Commonwealth Secretariat

The Copyright System

Practice and Problems in Developing Countries

Commonwealth Education Handbooks

The Copyright System

Practice and Problems in Developing Countries

DENIS DE FREITAS

Commonwealth Secretariat, Marlborough House,
London SW1Y 5HX.

COMMONWEALTH SECRETARIAT
Marlborough House, Pall Mall, London SW1 5HX

First published 1983

ISBN 0 85092 233 X

Printed for the Commonwealth Secretariat by
Hobbs the Printers of Southampton

CONTENTS

(Paragraphs are shown in brackets)

FOREWORD

Following a Commonwealth Asian Pacific regional seminar in book development held in New Delhi in 1973, the Commonwealth Secretariat published a little booklet on copyright entitled *Copyright in the Developing Countries*. It immediately proved popular and went into a number of impressions and translations.

In the ten years that have passed since then a whole new technology of communication has grown up. Interest is now focused not only on obtaining reprint and translation rights but also on photocopying, cassette recording, videotaping and satellite broadcasting. In order to keep up with these and other developments, the Secretariat has decided to publish the present longer and more comprehensive work. It is intended to take the place of the old one.

It has been written by Denis de Freitas, OBE, MA, Solicitor General of the Federation of the West Indies from 1958 to 1962 and, since 1976, Chairman of the British Copyright Council. In his extensive consultancy work in many countries he has familiarised himself with their copyright practice and problems, and the Secretariat is indebted to him for so clearly and concisely encapsulating his experience in this handbook. I am pleased to commend it to all those for whom the subject is of personal, professional or political concern in the Commonwealth.

Rex E O Akpofure
Director
Education Programme
Human Resources Development Group
Commonwealth Secretariat

INTRODUCTION

The Purpose of the Copyright System

1. The subject matter of copyright is culture. No society can live without culture - without books, music and paintings.

2. Books are needed for recording the history of a country so that each generation may be aware of its heritage and may build for the future on the foundations of the past. Books are needed to record knowledge and ideas in all spheres of human endeavour, in the natural sciences, in medicine, in the political and social sciences, in the art of applying knowledge. Books are needed to describe the human condition, the problems of human relationships, the comedies and the tragedies of human life. Music is an integral part of life, speaking in a universal language which needs no interpretation. It provides solace when we are weary. It invigorates our spirits, fills our hearts with emotion, and uplifts our souls. Paintings depict the world we live in. They capture the beauty of the human person. They reveal through the artist's eye facets of nature which we may not have observed, teaching us to appreciate the relationship between shapes and colours.

3. The literature, the music and the artistic output of a country - and their interpretation by actors, singers and dancers - make up the culture of that country and form perhaps the most important part of its national identity.

4. In every country there are persons who have these wonderful creative and interpretative talents - persons who can write books, compose inspiring music, paint beautiful pictures, act, sing and dance. These gifted people are the country's cultural workers. In earlier centuries culture was supported by a system of patronage. Members of the royal court and the aristocracy would, by commission or appointment to some office, support writers, musicians and artists. There is still room today for patronage of the arts by government, industry and the individual. But since the last century the copyright system as we know it today has been evolved to provide creative people with legal rights by the exercise of which they may earn a living. This commitment to creativity has been universally recognised and given official expression in Article 27 of the Universal Declaration of Human Rights:

> Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
>
> Everyone has the right to the protection of the moral and material interests resulting from any scientific literary or artistic production of which he is the author.

Production and dissemination of cultural works

5. The purpose of the copyright system is twofold: first to encourage creative people to produce works of culture; and second, to provide incentives for the dissemination of those works. Both parts are equally important. Without a continuing flow of literature, music and art, there would be nothing to communicate, and nothing with which to satisfy the intellectual needs of the people. Equally, if the books that are written, the melodies that are composed and the pictures that are drawn remain hidden in a cupboard, the public is denied the benefit of them. They might just as well never have been created at all. The copyright system helps to prevent this happening. By enabling creative people and their business partners

(i.e. those with entrepreneurial, managerial and administrative skills) to earn their living out of their joint efforts, copyright makes an inestimable contribution to artistic creativity and to its enjoyment by the public.

Created by statute

6. The copyright system has its roots in the common law but today is created by statute. In each country there is a copyright law which establishes the rights which creative people shall enjoy in that country and defines the conditions under which the rights may be enjoyed and exercised.

