29

V. FINANCIAL STATUS OF CMOs 30

 Royalty Collections..... 31

 Royalty Distributions..... 32

 Change in Collections and Distributions..... 33

 Collections Retained to cover Administrative Expenses..... 35

VI. CHALLENGES FACED BY CMOS..... 37

VII. OBSERVATIONS AND RECOMMENDATIONS 37

 Observations 37

 Recommendations. 37

VIII. CONCLUSION..... 39

ACKNOWLEDGEMENTS

The writing of this report could not have been a success without the contribution and support of various copyright professionals.

Many thanks go to Tarja Koskinen-Olsson (who participated on behalf of NORCODE) for her involvement from the inception of this initiative, for her leadership in the development the survey tool, engaging COSBOTS and COSOMA as well as her invaluable feedback and support throughout the writing of this report.

Thanks to Thato Mokobi (COSBOTS) and Dora Makwinja (COSOMA) for availing yourselves to pilot the questionnaire and agreeing that your responses be used as a guide to participating CMOs. Your input and feedback contributed to the standardization of the responses.

Chief Tony Okoroji and Robert Hooijer, I can never thank you enough for your continued availability and support. Thank you for the invaluable comments.

I wish to also thank all collective management organisations in ARIPO member states that participated in the survey.

Special thanks go to all the collective management organisations who allowed ARIPO to use their logos on the cover.

Disclaimer

The views, opinions, findings, conclusions and/or recommendations expressed in this “CMO Survey Report and its Annex” are strictly those of the author(s). They do not necessarily reflect the views of the Norwegian Copyright Development Association (NORCODE), the African Regional Intellectual Property Organization (ARIPO), the Ministry of Culture, Sports and Tourism (MCST) of the Republic of Korea and the World Intellectual Property Organization (WIPO) or its Member States. The funding institutions take no responsibility for any errors or omissions in, or for the correctness of, the information contained in this publication, and will not be liable for any losses, injuries, or damages from the display or use of this information. The information contained in this publication is not meant as a substitute for professional legal or policy advice.

ACRONYMS AND ABBREVIATIONS

AGM	-	Annual General Meeting
ARIPO	-	African Regional Intellectual Property Organisation
ARSOG	-	Audiovisual Rights Society of Ghana
CISAC	-	International Confederation of Societies of Authors and Composers
CopyGhana	-	Reprographic Rights Organisation of Ghana
COSBOTS	-	Copyright Society of Botswana
COSLIB	-	Copyright Society of Liberia
COSOMA	-	Copyright Society of Malawi
COSOTA	-	Copyright Society of Tanzania
COSOZA	-	Copyright Society of Zanzibar
CSG	-	Collecting Society of The Gambia
GDP	-	Gross Domestic Product
GHAMRO	-	Ghana Music Rights Organisation
IFRRO	-	International Federation of Reproduction Rights Organisations
MCSK	-	Music Copyright Society of Kenya
KAMP	-	Kenya Association of Music Producers
KOPITAN	-	The Reproduction Rights Society of Tanzania
KOPIKEN	-	The Production Rights Society of Kenya
N/A	-	Not applicable
N/I	-	No information
NAMRRO	-	Namibian Reproduction Rights Organization
NASCAM	-	Namibian Society of Composers and Authors of Music
NORCODE	-	Norwegian Copyright Development Association
PRISK	-	Performers Rights Society of Kenya
RRO	-	Reproduction Rights Organisation
RSAU	-	Rwandan Society of Authors
SOMAS	-	Associação Mocambicana De Autores
UFMI	-	Uganda Federation of Movie Industry
UPRS	-	Uganda Performing Rights Society
URRO	-	Uganda Reproduction Rights Organisation
ZAMCOPS	-	Zambian Music Copyright Protection Society
ZARRSO	-	Zambia Reproduction Rights Society
ZIMCOPY	-	The Reproduction Rights Organisation of Zimbabwe
ZIMURA	-	Zimbabwe Music Rights Association
ZIPO	-	Zimbabwe Intellectual Property Office

EXECUTIVE SUMMARY

Copyright and related rights were included to the mandate of the African Regional Intellectual Property Organisation (ARIPO) in 2002. This calls for ARIPO to develop and implement strategies through which it can promote and support growth and effectiveness in the administration, management and enforcement of copyright and related rights. As a result, this survey was carried out as one of the tools that could inform ARIPO of the status of collective management in its member states. Such information will contribute towards determining appropriate measures to employ so as to ensure the establishment, the growth and development of collective management organisations (CMO) in the ARIPO member states.

The survey was carried out by ARIPO in collaboration with the Norwegian Copyright Development Association (NORCODE). In an effort to minimise divergent and uncorrelated responses, a questionnaire was developed and sampled with the Copyright Society of Botswana (COSBOTS) and the Copyright Society of Malawi (COSOMA). The responses from these two CMOs were distributed as a guide to other CMOs. The questionnaire was circulated to all CMOs in the ARIPO member states, through the national copyright offices. Twenty-four (24) CMOs participated in the survey. One CMO did not submit its response.

The Report briefly profiles member states whose CMOs participated in the survey. The profiling includes looking at the countries' legislative position in relation to collective management and the economic status of the countries, and how many CMOs does a country have. Governance issues in the CMOs were also studied. In view of the business of CMOs in relation to royalty collection and distribution, the survey studied the financial performance of CMOs during the years 2012 and 2013. It sought to establish patterns that form between the establishment of the CMO to royalty collection and to royalty distribution. Main challenges raised by the CMOs are included in the report. The analysis given in the Report is an observation of frequencies and trends formed from the responses given by the participating CMOs.

Observations and Recommendations made from this survey, point towards the need for ARIPO to support the growth and effectiveness of CMOs in its member states. The need for more studies is indicated a couple of times in the report. And, these studies could dig further into reasons behind certain patterns, or to continue observing the trends already looked into. Continued studies will not only inform strategic decisions, but will also assist CMOs to compare themselves with and learn from other CMOs in the member states, and possibly, other African countries as well. ARIPO looks forward to continued collaboration with NORCODE.

I. BACKGROUND

The African Regional Intellectual Property Organization (ARIPO) was established in 1976 with an objective to promote the use of intellectual property for the development in its member states. ARIPO is made up of nineteen (19) member states¹ from across the southern, eastern and western parts of Africa.

Figure 1: Map of Africa Showing ARIPO Member States (sourced from ARIPO)



¹ Botswana, the Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

ARIPO’s mandate includes patents, utility models, industrial designs, trademarks, geographical indications, protection of new plant varieties and copyright and related rights. Copyright and related rights was added to the mandate of ARIPO in 2002. On the overall, the copyright and related rights mandate calls on ARIPO to ensure that the administration, management and enforcement of copyright in the member states are effective to promote realisation of the benefit of copyright and related rights in socio-economic and cultural growth and development. In that regard, ARIPO has been carrying out a number of initiatives towards the promotion and growth of copyright and related rights in the member states.

In 2012, ARIPO ran a survey of collective management organisations (CMOs) in its member states. The results of that survey gave insight of the status of collective management in the ARIPO member states. These results were shared with a number of stakeholders including CMOs at a workshop organised by the World Intellectual Property Organisation (WIPO), the Norwegian Copyright Development Association (NORCODE) and ARIPO. CMOs then requested for a continued assessment of collective management in the member states. They requested that the findings be made available to measure progress of the trade, inform and promote exchange between CMOs, encourage good governance and accountability as well as transparency.

In response to the request made by the CMOs in 2012, in 2014, ARIPO and NORCODE collaborated and ran a survey for CMOs in ARIPO member states. The main objective of the survey was to follow up on the developments of CMOs and find best practices for the region. A questionnaire was developed and administered to all CMOs in the member states. The questionnaire is attached to the Report as Annex I.

In order to address the objectives of the survey, the questionnaire was designed to look into the profile of the countries where the CMOs are established, governance issues in the CMOs, financial status and challenges that CMOs are faced with. The overall goal was to use the survey to provide information about all CMOs in ARIPO member states with a view to identify areas of strength and to open up possibilities for exchange between CMOs themselves as well as allowing policy and decision makers to use the survey to inform future decisions about CMOs in ARIPO member states and Africa at large. The Report ends with recommendations which are largely informed by issues that emerge from the statistics of the survey. All twenty-four (24) established and operating CMOs participated in the survey.

The preliminary findings were presented at a workshop co-organised for the CMOs by ARIPO and NORCODE in November 2014 held in Harare, Zimbabwe. It must be noted that in addition to the CMOs in the study, the workshop was attended by representatives of the Angolan Society of Copyright and the Copyright Society of Nigeria. They expressed their wish to have participated in the survey and requested that in future, they too and possibly other CMOs on the continent be taken on board.

It is important to note that during the abovementioned workshop, ARIPO and NORCODE formalised their relationship by signing a Memorandum of Understanding (MOU). This was in recognition of areas of common interest in the development and growth of collective management organisations. NORCODE has provided varied support to a number of CMOs in African countries, some of which are member states of ARIPO. Primarily, through the MOU, the two organisations have agreed to work together on for the promotion and growth of collective management in ARIPO member states and Africa at large. They have also agreed to exchange information on areas of interest. Therefore, this survey feeds into what the parties have set to work together on.

II. COUNTRY PROFILES

Collective management organisations from thirteen (13)² member states participated in the survey. Therefore, country profiles include ARIPO member states listed in Table1 only. The profile looks at a country’s legal system, the title of the law, and institutional arrangements in relation to copyright and related rights.

Copyright Laws of Member States

The table below looks at when the current law of the member state was enacted. The survey did not look at whether this was the first copyright law post-colonial rule or that there have been other enactments prior to that. According to Table1 current copyright laws of the below listed ARIPO member states were enacted between 1989 and 2009. Malawi’s law is the oldest enacted in 1989 and Rwanda is the latest enacted in 2009. Whilst in practice it does not make much of a difference, it is observed that the majority of ARIPO member states copyright laws use ‘neighbouring rights’ and none makes reference to ‘related rights’. On the other hand ARIPO itself uses the term ‘related rights’ instead.