INTERNATIONAL COPYRIGHT
- THE CONVENTIONS

International network of national laws

7. Strictly speaking, there is no such thing as international copyright. Rights of copyright subsist only under national copyright laws. In any given country the rights which authors enjoy, and the obligations of those who use copyright works, are governed by the national copyright law. During the last century, the traffic in persons, ideas and goods between countries brought about by the steamship, the telegraph and the technical applications of the industrial revolution, grew rapidly. It was realised that the readership or audience for a book, a play or a song was not confined to the country where the author or composer resided, but that there was a large international potential market in other countries. It was also realised that the benefits of this could not be enjoyed - either by the author or by the foreign public - unless the rights and interests of authors and their publishers could be protected in foreign markets. This led at first to the negotiation of a series of bilateral treaties between countries under which each pair of signatory countries undertook to grant protection to each other's works. As the end of the century approached, however, it became apparent that this web of bilateral treaties was creating an increasingly complicated copyright situation, so in 1886 the Berne Copyright Union - a multilateral copyright treaty - was established.

Berne Union

8. The Berne Union treaty has two notable features. First, it stipulates a set of minimum standards of copyright protection which the national copyright laws of member states must provide. Second, it imposes on each member state an obligation to grant to the works of the nationals of, and the works first published in, every other member state the same protection as the national law extends to the works of its own nationals or to works first published in its own country.

Two Berne principles

minimum period of protection

no formalities

9. Among the principles in the Berne Convention there are two of particular importance. First, for most categories of protected works the duration of protection is to be calculated by the life of the author plus a fixed period of years after his death (which today is usually 50 years, but may in certain cases be 25). The other important principle is that once a protected work has been created, it is entitled to copyright protection without any formality such as registration or the deposit of a copy.

US copyright law - registration

10. When the Berne Union was established, the copyright law of the United States did not conform to either of these principles. From its inception the US copyright law operated - as it still does - a system of compulsory registration (relaxed to some extent in respect of foreign works). Secondly, until 1978 when a new code was enacted, the period of protection was unrelated to the life of the author but was for two fixed terms of 28 years each, starting with the date of first publication. Accordingly it was not, and still is not, possible for the United States to be a member of the Berne Union, and copyright relations between the USA and other countries were, until 1952, regulated by a series of bilateral treaties. (The US system is described more fully in paras 61-63.)

UCC

11. It was clearly desirable that there should be a multilateral copyright treaty to which the United States and other countries could adhere, and in 1952 the Universal Copyright Convention (UCC) was established with this as

one of its principal purposes. Because of the difference between the copyright system which operated in the United States and that which operated in most other countries, the provisions of the UCC do not, unlike Berne, constitute a comprehensive code of detailed requirements which national laws must comply with. Instead, the UCC requirements are expressed in much more general terms. Unlike Berne, which expressly prohibits registration and other formalities as a condition of copyright protection, the UCC stipulates that where the copyright law of a member country makes provision for such formalities they are to be deemed to be compiled with if the work from another member state carries a copyright notice - the symbol © accompanied by the name of the copyright owner and the year of first publication. It is not the case, therefore, as is often stated, that UCC requires as a condition of protection that all works shall carry this notice. UCC simply requires a member state which imposes formalities to regard those formalities as having been complied with if a foreign work carries this notice. In practice, the principal importance of the notice is therefore to ensure that foreign works from UCC countries enjoy copyright protection in the United States. The absence of such a notice does not preclude a work from enjoying protection in other UCC member countries unless they require compliance with registration or deposit formalities as a condition of enjoying copyright protection (and there are few countries which do so). As at 1 January 1982 there were 72 members of the Berne Union and 73 members of the Universal Copyright Convention. See Appendix A.

copyright notice ©

principally important for USA

Revision of Berne, UCC

12. The Berne Convention has been revised six times. In the most recent revision (Paris 1971) particular account was taken of the implications of modern communications technology and the special needs of developing countries. The UCC has been revised once, also in 1971, in concurrent sessions with the revision of Berne. Both conventions now contain a regime of special concessionary provisions which any developing

developing countries - special compulsory licences available

country that is a member of either convention may adopt under its national laws. Under these special concessions compulsory licences for the translation or reproduction of certain categories of works may be granted without the permission of the copyright owner. The concessions in both conventions are expressed in virtually identical terms. They are complicated, and the granting of licences under the concessions are subject to a number of conditions. Appendix B contains a summary of them. Few developing countries have enacted legislation for the purpose of taking advantage of these concessions, and there are hardly any examples of compulsory licences which have been granted pursuant to them - perhaps because in practice, certainly in recent years, it has usually proved possible for developing countries to negotiate satisfactory licences for translation and reproduction from foreign copyright owners without invoking the compulsory licensing procedures.

NATIONAL COPYRIGHT LAWS

Standard Provisions

International harmony - with national variations

13. As most countries belong to the Berne Union, the UCC, or to both, there is a large measure of harmonisation amongst the copyright laws of member countries. Nevertheless considerable differences in legislative provision, judicial interpretation or accepted industry practice exist. It is possible to determine precisely what rights of copyright exist in a given country only by referring to the copyright law and practice of that country. The provisions and practices described in the following sections of this booklet are not necessarily part of the law of every developing country. In any particular case the law and practice of the country in question must be examined. This guide is intended to help in such examination by indicating what points should be looked for.

Categories of copyright laws

14. Having regard to the origins of their copyright laws, developing countries fall, broadly speaking, into three categories:

inherited laws

(a) Countries in which the copyright law of the former administering metropolitan country was extended to the developing country prior to independence and has not yet been replaced by national legislation after independence. For example, in Jamaica, Singapore, and Trinidad and Tobago the law of copyright is the United Kingdom Copyright

Act, 1911 (with minor modifications); in Chad the law is the Copyright Act, 1957 of France.

laws modelled on laws of former administering country

(b) Countries which, either before or after independence, have enacted their own copyright laws but have based them closely upon the copyright law of the former administering country. Examples are Australia, India and Pakistan, whose Copyright Acts of 1968, 1957 and 1962 respectively are modelled closely (though not identically) upon the United Kingdom Copyright Act, 1956; and Senegal, whose Copyright Law, 1973 closely follows the Copyright Act, 1957 of France.

new laws

(c) Countries which, since their independence, have enacted copyright laws which are not closely modelled upon the copyright legislation of the former administering country. Examples are the Copyright Act, 1961 of Ghana, the Copyright Act, 1966 of Kenya, the Copyright Decree, 1970 of Nigeria, and the Copyright Ordinance, 1973 of Algeria.

Content of copyright laws

15. Although the texts, and to some extent the provisions, of national copyright laws vary from each other, they all deal with the same range of matters.

eligible works

(a) They identify the kinds of works which are eligible for protection under the law.

conditions of protection

(b) They stipulate, by reference to the residence or nationality of the author, or place of first publication, which works are eligible to be protected, and, in addition, provide for the protection of foreign works.

copyright ambit - extent of control and duration

(c) They define the ambit of copyright (i.e. the specific kinds of use over which the copyright owner is to have control) and fix the period or periods during which the rights will last.

exceptions

(d) They set out a list of special cases where the control of the copyright owner is overridden or may only be exercised subject to certain conditions.

ownership and transmissions

(e) They deal with the ownership of copyright and its transmission by assignment, licence and other methods.

legal remedies

(f) They prescribe the methods by which a copyright owner may legally enforce his rights.

statutory arbitration

(g) They often, particularly in the laws of developing countries, make provision for statutory arbitration in cases of dispute over the rate or level of payment due to a copyright owner.

Categories of Works Eligible for Copyright Protection

Lists in Berne and UCC

16. Both the Berne Union and the UCC describe the categories of works which should be entitled to protection under the national laws of member states. In the UCC the description is a brief one in Article 1 in the following terms:

> Literary, scientific and artistic works, including writings, musical, dramatic and cinematographic works and paintings, engravings and sculpture.

In the Berne Union a full list is set out in Article 2(1), the text of which is contained in Appendix C. National laws vary in the language used to describe the range of works

eligible for copyright. Whatever the language, however, it is generally the case that national copyright law extends protection to all categories of literary, dramatic, musical, artistic and audio-visual works in the widest possible sense of those terms.

What Works are Protected by Copyright?

Wide range covered by literary, dramatic, musical and artistic works

17. The following list is necessarily not comprehensive but will indicate the wide range of works which may be protected by copyright.

(a) *Literary and dramatic works.* These include not only books, pamphlets, plays and articles for magazines, but virtually every form of written communication - e.g. the script for a programme for radio or television, a computer programme, a compilation of data such as a trade directory, the text of a TV commercial, even private correspondence.

Copyright does not protect the *title* of a book or play, nor a name as such, even if the name has been especially devised for a particular purpose. Nor does copyright protect an idea as such, but if the idea is recorded in written or other form, then the description of the idea contained in that record will be protected and may not be used save with the permission of the author or other copyright owner. Thus, the recipes in a cookery book may be used freely, but the instructions in each recipe may not be copied and published without the copyright owner's permission.

(b) *Artistic works.* This is a wide category covering paintings, drawings, engravings, sculptures, architectural works, maps and charts. It includes industrial designs - e.g. the drawings

for an item of household furniture or the blue-print for a piece of machinery.

(c) *Musical works.* These include every form of musical composition from symphonies to advertising jingles.