Table 1: ARIPO Member States Profiles

Member State	Legal System	Title of Copyright Law	Year Law Enacted	Supervising Government Authority (ies)	Dispute Resolution (Name of Authority and Relevant Section)
Botswana	Common Law	Copyright and Neighbouring Rights Act CAP 68:02	2006	Registrar of Companies and Intellectual Property, Ministry of Trade & Industry	Copyright Arbitration Panel; Section 33A
Gambia	Common Law	Copyright Act 2004	2004	National Centre for Arts and Culture, Ministry of Arts and Culture	Alternative Dispute Resolution Agency Section 88 (4)
Ghana	Common Law	Copyright Act 2005, Act 690; Copyright Regulations 2010, L.I. 1962	2005	Copyright Office of Ghana, Ministry of Justice	Copyright Tribunal: Section 51 -58 of Copyright act 2005
Kenya	Common Law	Copyright Act CAP 130 Laws of Kenya	2001	Kenya Copyright Board, Office of the Attorney General	Competent Authority: Section 48 of the Act
Liberia	Dual System (Common & Traditional Law)	Copyright Act	1997	Liberia Copyright Office, Ministry of Commerce & Industry	Copyright Commission, Section 2.47
Malawi	Common Law	Copyright Act	1989	Copyright Society* of Malawi, Ministry of Information, Tourism & Culture	N/A

*Office operates as both a copyright office and a collective management organisation

2 Botswana, The Gambia, Ghana, Kenya, Liberia, Malawi, Mozambique, Namibia, Rwanda, Tanzania (& Zanzibar), Uganda, Zambia and Zimbabwe.

Mozambique	Civil Law	Copyright Law, Law No. 4	2001	National Institute of Books & Disco, Ministry of Culture	N/A
Namibia	Roman Dutch Law	Copyright and Neighbouring Rights Protection Act No. 6	1994	Copyright Office, Ministry of Information and Broadcasting	N/A
Rwanda	Mixed Law System	Law on the Protection of Intellectual Property, Law No. 31/2009	2009	Rwanda Development Board, Ministry of Trade & Industry	N/A
Tanzania	Common Law	Copyright & Neighbouring Rights Act	1999	Copyright Society of Tanzania*, Ministry of Industry & Trade	N/A
Zanzibar	Common Law	Copyright Act No.14	2003	Copyright Office of Zanzibar*, Ministry of Justice and Constitutional Affairs	N/A
Uganda	Common Law	Copyright & Neighbouring Rights Act	2006	Uganda Registration Services Bureau, Ministry of Justice and Constitutional Affairs	N/A
Zambia	Common Law	Copyright & Performance Act No.44	1994	Copyright Office, Ministry of Information and Broadcasting	N/A
Zimbabwe	Common Law	Copyright & Neighbouring Rights Act 26:05	2000	Zimbabwe Intellectual Property Office, Ministry of Justice	This Act refers to Section 3 of the Intellectual Property Tribunal

It is observed that institutionally, copyright offices of ARIPO member states are placed under different ministries. In some countries copyright is under ministries of trade (or commerce) and industry, in others it is justice, or culture or tourism and culture or information and broadcasting. Table1 shows that in four member states, the copyright office is under the ministries of trade (Botswana, Liberia, Rwanda and Tanzania), another four under the ministries of justice (Ghana, Uganda Zanzibar and Zimbabwe).

Two member states copyright offices fall under ministries of culture (The Gambia and Mozambique) and another two under ministries of information and broadcasting (Namibia and Zambia). Kenya and Malawi fall under attorney general and information tourism and culture respectively. It may be of interest for ARIPO to study these institutional arrangements to see the link between the effectiveness of the copyright offices and their parent ministries, which will translate to the overall status of the copyright landscape including collective management.

Laws of six (6) member states do provide for alternative dispute resolution. The reading of these provisions in their diversity, are broad and could include resolution of disputes that may arise around issues of collective

management. The question though is whether these institutions are established, if so have they dealt with disputes around collective management.

Provision for CMOs in the Copyright Act

To be able to establish a collective management system, there is need for the backing of the law, that is, the national copyright law should recognise collective management of rights. Further, the law should provide for the establishment of collective management organisations and stipulate its functions. In that way, a CMO will have legal backing to deal with operational challenges it may be faced with including refusal to pay royalties by users of works of their members.

Table 2: Provision on collective management in the national law

Member state	Provision for CMOs in the Act	Relevant Sections
Botswana	Yes	Section 36A
Gambia	Yes	Section 66
Ghana	Yes	Section 49
Kenya	Yes	Sections 46-48
Liberia	Yes	Section 2.44
Malawi	Yes	Sections 41-42 & 46
Mozambique	Yes	Section 74
Namibia	Yes	Sections 56-60
Rwanda	Yes	Articles 253-254
Tanzania	Yes	Sections 46-47
Zanzibar	Yes	Sections 38 -39
Uganda	Yes	Sections 57-68 & 85
Zambia	Yes	Section 54 (b)
Zimbabwe	Yes	Sections 91-92

Table 2 above shows that all ARIPO member states that have CMOs established do have such provisions made in their national laws. This indicates that the operations of CMOs are supported by national laws.

Economic Status of Member States

A number of countries have carried out studies to determine the contribution of copyright industries to the Gross Domestic Product (GDP), and it has been established that these industries compare well with other industries such as accommodation and food services, mining and others. Of countries in this survey, Kenya, Malawi and Tanzania have conducted the studies on the economic contribution of copyright-based industries. It was established that the overall contribution of copyright based industries is 5.3%; 3.46% and 4.275% in Kenya (2009), Malawi (2013) and Tanzania (2012) respectively.³

Collective management of rights is an element of economic activity within the copyright-based industries, may need to be looked into to measure its contribution. While the contribution of copyright-based industries has been measured in some countries, collective management needs to be considered as a specific element of these industries. In Table3, the GDPs of ARIPO member states with participating CMOs is compared to the total royalties collected during the year 2013 to determine total contribution of royalties to the GDP.

Table 3: Percentage of Royalty collected in the GDP (2013) of ARIPO Member States⁴

Member State	Population (millions)	2013	2013	Percentage of GDP
		GDP (Billion US\$)	Collections by CMOs	
Botswana	2.2	14.979	92 375,00	0,0006
Gambia	1.9	0.891	0	0
Ghana	26.7	48.585	1 279 667,05	0,0026
Kenya	44.8	54.931	3 614 613,62	0,0066
Liberia	4.3	1.945	0	0
Malawi	16.7	3.884	251 170,00	0,0065
Mozambique	27.2	15.457	24 778,00	0,0002
Namibia	2.4	12.932	375 924,18	0,0029
Rwanda	11.2	7.522	0	0
Tanzania	51.8	44.333	94 369,29	0,0002
Uganda	37.7	24.703	70 700,02	0,0003
Zambia	15.7	26.821	248 727,00	0,0009
Zimbabwe	15.2	13.490	1 217 880,00	0,0090

The relationship between the population sizes of countries and royalty collections do not form a consistent pattern across the participating countries. As may be seen above, the country whose royalty collections make the highest share of the GDP is Zimbabwe at 0.009%, followed by Kenya at 0.0066% and Malawi at 0.0065%. The lowest contributions to the GDP are seen in Mozambique and Tanzania standing at 0.0002% each. Whilst these figures look quite low on face value, it must be recalled that collective management is only a portion of the wider copyright-based industries. The question in this study did not interrogate the contribution of collective management in the broad copyright based industries; a question which may be worth looking into as a means of measuring the impact, growth and development of CMOs in the member states. Going forward, it would also be of interest to continuously compare the growth rate between the GDP and royalties collected in each member state.

3 http://www.wipo.int/export/sites/www/copyright/en/performance/pdf/econ_contribution_cr_mw.pdf
http://www.wipo.int/export/sites/www/copyright/en/performance/pdf/econ_contribution_cr_ke.pdf
http://www.wipo.int/export/sites/www/copyright/en/performance/pdf/econ_contribution_cr_tz.pdf

4 Source: http://data.worldbank.org/indicator/NY.GDP.MKTP.CD?order=wbapi_data_value_2013+wbapi_data_value&sort=asc

share of the GDP is Zimbabwe at 0.009%, followed by Kenya at 0.0066% and Malawi at 0.0065%. The lowest contributions to the GDP are seen in Mozambique and Tanzania standing at 0.0002% each. Whilst these figures look quite low on face value, it must be recalled that collective management is only a portion of the wider copyright-based industries. The question in this study did not interrogate the contribution of collective management in the broad copyright based industries; a question which may be worth looking into as a means of measuring the impact, growth and development of CMOs in the member states. Going forward, it would also be of interest to continuously compare the growth rate between the GDP and royalties collected in each member state.