(d) *Films.* This category includes every form of production capable of being shown as a moving picture whether accompanied by a soundtrack or not; it includes films made for exhibition in cinemas or for television; or for use in video recording equipment.

Neighbouring Rights

Neighbouring rights - sound recordings

18. It is also usual for copyright legislation to protect sound recordings and broadcasts. Sound recordings may be of all kinds of sound, even bird-song or a hurricane in full blast; and the recordings may take any form - disc, tape or any other kind of sound carrier.

Broadcasts

19. The protection of broadcasts relates to the transmitted programme as an entity quite distinct from the literary, dramatic, musical or artistic material of which it may be composed.

Rome convention, 1961

Geneva convention, 1971

20. Neither the Berne Union nor UCC deal with the protection of sound recordings or broadcasts. Instead, both these categories of works are the subject of the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (1961) often referred to as the "Neighbouring Rights Convention". As at 1 January 1982, 23 countries were members of this Convention. Most countries protect sound recordings whether or not they belong to this Convention, but the nature and extent of protection varies considerably from country to country. There is also a convention concerned specifically with record piracy - the Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of their Phonograms, (Geneva, 1971). As at 1 January 1982, 32 countries had joined this Convention.

Folklore

21. The Model Law on Copyright drafted at a conference organised by WIPO and UNESCO in Tunis in 1976 provides that copyright protection shall cover works of national folklore. Similar provisions are to be found in recent laws of some developing countries (e.g. Algeria, Senegal, Tunisia). The desirability of protecting works of national folklore from unregulated exploitation, especially foreign exploitation, is manifest, but the practical difficulties in defining and identifying such works are great and there is little evidence so far that copyright protection can effectively be used for this purpose.

Conditions for Protection

Protection is national - depends on -

22. Copyright laws are national and their primary purpose is to protect national works. Accordingly, the copyright law of a country will stipulate that eligible works will enjoy protection only if:

nationality or residence

(a) the author is a national of the country (usually defined as either a citizen or a resident), or

place of first publication

(b) the work was first published in the country (even if it was written by a national of another country).

The Berne Union and the UCC both require member states to protect the works of all other member states. For this reason, the national laws of a country belonging to either Convention will protect the works of nationals of, and works first published in, all other countries which belong to the same copyright Convention as it does. It will also, of course, protect works originating in a country with which it has a bilateral copyright agreement requiring reciprocal protection.

First publication - special meaning

23. It is important to note that under the conventions, and hence under national copyright laws, first publication has a special meaning; it includes any publication within 30 days of the actual first publication. Thus a book whose actual first publication took place in a country which belongs to neither Berne nor UCC would nevertheless be protected under the copyright laws of all the Convention countries if it was "first published" in one of them. For example, a book by a Chinese writer first published in China (which currently has no copyright law and belongs to no copyright convention) on 1 January and then subsequently published in Hong Kong on 15 January, would be protected under the copyright laws of all countries which belong to either Berne or UCC (both of which apply to Hong Kong by virtue of United Kingdom membership).

Content of Copyright and its Duration

Copyright - essentially the right to control use

24. The basic purpose of copyright law is to give the author the right to control the use which others may make of his work. The ambit of this control has evolved over the years. In the last century when the copyright system as we know it today began to be systematically and internationally applied, the author's right of control was concerned principally with the right to make copies of his work and publish it. However, as developing technology gave the public more and more facilities whereby cultural works could be communicated and used, so correspondingly the author's right of control expanded to cover these new uses. Today the standard copyright law will give the copyright owner the right to control the following forms of use:

Individual rights

In the case of literary, dramatic, musical and artistic works -

- *to publish*

(a) The right to make copies of his work and publish them, i.e. offer those copies to the public;

- *to perform in public*

(b) The right to perform the work in public. This right applies particularly, of course, to plays and to musical and dramatico-musical works such as symphonies, operas, ballets and popular songs. Any performance which does not take place in a domestic or quasi-domestic situation is a public performance, including performances in clubs, even members' clubs.

- *to broadcast*

(c) The right to broadcast the work, either on radio or on television.

- *to communicate to public by wire*

(d) The right to communicate the work to the public by wired systems ("diffusion" networks, cable TV).

- *to reproduce*

(e) The right to make a reproduction of the work - i.e. if it is a literary work to copy it in manuscript or typescript or to make replicas of it by photocopying or some other technical device which produces facsimile copies, or in the case of a musical work or a spoken literary work to make records or tapes of the work.

"Reproduction" definition

"Reproduction" means a copy of any kind: it could be hand-written or typed or be a photocopy of a literary work or a copy in the form of a recording. It is therefore an infringement to re-record or tape a copyright musical work, whether the record or tape has been bought, borrowed, received as a present - or stolen! It is an infringement to make a recording of copyright works broadcast by radio or television; it is an infringement to make copies of a play for the use of the cast or of the parts of a symphony for the use of the members of an orchestra unless, in each case, the permission of the copyright owner has first been obtained.

- *to translate*

(f) The right, in the case of a literary work, to translate it into another language.

- *to adapt*

(g) The right to adapt the work - i.e. to transform it from one kind of work of work into another. Examples are the making of a play or a film out of a book, and the arrangement or transcription of a musical work.

Audio-visual works

In the case of a film or of other audio-visual works:

(a) The right to make a copy of it.

(b) The right to exhibit the work in public (e.g. show the film in a cinema).

(c) The right to broadcase it or communicate it to the public through a wired system.

Sound recordings

In the case of a sound recording:

(a) The right to reproduce it (i.e. to make copies of it in any form - discs, tapes, etc.).

(b) In some countries, but by no means all, the right to use the sound recording for the purpose of giving a public performance or a broadcast.

Broadcasts

In the case of a broadcast (as defined in paragraph 19):

(a) The right to record it, either on to disc or tape if it is a radio broadcast, or on to a film, videogram or videocassette if it is a television broadcast.

(b) The right to re-broadcast it.

Control over distribution

25. There is also a growing trend for copyright law to give the copyright owner an express right to control the distribution of copies of his work. Where this right is not expressly conferred by statute a copyright owner may by contract reserve or impose conditions over the distribution of copies, but this will only be enforceable against parties to the contract.

Control over importation and sale of infringing works

26. Because copyright law is national, the rights created by it are national rights. A copyright owner, therefore cannot under his own national law exercise control over the use of his work in a foreign country. He may, of course, have rights under the copyright law of that foreign country, but for one reason or another it may be difficult or impossible for him to enforce those rights; or it may be that the foreign country does not have a copyright law or that he has no rights under it. For such reasons, it is important to a copyright owner to be able to prevent the importation into his own country of copies of his works which have been made in another country without his permission. It is therefore usual to find in copyright law a provision giving the copyright owner the right to prohibit the importation of copies of his work if the making of those copies would have amounted to an infringement had they been made in his own country, and to prohibit others from selling or offering for sale such copies in his country. To take an example, hardly any foreign works are protected under the copyright law of Taiwan. Consequently, without such a provision as has just been described, an author in India or a composer in the Philippines would be powerless to prevent the Indian or Philippine market from being flooded with unauthorized copies or records of his work made in Taiwan for which he has received no remuneration whatever.

Protection of typefaces

27. Under the Copyright Act, 1956 of the United Kingdom, the typographical arrangement in a published edition of a literary, dramatic or musical work is protected against unauthorized reproduction for a period of 25 years from the

date of publication. This is not a requirement of either the Berne or the UCC Conventions, but in 1975 an international agreement was signed with the object of securing protection for typeface designs - the Vienna Agreement for the Protection of Type Faces and their International Deposit. The Agreement is not yet in force.

Duration of Copyright

Berne requirements

28. Under the Berne Convention (Paris text), the standard term of protection is the life of the author and 50 years after his death. However, there are exceptions to this general principle.

(a) The copyright is a cinematograph work may be 50 years from either the publishing of the work or the making of it.

(b) Photographic works and works of applied art which are protected as artistic works may be protected for a different period, provided it is not less than the period of 25 years from the making of the work.

(c) Anonymous or pseudonymous works are to be protected for 50 years from the date when they were first lawfully published.

(d) Countries which joined the Berne Convention before the "life plus 50 years" general rule was made compulsory (i.e. by the Brussels text of 1948), may in their copyright legislation provide the shorter period permitted by earlier texts. In practice this is the life of the author plus 25 years.

UCC requirements

29. Under the UCC the term of the protection must not be less than the life of the author plus 25 years. However, because the United States had a different basis for determining the period of protection when the UCC was established in 1952, the UCC also permits such countries to compute their period of protection by fixed terms, starting from the first publication of the work. The term of protection must not be less than 25 years from the date of the first publication.

Life plus 50 related to life expectancy statistics

30. The period of "life plus 50 years" is not an arbitrary period. Its rationale is that an author should be able to make provision for his heirs to the extent of one generation. At the beginning of this century, when the period of copyright protection was first established, 50 years was about the normal period of life expectancy.

Life plus 25 more usual in developing countries

31. The basic period of protection under the copyright laws of most developed countries is the life of the author plus 50 years; in a number of developing countries the shorter period of the life of the author plus 25 years has been adopted.