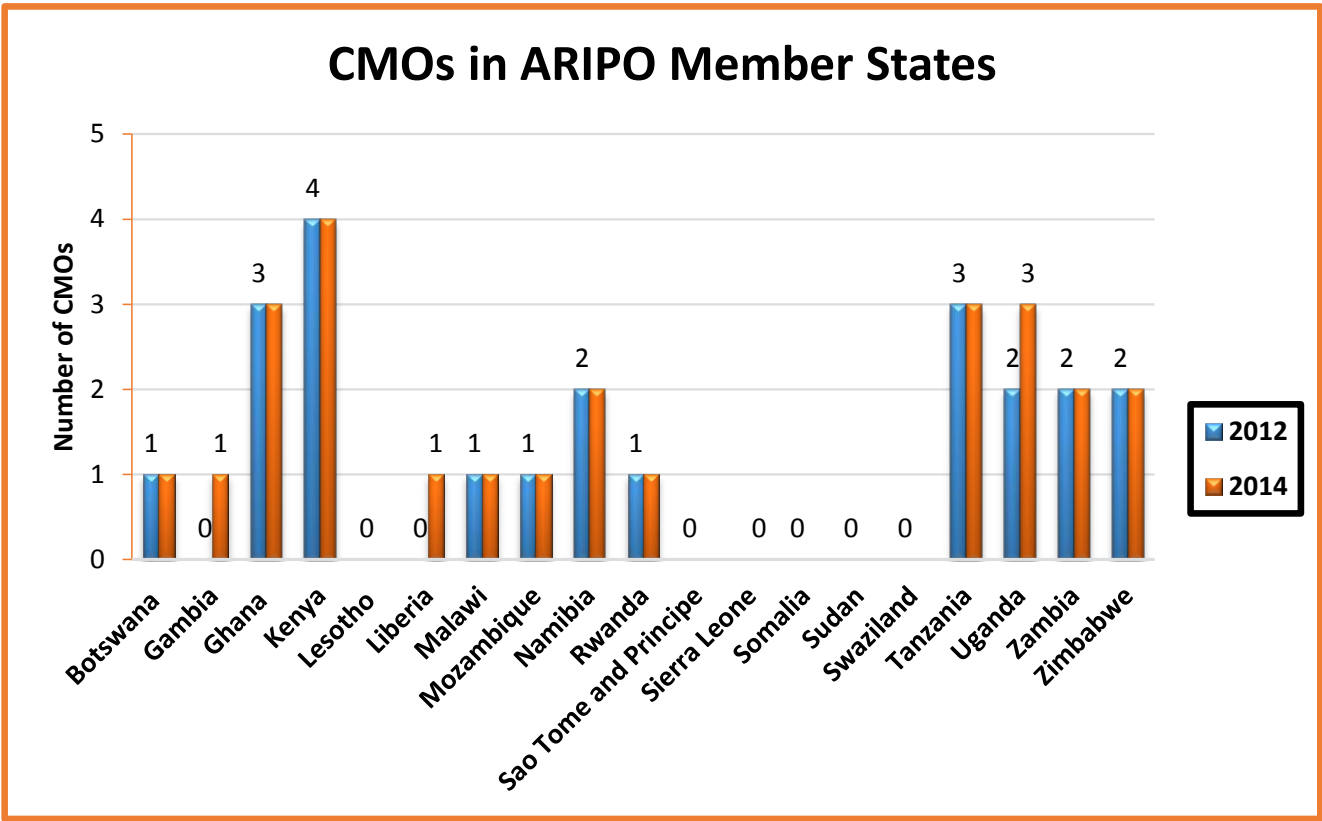
III. CMOs IN ARIPO MEMBER STATES

As at September 2014 there are twenty-five (25) CMOs across thirteen (13) ARIPO member states. Compared to when a similar survey was carried out in 2012, there were twenty-two (22) CMOs in eleven (11) member states.

Number of CMOs in Each Member State

Figure1 below shows the number of CMOs per member state as captured during surveys of both 2011 and 2014.

Figure 2: Number of CMOs per Member State



The above figure indicates an increase in the number of CMOs. The Gambia and Liberia are the member states with newly established CMOs. In 2013 the Copyright Society of Liberia was established, and the Collecting Society of The Gambia is the latest entrant established in 2014.

Kenya has the highest number of CMOs at four (4) followed by Ghana, Tanzania and Uganda with three (3) CMOs each. Namibia, Uganda, Zambia and Zimbabwe each have two (2) established CMOs. On the other hand, Botswana, The Gambia, Liberia, Malawi, Mozambique and Rwanda have one CMO each, and these are multi-purpose CMOs.

As can be seen in Figure2, only six out of nineteen member states do not as yet have an established CMO. These are Lesotho, Sao Tome and Principe, Sierra Leone, Somalia, Sudan and Swaziland. Nonetheless, it should be noted that the laws of Lesotho and Sierra Leone do provide for the establishment of a CMO. On the other hand those of Somalia, Sudan and Swaziland do not have such provision, while with Sao Tome and Principe the law could not be reviewed due to language limitations.

Save for categories such as book publishing and film production where individual clearance for the use of works is common, in the strictest sense, none-existence of collective management organisations in a given territory can be interpreted to mean that works of rights holders are used without authorisation. It would then mean that rights holders are not compensated for the use of their works. It will therefore be important for ARIPO to look into why these member states do not have CMOs established despite provisions in their laws and provide necessary support. For those member states whose laws do not provide for the establishment of a CMO(s) need to be encouraged and supported to include such provisions in their national laws.

Period of Establishment of the CMOs

Table 4 below captures the names of the CMOs per member state. It further indicates when the CMO was established.

Table 4: Member States CMOs

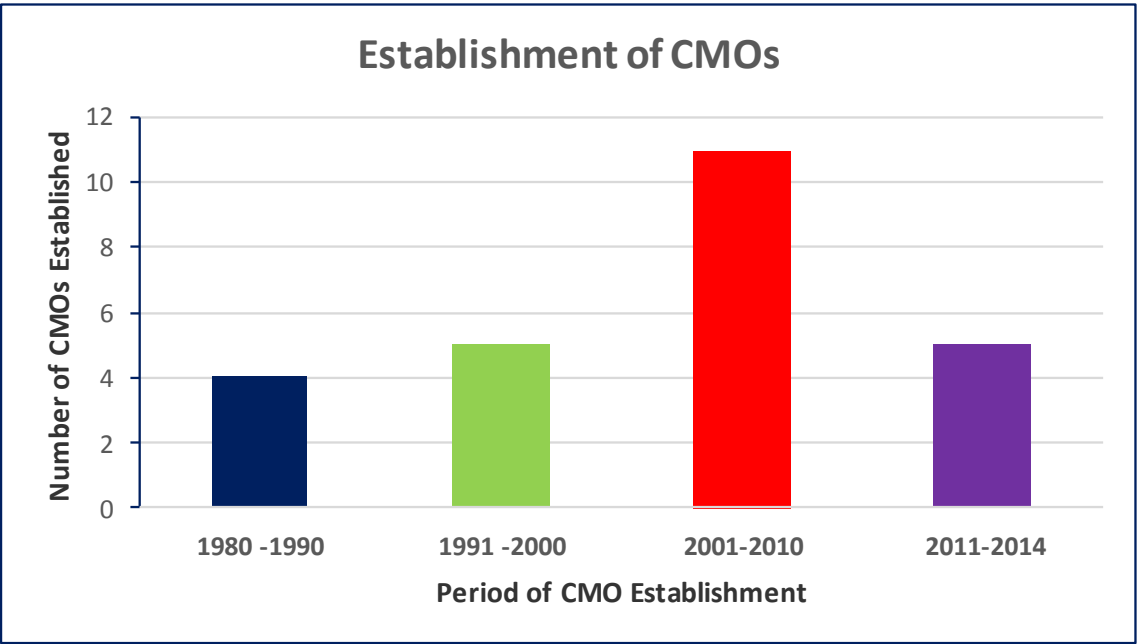
Member State	Name of Collective Management Organisation	Year Established
Botswana	Copyright Society of Botswana (COSBOTS)	2008
The Gambia	Collecting Society of The Gambia (CSG)	2014
Ghana ⁵	Ghana Music Rights Organisation (GHAMRO)	2011
	Audiovisual Rights Society of Ghana (ARSOG)	2011
	Reprographic Rights Organisation of Ghana (CopyGhana)	2000
Kenya	Music Copyright Society of Kenya (MCSK)	1983
	Kenya Association of Music Producers (KAMP)	2003
	The Production Rights Society of Kenya (KOPIKEN)	2005
	Performers Rights Society of Kenya (PRISK)	2009
Liberia	Copyright Society of Liberia (COSLIB)	2013
Malawi	Copyright Society of Malawi (COSOMA)	1992

5 The three CMOs in Ghana replaced the Copyright Society of Ghana established under the 1985 law.

Mozambique	Assiciacao Mocambicana De Autores (SOMAS)	2000
Namibia	Namibian Society of Composers and Authors of Music (NASCAM)	1994
	Namibian Reproduction Rights Organization (NAMRRO)	2006
Rwanda	Rwandan Society of Authors (RSAU)	2010
Tanzania	Copyright Society of Tanzania (COSOTA)	2001
	Copyright Society of Zanzibar (COSOZA)	2007
	The Reproduction Rights Society of Tanzania (KOPI-TAN)	2009
Uganda	Uganda Federation of Movie Industry (UFMI)	2011
	Uganda Reproduction Rights Organisation (URRO)	2010
	Uganda Performing Rights Society (UPRS)	1985
Zambia	Zambian Music Copyright Protection Society (ZAM-COPS)	1996
	Zambia Reproduction Rights Society (ZARRSO)	2010
Zimbabwe	Zimbabwe Music Rights Association (ZIMURA)	1982
	The Reproduction Rights Organisation of Zimbabwe (ZIMCOPY)	1985

Since 1985 to 2013, there has been a continuous establishment of CMOs in the ARIPO member states. As seen above, ZIMURA is the oldest among CMOs in ARIPO member states with the Collecting Society of The Gambia being the latest.

Figure 3: Period of Establishment of CMOs



Four (4) CMOs were established during the period 1980-1990. Five (5) CMOs were established during 1991-2000 and another five (5) is seen during the 2011-2014 period. There is sudden increase during the 2001-2010 with eleven (11) CMOs established during that period. Therefore it can be concluded that since the 80's an awareness of collective management of copyright and related rights began and has been increasing. The decline in 2011-2014 could be an indication that the majority of the member states now have established CMOs. Therefore the decline in the number of newly established CMOs is likely to be the pattern henceforth. However, the 2011-2014 is only half of the current decade, therefore it will be of interest to monitor the change up to 2020.

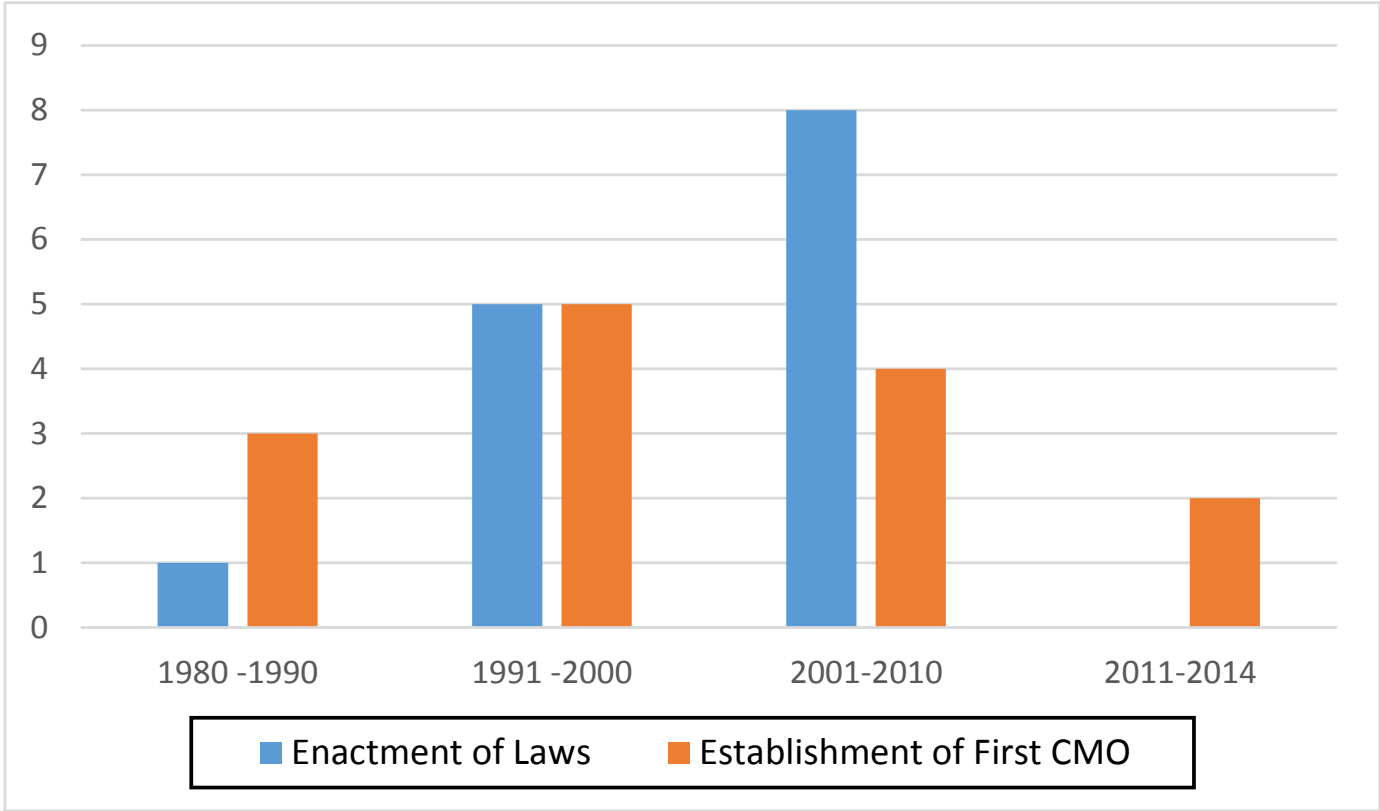
Table 5: Enactment of Member States Laws and Establishment of CMOs

Member state	Year of Enactment of the current Copyright Law	Year of Establishment of CMO or First CMO where more than one exist
Botswana	2006	2008
Gambia	2004	2014
Ghana ⁶	2010	2000
Kenya	2001	1983
Liberia	1997	2013
Malawi	1989	1992
Mozambique	2001	2000
Namibia	1994	1994
Rwanda	2009	2010
Tanzania	1999	2001
Zanzibar ⁷	2003	2007
Uganda	2006	1985
Zambia	1994	1996
Zimbabwe	2000	1982

When looking at when the member states had their laws enacted in comparison with the established of its first CMO, Table5 indicates that in the same manner that the majority of copyright laws were enacted (that is during the period 2001-2010 by 8member states), the majority of CMOs were also established during that period (Table 5 above).

6 Ghana has some exception – See Footnote No. 6 above

Figure 4: Enactment of Laws and Establishment of First CMO

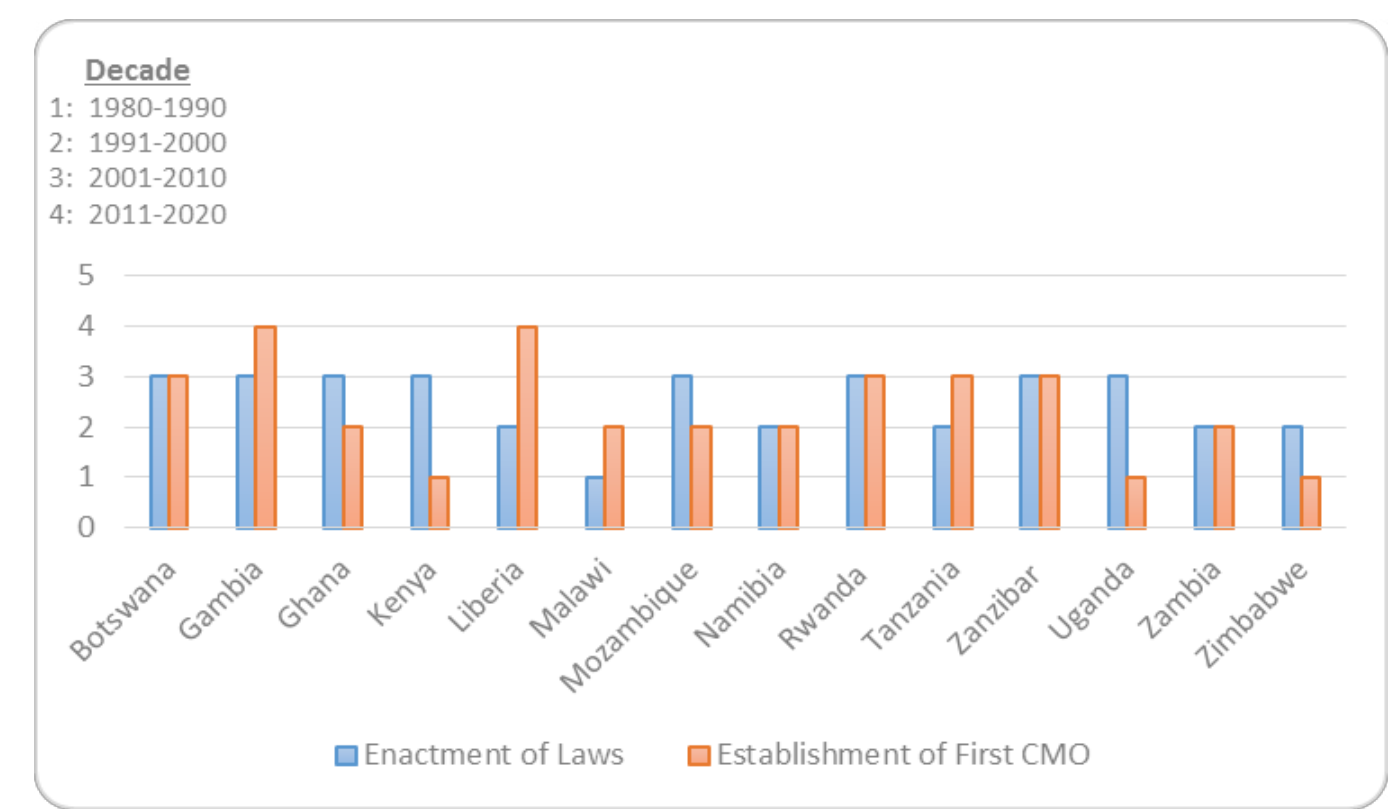


The continuation of establishment of CMOs could be an indication of the need for a supporting legal environment. That is, as member states continued to enact laws that provide for collective management, CMOs have continued to be established.

It is of interest to establish how long it took a country from the enactment of its copyright law (i.e. providing for the establishment of a CMO) to the actual establishment of a CMO or its first CMO (where more than one CMO exist). Figure 6 below seeks to capture this by placing the enactment of the law and the establishment of the CMO (or first CMO) within decades as shown in Figure 4 above.

7 Zanzibar’s copyright law is independent from the law that is administered by COSOTA.

Figure 5: Enactment of copyright laws and establishment of first CMO



It can be seen that five member states had their first CMOs established during the same decade as the law was enacted. These are Botswana (Decade 3), Namibia (Decade 2), Rwanda (Decade 3), Zanzibar (Decade 3) and Zambia (Decade 2). Another five member states had CMOs established during a decade that came before the law was enacted. Reading this as Enactment of law to Establishment of CMO, these are Ghana (Decades 3:2), Kenya (Decades 3:1), Mozambique (Decades 3:2), Uganda (Decades 3:1) and Zimbabwe (Decades 2:1). What remains common between the first group and member states and the second group is that majority of their laws were enacted during decade 3 with the exception of Namibia, Zambia and Zimbabwe.

Three (3) member states had their laws enacted during one decade and the first CMO established a decade or two afterwards. The Gambia (Decade 3:4), Liberia (Decade 2:4) and Tanzania (Decade 2:3). Save for Liberia, there is only the decades from enactment to establishment of a CMO follow each other while with Liberia there is a full decade between the establishment of the CMO and the enactment of the law.

The overall observation is that by the time a CMO is established, there is a law that supports the collective management of rights and the establishment of such organisations.

Rights Managed by the CMOs and Membership

Membership to a CMO by rights holders is what gives these organisations reason for existence. It is only when a CMO has members that it would have rights to license out to users. Table6 shows the types and numbers of members that each CMO has. Further, the Table depicts rights that a CMO is authorised to manage and the actual rights it manages in practice.

Table 6: Rights Manage and Membership

CMO	Rights Supposed to be Managed	Actual Rights being Managed in Practice	Rights holders & Number of Mandates Managed
COSBOTS	Multi-disciplinary society – All rights under the Act:	Music <ul style="list-style-type: none">Public performanceMechanical rightsNeighbouring rights	<ul style="list-style-type: none">Composers (476)AuthorsMusic publishers (5)Sound recording producers (19)
CSG	All rights under the Act: <ul style="list-style-type: none">BroadcastingPublic PerformanceReproductionRelated rights	Yet to commence management of rights	Yet to commence management of rights
ARSOG	<ul style="list-style-type: none">BroadcastingPublic performanceRental	<ul style="list-style-type: none">Public performanceRental	<ul style="list-style-type: none">Film producers (163)TV Series producers (11)Script writers (163)Performers (about 500)
CopyGhana	Reprography	Reprography	<ul style="list-style-type: none">Authors (fiction and non-fiction)Visual artistsPhotographersJournalistsBook Publishers Numbers: <ul style="list-style-type: none">Ghana Association of Writers (4,039)Ghana Book Publishers Association (83)Ghana Association of Visual Artists (1, 050)Ghana Journalists Association (2,443)Ghana Union of Professional Photographers (385)
GHAMRO	All music rights under the Act	<ul style="list-style-type: none">Public PerformanceBroadcasting	<ul style="list-style-type: none">ComposersMusic publishersProducers of phonograms
MCSK	<ul style="list-style-type: none">Performing RightsMechanical RightsSynchronization Rights	<ul style="list-style-type: none">Performing RightsMechanical Rights	<ul style="list-style-type: none">Authors , Composers and Arrangers (8, 861)Publishers (26)
KAMP	Producers of sound recordings	Producers of sound recordings	172 Members
KOPIKEN	N/I	<ul style="list-style-type: none">PhotocopyingScanningPrinting	<ul style="list-style-type: none">Fiction and non-fiction AuthorsPublishersMusicians (sheet music)PhotographersIllustratorsDesignersForeign rights holders in the above categories N/I on numbers