Exceptions and Exemptions

32. Both Berne and UCC permit national laws to provide for exceptions and exemptions from the copyright owner's normal right of control. Accordingly a national copyright law will always contain a list of special cases where use may be made of copyright works without having to obtain permission from the copyright owner. The list will vary somewhat from country to country but the more important cases usually covered are:

private use

(a) The copying or translation of a work exclusively for the user's own personal and private use.

critical review (b) The reproduction of a work for the purposes of critical review.

reporting current events (c) The use of the work for the purpose of reporting current events in a newspaper or journal or by means of broadcasting or in a cinematographical newsreel.

educational use (d) The copying of a work, to a limited extent, in schools for educational purposes.

recordings of music (e) The making of records or tapes for retail sale of a musical work if such records or tapes have already, with the consent of the copyright owner of the music, been made or imported, and provided the person making the record or tape pays royalties at the rate prescribed in the law.

recording for broadcasting purposes (f) The recording of a work by a broadcasting organization solely for the purpose of broadcasting it, provided the copyright owner has already given his consent that the work may be broadcast. Such recordings are known as "ephemeral recordings" because national laws normally require them to be destroyed within a fixed period - 3 to 6 months - after being made. In some cases the law allows a copy to be retained solely for archival purposes.

All these special cases are normally subject to the condition that the use actually made must be fair in the sense that it does not unduly prejudice the interests of the copyright owner - that is to say it does not significantly undermine his potential income from his works.

Tunis Model - list of exceptions

33. Whether or not a particular use is exempt from copyright control can be determined only by reference to the relevant provisions of the national copyright law of the country where the

question arises. The Tunis Model Law contains a detailed set of provisions listing, in effect, the widest range of exceptions and exemptions which a national copyright law might contain without being in breach of either Berne or UCC. The text of these provisions is set out in Appendix D.

Ownership and Transmission of Rights

General principle - copyright vests in author

34. The preamble to the Berne Union commences with the declaration that:

> The countries of the Union, being equally animated by the desire to protect, in as effective and uniform manner as possible, *the rights of authors* in their literary and artistic works ...

The Convention itself sets out the various rights which the laws of member states are required to establish in protected works. They are described as *'the exclusive rights' of the authors* of those works. Consistent with this emphasis on the interests of 'authors', all national copyright laws contain a basic provision stating that the ownership of the copyright in a work vests, upon the creation of the work, in the author of it. In the copyright law of the United Kingdom and of other countries whose laws have been modelled upon that of the United Kingdom, this basic principle is modified by providing that in the absence of a contractual agreement to the contrary it is presumed that in certain cases the copyright in a created work belongs initially not to the author but to some other person or entity. These special cases are usually the following:

special cases - authors employed by newspapers, journals

(a) Where the author of a work is employed by a newspaper or journal and produces a work in the course of his employment under a contract of service or apprenticeship for the purposes of publication

in that newspaper or journal, it is presumed that the right to publish and make copies for publication purposes belongs to the newspaper or journal proprietor.

photographs, portraits specially commissioned

(b) Where a photograph, the drawing or painting of a portrait or the making of an engraving has been commissioned and the person commissioning has paid for or agreed to pay for the work, it is presumed that the copyright in the work belongs to him and not to the author.

works produced under a contract of service or apprenticeship

(c) Generally, in any case where a work has been produced in the course of the author's employment under a contract of service or apprenticeship, it is presumed that the employer and not the author is the owner of the copyright in the work.

As stated above, each of these presumptions may be rebutted if the author stipulates by contract that the copyright shall belong to him.

Presumptions contrary to author's interests

35. These presumptions are clearly not in the interests of the author and are not usually found in the laws of developing countries save in those where the United Kingdom law is still in force. In many of the cases covered by these special provisions it may be reasonable for the employer or the commissioner to own the copyright, but there is no reason why this cannot be achieved by an appropriate contract between author on the one hand and employer or commissioner on the other. Today many authors - for example in the fields of education and entertainment - are employed by large Government departments or powerful broadcasting services or film production companies and are seldom in as strong a bargaining position as their employers. It seems unfair that the onus should be on employee/authors to negotiate out of a statutory presumption which would

otherwise deprive them of their copyright; whereas, on the other hand, if the presumption is simply removed from the law it becomes a straightforward matter of negotiation between author/employee and employer as to what rights the latter should acquire.

Transmission of Copyright

Copyright is a form of property

36. As the primary purpose of the copyright system is to enable the author, by the exercise of his rights under the system, to earn his living, the law of copyright provides that copyright is a form of property which the author may exploit commercially in the widest possible way. Thus, standard copyright law normally provides that:

(a) The author may assign his rights - i.e. transfer ownership outright to some other person.