CMO	Rights Supposed to be Managed	Actual Rights being Managed in Practice	Rights holders & Number of Mandates Managed
PRISK	<ul style="list-style-type: none"> ▪ Equitable remuneration Rights of performers for broadcasting and communication to the public ▪ Blank tape levy for audiovisual performers ▪ Right to Making available 	<ul style="list-style-type: none"> ▪ Equitable remuneration Rights of performers for broadcasting and communication to the public 	<p>Performers of sound recordings and audiovisual works (both musicians and actors)</p> <p>*No mandate needed through the equitable remuneration right.</p>
COSLIB	<p>All rights under the Act:</p> <ul style="list-style-type: none"> ▪ Broadcasting ▪ Public Performance ▪ Reproduction ▪ Related rights 	<p>Yet to commence management of rights</p>	<p>Yet to commence management of rights</p>
COSOMA	<p>All rights under the Act:</p> <ul style="list-style-type: none"> ▪ Broadcasting ▪ Public Performance ▪ Reproduction ▪ Distribution ▪ Equitable remuneration 	<ul style="list-style-type: none"> ▪ Public performance ▪ Broadcasting ▪ Mechanical (reproduction) ▪ Reprography 	<ul style="list-style-type: none"> ▪ Composers (6, 055) ▪ Authors of literary works (1 association with 452 mandates) ▪ Poets (1 association with 130 mandates) ▪ Journalists (1 association with 159 mandates) ▪ Visual artists (1 association with 159 mandates) ▪ Photographers (1 association with 200 mandates) ▪ Music publishers (140) ▪ Sound recording producers (350) ▪ Book publishers (1 association with 16 mandates) ▪ Film producers (1 association with 75 mandates)
SOMAS	<p>All rights under the Act</p>	<ul style="list-style-type: none"> ▪ Public Performance ▪ Broadcasting ▪ Audiovisual 	<ul style="list-style-type: none"> ▪ Composers (434) ▪ Authors of literary works (137) ▪ Visual artists (57) ▪ Photographers (2)
NAMRRO	<p>Reprographic rights</p>	<p>Nil</p>	<p>Nil</p>
NASCAM	<ul style="list-style-type: none"> ▪ Performance Rights ▪ Mechanical Rights 	<p>Performance rights</p>	<ul style="list-style-type: none"> ▪ Authors & Composers (5980) ▪ Publishers of Music (9)

CMO	Rights Supposed to be Managed	Actual Rights being Managed in Practice	Rights holders & Number of Mandates Managed
RSAU	<p>All copyright and related rights under the Act</p>	-	<ul style="list-style-type: none"> ▪ Composers 152 ▪ Music publishers (95) ▪ Music associations (1) ▪ Book Publishers (1) ▪ Visual artists (1 association with 18 mandates) ▪ Film producers (1 association with 27 mandates)
KOPITAN	<ul style="list-style-type: none"> ▪ Reproduction ▪ Rental 	<ul style="list-style-type: none"> ▪ Preliminary reproduction ▪ Rental 	<ul style="list-style-type: none"> ▪ Authors (Writers Association (710 members)) ▪ Publishers (Publishers Associationv42 member) ▪ Media owners association (40 members) ▪ Illustrators Association (132 members) ▪ Cultural, Arts and Journalist Association (32 members)
COSOTA	<p>All rights under the Act::</p> <ul style="list-style-type: none"> ▪ Reproduction ▪ Distribution ▪ Broadcasting ▪ Other communication to the public ▪ Rental ▪ Translation ▪ Adaptation ▪ Public Exhibition ▪ Public Performance ▪ Importation of copies 	<ul style="list-style-type: none"> ▪ Broadcasting ▪ Rental ▪ Public Performance ▪ Reprography 	<p>All. Automatic by law</p> <ul style="list-style-type: none"> ▪ Music (2, 113) ▪ Literary (1, 372) ▪ Film (549)
COSOZA	<ul style="list-style-type: none"> ▪ All rights under the Act: ▪ Broadcasting ▪ Public Performance ▪ Reproduction ▪ Related Rights 	<ul style="list-style-type: none"> ▪ Broadcasting ▪ Public Performance ▪ Reprography 	<ul style="list-style-type: none"> ▪ Composers (726) ▪ Authors of literary works (124 individual members) ▪ Producers of sound recording (4 individual members) ▪ Visual Artists (in progress) ▪ Film Producers (5 individual members) ▪ Book publishers (2 individual members) ▪ Poets (N/I) ▪ Photographers (N/I) ▪ Music publishers (N/I)
UFMI	<p>All Audio-visual rights (both economic and moral rights)</p>	<ul style="list-style-type: none"> ▪ Public performance ▪ Broadcasting ▪ Publishing 	<ul style="list-style-type: none"> ▪ Publishers ▪ Producers ▪ Translators ▪ Translators ▪ Directors ▪ Screen writers ▪ Screen Actors

URRO	<ul style="list-style-type: none"> Reproduction Distribution 	Reprography	<ul style="list-style-type: none"> Lyricists Authors (including poets) Journalists Visual artists and photographers Book publishers Numbers: <ul style="list-style-type: none"> 440 writers' mandates through writers associations 45 mandates through publishers' association
UPRS	Music: <ul style="list-style-type: none"> Copyright and neighbouring rights Mechanical rights Synchronization rights 	Copyright	<ul style="list-style-type: none"> Authors Composers Publishers
ZAMCOPS	All rights under the Act	<ul style="list-style-type: none"> Public Performance Mechanical reproduction 	<ul style="list-style-type: none"> Composers Authors Music Publishers <p>Total of 6, 665 members</p>
ZARRSO	N/I	N/I	N/I
ZIMURA	<ul style="list-style-type: none"> Public performance Broadcasting 	<ul style="list-style-type: none"> Public performance Broadcasting 	<ul style="list-style-type: none"> Music Composers (2,683) Publishers (8)
ZIMCOPY	Reproduction rights in text and image	Literary works (reprography)	<ul style="list-style-type: none"> Publishers (1 association with numerous members) Authors (5 associations each with numerous members)

NB: Act in this table refers to the national copyright law of the respective countries where the CMO is established.

As may be noted in the table above, all the CMOs have not yet fully covered rights they are mandated to cover. This could be an indicative of the fact that collective management is a complex phenomenon thus calling for strategic and focussed approaches.

On membership, the above Table shows that membership between CMOs varies from individuals to rights holder associations. Membership that is made up of associations is more common in reprography and multi-disciplinary CMOs than in other CMOs. In view of the limitation of this survey, it is difficult to evaluate the performance of CMOs in relation their membership coverage and structure. Such determination requires baseline data that provides estimates of the numbers of rights holders in the repertoires covered.

IV. GOVERNANCE ISSUES IN ARIPO MEMBER STATES CMOs

Good governance is key to the running and success of any organisation. It is important in the collective management business for CMOs to uphold principles of good governance because these principles are key in winning their stakeholders and users. This is particularly important to ensure transparency and accountability, as CMOs deal with royalties that belong to quite a significant number of right holders. How CMOs conduct themselves is key for winning more members, signing contracts with users and increasing their mandates.

The survey therefore looked at governance structures and transparency of CMOs. It was noted that all CMOs have boards of directors who have oversight of the administrative arm of the CMO (that is the CMO office). It was also noted that all CMOs report to the national copyright office. The exception is with Malawi,

Tanzania and Zanzibar which double as both the copyright office and CMO, but they do have boards.

Board Members

Boards of directors play a key role in ensuring that the organisations they lead follow their mandates and ensure there is accountability and transparency at operational level of the organisation. The election of board of directors and their roles, responsibilities and powers need to be defined in the constitution (or other establishing instrument) of an organisation they lead. This survey did not study this aspect.

Table 7: Number of Board Members

CMO	Number of Board Members
COSBOTS	8
CSG	N/I
ARSOG	8
CopyGhana	12
GHAMRO	5
MCSK	7
KAMP	9
KOPIKEN	7
PRISK	7
COSLIB	Not yet established
COSOMA	9
SOMAS	8
NAMRRO	Board was dissolved. CMO is yet to appoint an interim Board
NASCAM	6
RSAU	13
KOPITAN	6
COSOTA	14
COSOZA	8
UFMI	7
URRO	9
UPRS	11
ZAMCOPS	11
ZARRSO	N/I
ZIMURA	8
ZIMCOPY	7

Save for COSLIB and NAMRRO which are yet to establish boards, as seen in the above table, the number of Board Members of CMOs in the study range between five (5) and fourteen (14) members. GHAMRO has the lowest number while COSOTA has fourteen board members. In most cases board members are rights holders or representatives of right holder associations.

Boards of some CMOs comprise of ex-officio members and these are COSBOTS, COSOZA, CopyGhana, RSAU and ZAMCOPS. These ex-officio members are from the copyright offices. It is observed that one member of the COSOZA Board of Directors is a representative of the user's association. Further, out of the eight (8) members of the Board, two (2) members representing rights holders and 6 ex-officio members.

The COSLIB Board of directors is yet to be established while the NAMRRO board was dissolved and it is yet to be re-established.

Employees in the CMOs

Daily activities of CMOs are carried out by employees of the organisation. It therefore became necessary for the survey to look at the number of employees each participating CMO has. On the other hand, the study did not investigate the actual functions of each employee to determine their contribution to the ability of a CMO to license out works and generate income for their members.

Table 8: Number of Employees

CMO	Number of Employees 2011	Number of Employees 2014	Change in Number of Employees
COSBOTS	9	12	+3
CSG	N/A	NI	-
ARSOG	N/I	2 (1 Permanent, 1 Part time)	N/A
CopyGhana	2	4	+2
GHAMRO	8	9	+1
MCSK	N/I	98	-
KAMP	4	8	+4
KOPIKEN	3	27 (4permanent + 20 agents)	+24
PRISK	1	8 (5 full time, 3 Part time)	+7
COSLIB	N/A	1	+1
COSOMA	11	18	+7
SOMAS	N/I	6	-
NAMRRO	N/I	1 (Attached government official)	-
NASCAM	10 (5 permanent+ 5 Contracts)	9 (5 permanent+ 4 Contracts)	-1
RSAU	4	4	-
KOPITAN	N/I	2	-
COSOTA	17	20	+3
COSOZA	N/I	10	-
UFMI	N/I	6 (3permanent +3 part time)	-
URRO	2	5	+3
UPRS	N/I	13	-
ZAMCOPS	10	11	+1
ZARRSO	3	N/I	-
ZIMURA	21	27	+6
ZIMCOPY	2	1	-1

Table 8 shows the number of employees that each participating CMO had in 2012 and what the CMO had at the time of this survey. As may be seen above, MCSK has the highest number of employees with ninety-eight (98) employees in its permanent employee establishment. On the other hand, COSLIB, NAMRRO and ZIMCOPY operate with one employee each.

All CMOs that participated in both surveys have experienced either an upward or downward change in the number of employees between 2012 and 2013. Twelve (12) such CMOs have increased the number of employees. KOPIKEN has the highest positive change of 24, which is largely due to agents who get engaged on a commission basis. It is followed by COSOMA and PRISK which have both seen an increase by seven (7) employees each. Two (2) CMOs (NASCAM and ZIMCOPY) have reduced their employees by one person. With regards to the remaining CMOs, there was missing information hence no calculation of the change in the number of employees.

ASORG, UFMI, KOPIKEN, PRISK and NASCAM indicated that they operate with permanent employees, but also engage other people on temporary or contractual basis as maybe necessary.

Availability of Information Publicly and Transparency Issues

CMOs deal with royalties that belong to rights holders; therefore it becomes crucial for them to be trusted by their members and other stakeholders. Transparency is measured by the type, level and ease of access to information that is availed to internal and external stakeholders, and at times the public at large. For CMOs, the information they avail to their members and the public an important element in their existence. Therefore Table 9 shows the kind of information and avenues through which it is made available.

Table 9: Publicly Available Information

CMO	Publicly Available information	CMO has a Website
COSBOTS	Annual reports with audited financials available to members at the AGM and on request	Yes
CSG	Limited publicity, information available online in websites and in the Copyright Office	Yes
ARSOG	Annual financial reports (yet to be distributed to members and submitted to respective government institutions)	Yes
CopyGhana	Annual reports and audited accounts	Yes
GHAMRO	Nil	No
MCSK	MCSK website	Yes
KAMP	Distributed income published in print media	Yes
KOPIKEN	N/I	Yes
PRISK	<ul style="list-style-type: none"> Audited accounts availed to members at the AGM Total distribution published in the Daily Newspaper 	Yes
COSLIB	Nil	No
COSOMA	Available on CISAC and IFRRO websites	Yes
SOMAS	Annual Reports <ul style="list-style-type: none"> Produced CISAC website 	Under development
NAMRRO	Nil	No

NASCAM	Information available on CISAC website and on request	Yes
RSAU	Nil	No
KOPITAN	N/I	Under Development
COSOTA	Annual financial reports submitted to the Board and the Auditor General for audit	Yes
COSOZA	<ul style="list-style-type: none"> Annual reports distributed to members in an AGM Reports submitted to government office quarterly 	Under Development
UFMI	<ul style="list-style-type: none"> Annual Financial reports distributed to members in an AGM Monthly Reports submitted to the Uganda Registration Services Bureau Published in the website 	Yes
URRO	Annual reports distributed to members	Under Development
UPRS	CISAC website	Yes
ZAMCOPS	Financial Reports <ul style="list-style-type: none"> Distributed to members in an AGM CISAC website Submitted to copyright office 	Yes
ZARRSO	N/I	N/I
ZIMURA	Financial Reports <ul style="list-style-type: none"> Distributed to members CISAC website Submitted to copyright office and National Arts Council 	Yes
ZIMCOPY	Annual reports available on request	Yes

The majority of the CMOs state that they avail information such as audited accounts to their members, publish them in local print media and also avail them in websites of international organisations they are affiliated to such as CISAC and IFRRO.

As seen above, Fifteen (15) CMOs indicated that they have websites that are established. However, is observed, that among those, only MCSK indicated that it avails its information (including audited financials) on its website. Nine (9) CMOs do not as yet have websites.

V. FINANCIAL STATUS OF CMOs

The business of collective management organisations is to promote legal access to copyright protected works of its members by licensing these works to users, collecting and distributing royalties to its members whose works have been used by licensed users. In that regard, it became important to look into the financial outcome of CMOs, in order to establish whether they are collecting and distributing royalties and comparing that status between the 2011 survey results and those of 2013.

Royalty Collections

Table10 below captures the status of CMOs on royalty collection as reported during the 2012 survey (Status on Collections in 2011). In 2011, seven (7) CMOs indicated that they were collecting royalties while five (5) CMOs were not yet collecting royalties at the time. Four (4) CMOs were not yet established and on account that not all CMOs participated in the 2012 survey, there was no information on eight (8) CMOs.

As shown in Table 10 below, in 2012, the number of CMOs collecting royalties is twelve (12). However it is noted that the CMOs that cause the increase are those that did not provide information about their status during the 2011 survey. Further, none of the CMOs that indicated they did not collect royalties in 2011 had begun doing so in 2012. The number of those collecting royalties in 2013 is increased by two (2) with COSBOTS and ARSOG beginning to collect royalties.

Table 10: Status of Royalty collection

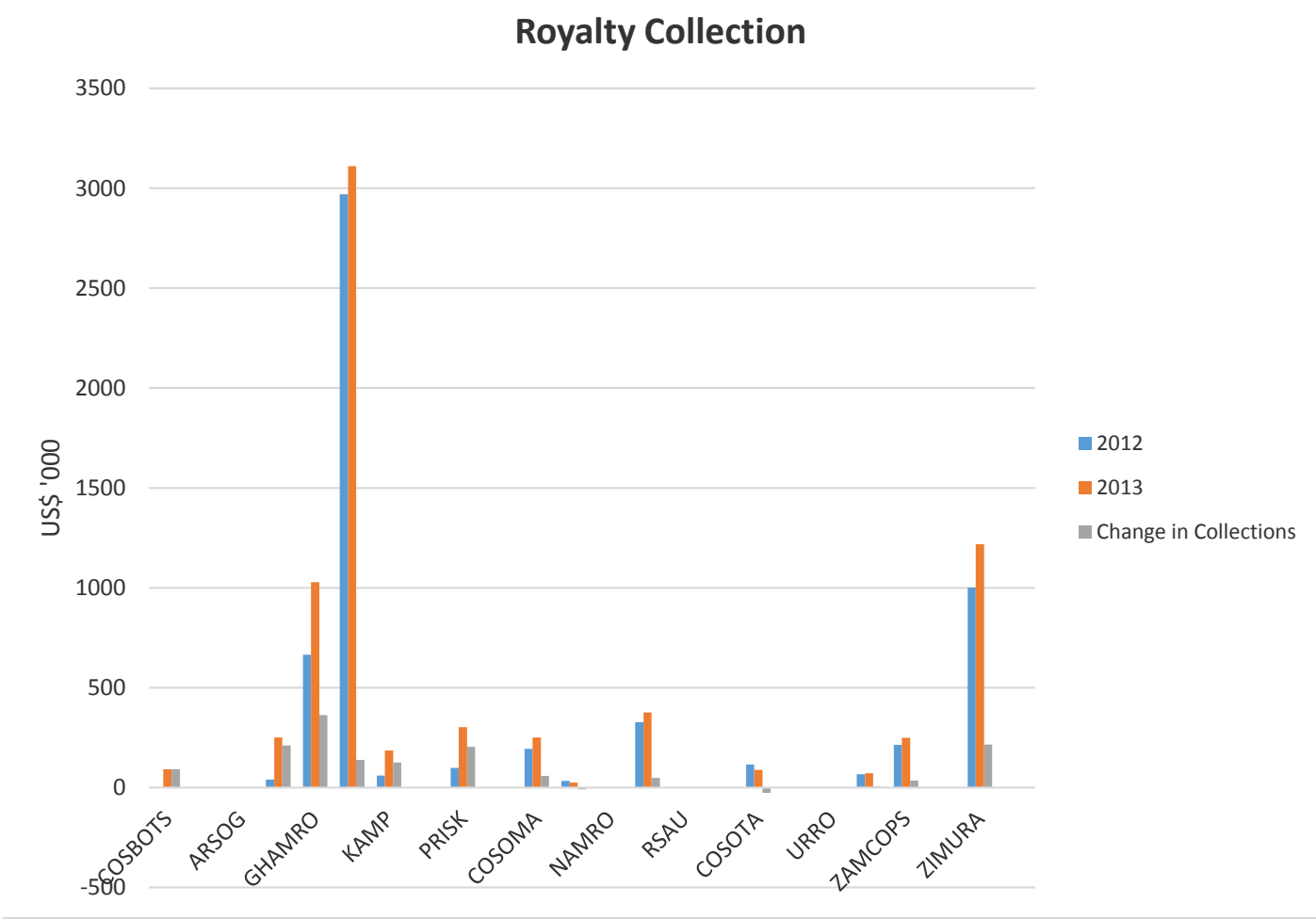
CMO	Royalty Collections 2011	Collections (US\$) 2012	Collections (US\$) 2013	Change in Collections (US\$)
COSBOTS	No	-	92, 375.00	+92, 375.00
CSG	N/A	-	-	-
ARSOG	N/A	-	116.25	+116.25
CopyGhana	Yes	40, 381.22	250, 568.00	+210, 186.78
GHAMRO	No	666, 198.94	1, 028, 982.80	+362, 783.86
MCSK	NI	2, 970, 708.80	3, 109, 669.70	+138, 960.90
KAMP	Yes	60, 353.00	185, 776.00	+125, 423.00
KOPIKEN	Yes	18, 442.00	16, 474.00	-1, 968.00
PRISK	Yes	98, 206.93	302, 693.92	+204, 486.99
COSLIB	N/A	-	-	-
COSOMA	Yes	193, 117.00	251, 170.00	+58, 053.00
SOMAS	NI	32,821.00	24, 778.00	-8, 043.00
NAMRRO	NI	-	-	-
NASCAM	Yes	327, 408.78	375,924.18	+48, 515.40
RSAU	N/A	-	-	-
KOPITAN	No	-	-	-
COSOTA	NI	115, 873.81	88, 464.29	-27, 409.52
COSOZA	NI	5, 125.00	5, 905.00	780.00
URRO	No	-	-	-
UPRS	NI	65, 974.11	70, 700.02	+4, 725.91
ZAMCOPS	Yes	214, 013.00	248, 727.00	34, 714.00
ZARRSO	No	NI	NI	NI
ZIMURA	Yes	1, 002, 013.00	1, 217, 880.00	+215, 867.00
ZIMCOPY	No	-	-	-T

In 2012, the highest royalty collection is reported by MCSK at US\$ 2, 970, 708.80; SOMAS recorded the lowest figure of US\$ 32,821.00. In 2013 MCSK remained the highest in royalty collections at US\$ 3, 109, 669.70. ARSOG as a new comer recorded a royalty collection of US\$116.25.