(b) The author may license his rights - i.e. retain ownership but grant permission to another person or persons to exercise those rights on an exclusive or non-exclusive basis.

(c) The capacity to assign or license may be exercised not simply in relation to the total copyright but with respect to each of its components - i.e. the publishing and reproduction right may be assigned to one person, the broadcasting right to another, and the right to adapt the work (e.g. convert a book into a film) to someone else.

(d) The transfer of rights by assignment or licence may be limited both as to time and as to territory. Thus an author may assign his rights which subsist under the country of his own nationality to A, the rights which subsist under the law of another

country to B, and the rights which subsist under the laws of a third country to C, and so on.

Assignments, exclusive licences should be in writing

37. In order to avoid uncertainty, disputes, and wasteful expenditure on litigation, it is usual for copyright legislation to stipulate that an assignment or an exclusive licence of rights of copyright must be in writing. It is not usual, on the other hand, for such a stipulation to apply to non-exclusive licences which may be in any form. Thus they may be in writing; they may be oral; they may even be implied from conduct. Obviously it is sensible wherever possible for licences to be in written form.

Assignment of future rights

38. It is usual today in the copyright legislation of countries where the principles of British common law and jurisprudence still operate to provide expressly that the copyright in a future work (i.e. a work not yet in existence) may legally be assigned. In the absence of such a provision the grant of rights in a future work will only give the grantee an equitable right which would be overidden by a subsequent grant, after the work was created, tc someone without notice of the earlier grant. Such a provision is therefore important because it ensures that a publisher or a film producer, for example, who has undertaken to pay a large advance to an author to write a book or a film script, may confidently rely on controlling the income from the earnings of the book or script so as to recoup his advance.

Copyright is intangible - protectible only by legislation

39. Although copyright is a form of property, it has a special characteristic which distinguishes it from other forms of property: it is intangible. Rights of ownership over tangible property can be protected by physical means - jewelry is locked in a safe, washing machines in a warehouse, motor cars in a garage But the melody of a song cannot be locked up, nor its lyrics; the text of a book, once released to the public, cannot be physically protected. Rights of copyright, therefore, can

in the last resort be enforced only through the courts by litigation - by an action for infringement. Accordingly, copyright laws provide that it is an infringement if anyone without the permission of the copyright owner of a work protected by copyright uses that work in any of the ways which are under the control of the copyright owner (as described in paras. 24 and 26 above).

Remedies and Relief

Infringement actions - forms of relief

40. In an infringement action the copyright owner may seek various forms of relief:

(a) He may seek an interim injunction against the person alleged to be infringing. This means that, pending the hearing of the action, the defendant is ordered by the court to stop doing the act alleged to be an infringement. However, a court will not normally issue such an injunction before the merits of the case have been heard unless it is satisfied that damage will be done to the plaintiff which could not ultimately be put right by an award of compensation.

(b) Where the copyright owner establishes that his rights have been infringed, he will normally be entitled to -

(i) An award of ordinary damages - i.e. compensation for the loss he actually suffered as a result of the infringement. (Under some laws the court may award special damages - i.e. a form of penalty - if the court is satisfied that the defendant infringed the copyright owner's rights with full knowledge of what he was doing and

deliberately intending to flout his copyright responsibilities.)

(ii) Seizure of all infringing copies and all plates or other equipment used for producing the infringing copies.

(iii) An account of all profits which the defendant has received from his infringing activities.

(iv) A permanent injunction prohibiting the defendant from repeating any of the infringing acts in the future without first obtaining the copyright owner's permission. The consequence of disregarding the injunction is that the defendant is in contempt of court.

Of course, a succesful plaintiff will also normally be entitled to recover from the defendant the costs incurred in bringing the action; but in practice costs awarded by a court seldom amount to full reimbursement of the expenses actually incurred by a succesful party.

Special anti-piracy measures

41. Under the normal rules of civil litigation a plaintiff may seize infringing copies of his work and the equipment used for making them only after he has commenced proceedings. Because of the large scale on which piracy of books, records, films and video-cassettes takes place today, it has become increasingly apparent that this normal remedy has become quite inadequate to protect the interests of copyright owners. In practice, the moment a writ is served on an alleged infringer, the stock of infringing copies will immediately disappear together with the equipment used for producing them. This means that the copyright owner may have difficulty in establishing his case. Evidence of the magnitude of the infringements will not be available; hence the court may be

unable to award adequate compensation. In any event, by the time the case is heard and a final decision given, the defendant will have made such profits from selling the spirited-away infringing copies that an adverse decision is of little deterrent force. To meet this situation the courts in the United Kingdom have developed a new procedure. Under it a copyright owner who believes his works are being substantially infringed may, before he commences proceedings, apply ex parte to the High Court for an order directed to the person whom it is intended should be the defendant. Such an order requires that person to allow the plaintiff to enter his premises and seize all infringing copies, documents or other material which may be relevant and admissible to proving that infringements occured. Such orders may even require the other person to provide the names and addresses of the suppliers and distributors of any infringing copies found on his premises.