It is observed that though COSBOTS was recording its first collection in 2013, the CMO collected US\$92, 375.00 which is higher than collections made by many other CMOs which started earlier.

As can be seen on Table10 above, all CMOs collecting royalties have seen a positive change in royalties collected except for SOMAS and COSOTA that saw a decline in their collections. GHAMRO experienced the highest increase in royalty collections between 2012 and 2013 by recording a positive change of US\$ 362, 783.86. On the other hand, COSOTA’s collections in 2013 declined by US\$27, 409.52.

Figure 6: Royalties collected 2012 and 2013



As can be seen in Figure 7, the majority of CMOs are now collecting royalties on behalf of their members. The Figure also shows that the majority of CMOs’ collections are increasing.

Royalty Distributions

A CMO’s ability to distribute royalties is the most important criteria for success and the most desired output for its members. Therefore the survey sought to find out that following royalty collections (as seen on the above section), how much has the CMO distributed to its members.

The question therefore sought to establish how much the CMO has been able to distribute in 2012 and 2013 and also to establish whether the CMOs are experiencing a growth in there distribution.

Table 11: Status on Royalty Distribution

CMO	Royalty Distribution 2011	Distributions (US\$) 2012	Distributions (US\$) 2013	Change in Distributions	Distribution intervals
COSBOTS	No	-	64, 625.00	+64, 625.00	Twice a year
CSG	N/A	-	-	-	N/A
ARSOG	N/A	-	0	0	Likely Twice a year

CopyGhana	No	5,263.00	105,293.00	+99, 976.00	Annually
GHAMRO	No	890, 097.00	271, 668.00	-618, 429.00	Twice a year
MCSK	NI	637, 491.80	1, 097, 379.60	+459, 887.80	Varies
KAMP	No	7, 601.00	68, 182.00	+60,581.00	Annually
KOPIKEN	Yes	8, 830.00	7, 888.00	-942.00	Annually Likely twice in 2014
PRISK	No	0	66, 068.00	+66, 068.00	Annually
COSLIB	N/A	-	-	-	N/A
COSOMA	Yes	135, 182.00	251, 117	+115,935.00	Varies
SOMAS	NI	22, 975.00	19, 369.00	-3, 606.00	Annually
NAMRRO	NI	0	0	0	N/A
NASCAM	Yes	71, 428.69	129, 174.00	+57,745.31	Twice a year
RSAU	N/A	0	0	0	N/A
KOPITA	No	0	0	0	NI
COSOTA	NI	81, 111.67	61, 925.00	-19, 186.67	Varies
COSOZA	NI	Need clarity	Need clarity		Twice a year
URRO	No	0	0	0	N/A
UPRS	NI	18, 498.35	28, 280.01	+9, 781.66	Annually
ZAMCOPS	Yes	95, 264.00	155, 927.00	+60, 663.00	Twice a year
ZARRSO	No	NI	NI	-	NI
ZIMURA	Yes	579, 096.00	625, 829.00	+46, 733.00	Annually
ZIMCOPY	No	0	0	0	N/A

GHAMRO had the highest royalty distribution in 2012 (US\$890, 097) while MCSK became the highest in 2013 (US\$1,097,379). Except for GHAMRO, SOMAS, and COSOTA, all CMOs that are distributing royalties had an increase in the amounts they distributed between 2012 and 2013. GHAMRO experienced the highest negative change in royalty distribution between 2012 and 2013 (- US\$618, 429). This is a very significant negative change. It is therefore important for such patterns to be investigated for further understanding and appropriate mitigation as may be necessary.

CMOs also reported varying distribution intervals, with the majority distributing once a year (n=6) followed by those that distribute twice a year (n=5) and another two (2) CMOs indicated that they have varying intervals. This needs to be looked into to understand factors that cause the variations. It will also be of interest to understand which intervals benefit rights holders the most, that is, do the rights holders feel they benefit more if they receive their royalties after a year, twice a year or as and when the CMO finds it necessary to distribute. Such an understanding can only be determined through a study that involves the rights holders themselves. The majority of CMOs experienced a positive increase in their royalty distributions. This indicates a growth in the role of the CMOs in ensuring that rights holders are remunerated for the use of their works.

Change in Collections and Distributions

It would be expected that as a business gets established, revenue collected from its revenue streams increase with time. Therefore, looking into the revenue generation and distribution by CMOs is important to determine whether they are growing in carrying out their mandates. An increase in the collections of royalties is a positive development. Whilst stagnation may raise some questions, a decrease in royalty collection calls for an investigation into the causes with a view of developing and implementing appropriate interventions.

Table12 sums up the percentage change in royalty collections and distributions between 2011 and 2012. The Table excludes CMOs that were collecting or distributing royalties for the first time, since there was no baseline with which to measure the change.

Table 12: Change in Collections and Distributions

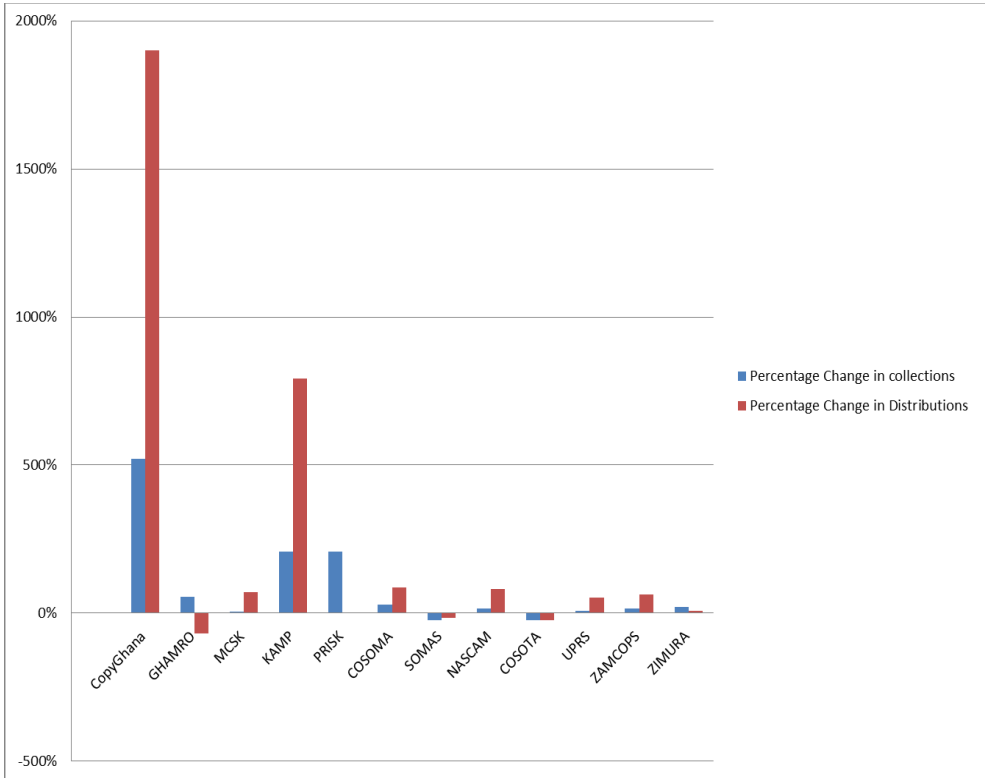
CMO	Percentage Change in collections	Percentage Change in Distributions
CopyGhana	521%	1,901%
GHAMRO	54%	-69%
MCSK	5%	72%
KAMP	208%	792%
KOPIKEN	-11%	-11%
PRISK	208%	0%
COSOMA	30%	86%
SOMAS	-25%	-16%
NASCAM	15%	81%
COSOTA	-24%	-24%
UPRS	7%	53%
ZAMCOPS	16%	64%
ZIMURA	22%	8%

As can be noted above, CopyGhana experienced the highest percentage change in royalty collection. This means that collections in 2012 grew by 521% compared to collections made in 2011. On the other hand, in 2012, SOMAS royalty collections declined by 25%.

CopyGhana’s royalty distribution rose by 1,901% between 2011 and 2012. This is the highest increase of all CMOs. Despite a 54% increase in its royalty collections, GHAMRO experienced the highest decline in the distribution by 69%.

It is observed that though PRISK had a 208% increase in royalty collections, in 2012 its distribution remained the same as it was in 2011.

Figure 7: Percentage change in royalty collections and distributions



When looking at Figure9 in conjunction with Table12 above, there is a general variation between the change in royalties collected and royalties distributed. It was not the focus of this survey to investigate reasons that influenced the change in royalty collections and the gaps between the change in the collections and distributions. This needs to be investigated more to gain insight of challenges faced so as to support CMOs to mitigate those, and look at opportunities that can be leveraged to encourage increases in both collections and distributions.

Collections Retained to cover Administrative Expenses

To enable them to carry out their businesses, CMOs, at the authorisation of their members, retain an agreed percentage or actual administrative costs of royalties collected for administrative costs. Table 13 shows that whilst the percentages retained vary, the majority (n=6) retained 30%. Six (6) CMOs did not provide this detail. MCSK, UPRS and ZIMURA had their retentions varying between 2011 and 2012. These three CMOs present an opportunity for further investigation into reasons why they have varying figures and also how they deal with those from a governance point of view.

Table 13: Percentage retained for Administrative Costs

CMO	Total Percentage cost
COSBOTS	47%
CSG	NI
ARSOG	NI
CopyGhana	30%
GHAMRO	30%
MCSK	2012: 80% 2013: 60%
KAMP	NI
KOPIKEN	30%
PRISK	48.8%
COSLIB	N/A
COSOMA	30%
SOMAS	40%
NAMRRO	N/A
NASCAM	30%
RSAU	N/A
KOPITAN	NI
COSOTA	30%
COSOZA	30%
URRO	N/A
UPRS	2012: 71.97% 2013: 60%
ZAMCOPS	30%
ZARRSO	NI
ZIMURA	2012: 35.78% 2013: 42.90%
ZIMCOPY	N/A

From Establishment to Royalty Distribution

This section of the report seeks to look into the time frame between the establishment of a CMO and how long it took to begin collecting royalties. Further, it looks at how long it took between royalty collection and distribution, as well as how long it took from establishment to royalty distribution.

Table 14: From Establishment to Royalty Distribution

Name of CMO	Year Established	First Year of Royalty Collection	No. of years From Establishment to Royalty Collection	First Year Royalty Distribution	No. of years from Establishment to Royalty Distribution	No. of Years from Royalty Collection to Distribution
COSBOTS	2008	2013	5	2013	5	0
CSG	2014	Not yet	N/A	N/A	N/A	N/A
GHAMRO	2011	2013	2	2013	2	0
ARSOG	2011	2013	2	Not yet	+2	N/A
CopyGhana	2000	2011	11	2012	2	1
MCSK	1983	N/I	-	N/I	-	-
KAMP	2003	2008	5	2008	5	0
KOPIKEN	2005	2010	5	2010	5	0
PRISK	2009	2011	2	2013	4	2
COSLIB	2013	Not yet	+1	N/A	+1	N/A
COSOMA	1992	1993	1	1994	2	1
SOMAS	2000	N/I	-	N/I	-	-
NASCAM	1994	1996	2	1996	2	0
NAMRRO	2006	Not yet	+7	N/A	+7	N/A
RSAU	2010	Not yet	+3	N/A	+3	N/A
COSOTA	2001	N/I	-	N/I	-	-
KOPITAN	2009	N/A	+4	N/A	+4	N/A
COSOZA	2007	N/I	-	N/I	-	-
URRO	2010	Not yet	+3	N/A	+3	N/A
UPRS	1985	N/I	-	-	-	-
ZAMCOPS	1996	Unclear	-	-	-	-
ZARSO	2010	Not yet	+3	N/A	+3	N/A
ZIMURA	1982	1985	3	1985	3	0
ZIMCOPY	1985	Not yet	+28	N/A	+28	N/A

NB: The start period for collections and distribution is as per 2012 study; '0' – means the factors happened during the same year; A '+' means still counting, i.e. the CMO has not yet attained the milestone.

When looking at the year when a CMO was established against the question of whether it is collecting royalties, CMOs that had not yet began collecting royalties by the year 2013, ranged from zero years old to twenty-eight (28) years old. These are CSG (2014), COSLIB (2014), NAMRRO (2006), RSAU (2010), KOPITAN (2009), UPMI (2011), URRO (2010) and ZIMCOPY (1985). The table indicates that CMOs that have been in existence for at least three years and are still not collecting royalties are mainly RROs – NAMRRO (8years), KOPITAN (4 years), URRO (3years) and ZIMCOPY (28 years). This suggests that ARIPO and its partners need to join efforts to study reasons behind and develop strategies that address issues that are unique to RROs.

The Table shows that for CMOs that have begun collecting royalties, in general, it took them between two to five years for a CMO to be able to collect royalties once it has been established. It is noted however that some CMOs take much longer, the pattern is particularly common for RROs.

The Table also indicates that generally, once a CMO has started collecting royalties, it is able to distribute within the same or following year. The longest waiting period between collections and distribution is two (2) years.

VI. CHALLENGES FACED BY CMOS

CMOs were asked to indicate the challenges they are faced with. This sections sums up issues that were raised as challenges faced.

- i) Users' unwillingness to pay royalties;
- ii) Lack of awareness of copyright laws by users and general public;
- iii) Piracy;
- iv) Inadequate manpower;
- v) Inadequate resources;
- vi) Licensing educational institutions for RROs
- vii) Collaboration and partnership with other stakeholders within and outside the country;
- viii) Collaboration with the copyright office;
- ix) Increasing awareness of collective management among and support by right holders;
- x) Availability of technologies that can be used by CMOs.

VII. OBSERVATIONS AND RECOMMENDATIONS

Observations

From the survey statistics, a number of observations are made, this section discusses key observations made.

1. The survey reveals a general growth in collective management in ARIPO member states. The growth is shown by;
 - i) Growth in the number of CMOs;
 - ii) Growth in the collection of royalties;
 - iii) Growth in the distribution of royalties.
2. It is also observed that though there is a general growth in both the numbers of CMOs and their performances on royalties, there are some CMOs that experience declines in both royalty collections and distributions.
3. It is observed that RROs seem to take much longer to begin collecting royalties.
4. CMOs can improve on transparency about their operations particularly their annual reports and financial reports. Most of them do not avail such information in their own websites.
5. Some CMOs in ARIPO member states are successful in serving their members, while others are faced with difficulty to achieve that state. Others are not consistent in their delivery of service.
6. The survey reveals that a good number of laws of ARIPO member states provide for the establishment of copyright tribunals or arbitration bodies. The study did not look into the existence of actual bodies nor did it investigate the types of cases that these bodies have had to deal with.

Recommendations

In view of observations, the following recommendations are therefore made:

1. Studies that measure the economic contribution of copyright-based industries are important to highlight the importance of these industries in the development and growth of economies, therefore ARIPO member states should be encouraged and supported to undertake these studies.
2. ARIPO should continue carrying out researches and surveys (or other means of continuously gathering information) to measure the growth in collective management in the member states. For ease of comparisons and measuring the trends, the studies should be carried biennially or other intervals as may be deemed suitable. The following are some of the issues that need to be investigated and shared across CMOs:
 - i) What makes collective management organisations to thrive in one country compared to the other;
 - ii) What factors contribute to very significant changes in royalty collections and distributions;
 - iii) Sources of royalties collected.
3. It may be helpful to investigate further into reasons behind patterns that are revealed by statistics. Areas of interest may include the following:
 - i) Reasons behind CMOs administrative costs varying and how they get approval from their boards to have them varied;
 - ii) What leads to declines in royalty collections and distributions;
 - iii) Strategies applied by CMOs that seem to realise and sustain increases in both royalty collections and distributions;
 - iv) What are the challenges that hinder the growth of RROs;
4. CMOs need to be encouraged to increase their transparency levels by availing some of their key information through their own websites. Further, ARIPO can collaborate with CMOs federations such as IFRRO and CISAC to acquire and compare data received from the CMOs and that which it receives from the CMOs. Such collaborations may need to be formalised in view of confidentiality obligations;
5. ARIPO needs to work with member states and partners such as NORCODE, WIPO and IFRRO, to establish and address challenges that are specific to RROs;
6. There is need to intensify engagement with member states that do not have CMOs established. The following need to be worked on:
 - i) Where the law provides for the establishment of CMO(s), find out what are the hindrances and assist in addressing those;
 - ii) Where the law does not provide for the establishment of the CMO engage with the national office to establish support that is need to ensure that ultimately, CMOs are established.
7. Investigations on collective management should also be carried out from the national copyright office's side. The idea would be to gain an understanding of how the national offices deal with the supervisory role that they are expected to play. This may assist in informing member states on how they can assist their CMOs to be more effective.
8. ARIPO should consider establishing a CMOs mentorship program. CMOs that are established and seem to be doing well could provide mentorship and support to newly established CMOs and to those that are faced with challenges that could range from governance, attracting artists to memberships, to those that may be having difficulty licensing out works. ARIPO can achieve this through partnerships with organisations such as NORCODE, IFRRO, CISAC and WIPO which already have such programs;

9. This survey limited itself to CMOs in ARIPO member states only. ARIPO should consider engaging other stakeholders and finding resources to conduct surveys (or other research activities) that include CMOs across Africa, and this may begin with CMOs in ARIPO observer states and potential members. Such research results will give a wider picture about collective management on the continent as well as widen opportunities for exchange. It would also assist ARIPO to measure its contribution to the efficiency and effectiveness of CMOs in its member states when compared to those CMOs that do not have access to such a structure, by virtue of their countries not being members to any regional IP organisation;
10. It will be of interest to study the functions of copyright tribunals or arbitrations in ARIPO member states. The main question should be to look into whether following establishment by the copyright laws, are they really functional and if so, what kind of cases are commonly brought to the tribunals;
11. It may be beneficial for ARIPO to develop governance and reporting standards for CMOs to adhere to. These could facilitate reciprocal agreements between CMOs in the member states and ease of studying and evaluating the CMOs using the same standards;
12. To appreciate the impact of collective management organisation on the economic status of their members, it may be beneficial to develop tools of study that target members of CMOs or look into average distributions per member;
13. ARIPO needs to continuously work with its partners to study the development and growth of collective management in its member states. In order to ensure accuracy and reliability of information provided, there is need to devise strategies for information gathering and verification.

VIII. CONCLUSION

The survey reveals a growth in collective management in ARIPO member states. Despite the observation that some CMOs have experienced declines in royalty collection and distribution, there is a general growth in royalty collection and distribution across CMOs. The statistics point towards the need to strengthen collective management organisations in the member states so that they become more effective in their business.

It is important for ARIPO, in collaboration with its partners, to continuously study CMOs to determine the status of collective management in the member states and also investigate reasons behind certain patterns that seem to form in the area. CMOs themselves have expressed the importance of information gathering and sharing as a way that can assist them to measure themselves against other CMOs as well facilitate the sharing of experiences for the benefit of their members.

ARIPO and NORCODE have an opportunity to capitalise from the MOU they signed and continue working together, attract other partners, develop and implement initiatives that will grow collective management in ARIPO member states and Africa at large.

COLLECTIVE MANAGEMENT ORGANIZATIONS (CMOs) TRANSPARENCY REPORT 2014

	COUNTRY INFORMATION
Country	
Capital	
GDP (Gross Domestic Product) (year)	
GDP per capita (year)	
	LEGISLATIVE FRAMEWORK
Legal system	
Name of the Copyright Law	
Date of enactment of the Law	
Relevant Sections concerning the establishment of a CMO	
Supervising Government authority (if several, specify the roles)	
Dispute resolution body for licensing terms	
Name of the dispute resolution body, if any	

Name	
Contact details of the CMO	
Primary contact person	
Date of establishment	
Composition of the Board	
Number of employees	
Website	
Rights that can be managed	
Rights that are managed in practice	
Rights holders that are managed	
Number of mandates per rights holder category	
	FINANCIAL INFORMATION
Total collection (Please convert to US Dollar)	
Collection per repertoire (Please convert to US Dollar)	
Total Distribution (Please convert to US Dollar)	
Distribution per repertoire (Please convert to US Dollar)	
Total cost percentage	-
Cost percentage per repertoire, if applicable	-

Distribution intervals	
Publicly available information on economic results	
CHALLENGES-OPPORTUNITIES	



ARIPO Office
11 Natal Road, Belgravia
P.O. Box 4228, Harare, Zimbabwe

Tel: (+263) (4) 794054/65/66

Mobile: (+263) (0) 731 559 987, 731 020 609,
(+263) (0) 715 837 323

Fax: (+263) (4) 794072/3

Email: mail@aripo.org
Website: www.aripo.org



Music copyright Society of Kenya



Designed & Printed by: OUT OF AFRICA Media
www.outofafricamedia.co.zw