"Anton Piller Orders"

42. These orders, known as "Anton Piller Orders", have been extremely valuable in providing swift and effective action against piracy. In those developing countries where the civil procedure in the courts is based upon that of the United Kingdom, it should be possible for similar procedures to be developed.

Evidence of the subsistence of copyright, authorship, etc. - statutory presumptions

43. In any infringement action it is necessary that the court be satisfied on two counts: first, that the work alleged to be infringed is protected by copyright; second, that the plaintiff is the owner or a person properly authorised to enforce the rights alleged to be infringed. The first question may in turn require proof as to who the author of the work was, the date when the work was written or composed, whether the author/composer is still alive (and, if not, the date of death), the date when the work was first published and where it was first published. The strict proof of all these matters can often involve considerable research and expense in providing original documents or properly authenticated copies, especially in the case of works by

foreign authors. The result is that the expense of taking legal action can be seriously inflated and the date of the hearing can be seriously delayed even though in many cases the real issue in an infringement action does not concern any of these matters at all. Consequently, most copyright laws provide that unless these matters are put in issue by the defendant, the court may presume that the work alleged to be infringed was protected by copyright and that the plaintiff is the copyright owner. Moreover, where a defendant elects to put the plaintiff to proof of these matters and the plaintiff does in fact prove them, the expense he incurs in producing the proof may have to be borne by the defendant even if he wins the main action.

Penal provisions - infringement may be a criminal offence

44. In addition to the civil remedies available to a copyright owner, most copyright laws contain penal provisions under which it is a criminal offence for a person to infringe rights of copyright in various ways. Persons found guilty may be fined and, in some cases, imprisoned. However, because of the very considerable profit which may be made today by large-scale piracy, the financial penalties provided for in most laws are, unless they have been very recently revised and updated, so small that they serve as no deterrent against piracy. Developing countries where piracy is taking place on any scale and which are concerned to protect the interests of authors and other copyright owners should therefore keep these provisions under review and ensure that all penalties are large enough to be effective deterrents.

Statutory Arbitration

Collective administration - need for arbitration

45. As explained in paragraphs 54 to 58 below, it has become increasingly common, indeed essential because of modern technology, for rights of copyright to be administered collectively. This development has led in turn to

the inclusion in modern copyright laws of provision for arbitration machinery to resolve disputes between users of copyright and such collective organisations administering copyright. Such machinery sometimes takes the form of a completely independent tribunal (e.g. in those countries where the copyright law either is, or has been, modelled on the Copyright Act, 1956 of the United Kingdom). Alternatively, the responsibility for determining disputes may be vested in a competent authority, either a minister or some designated official.

Jurisdiction of tribunal/ competent authority

46. Where national copyright legislation provides for such a tribunal or competent authority, its jurisdiction will usually cover these situations:

(a) Where the copyright owner has refused on any terms to grant permission for his work to be used, the tribunal or competent authority may be given power to determine whether this refusal is reasonable. If it considers the refusal not to be reasonable, it may grant permission on such terms and conditions it considers reasonable.

(b) Where the copyright owner is prepared to grant permission but the user considers the terms and conditions offered to be unreasonable, the tribunal or competent authority will be given power to determine whether or not those terms and conditions are reasonable. If it considers them not to be, then it may substitute those which it considers to be reasonable in the circumstances.

(c) Where the law provides for a compulsory licence (see para 32 (c) and Appendix B) it is usual for the tribunal or competent authority to be given power either to prescribe the rate or amount of royalty to be paid or to arbitrate if the copyright owner and the user fail to negotiate an agreed rate.

Possible risk of abuse of monopoly position

47. Statutory arbitration was first introduced because it was thought that large collective administration agencies might abuse their monopoly position, especially where they controlled so comprehensive a repertoire that users had no real alternative. Later copyright laws, however, particularly in developing countries, have tended to apply the statutory arbitration procedure to cases where there is no monopoly element. For example, in some cases it has been applied to publishers (who of course do control a number of copyrights but hardly ever amounting to a complete monopoly); and in some laws the procedure has even been applied to the exercise of his copyright by an individual author. It is doubtful whether this extension of the statutory arbitration procedure is justified, or indeed whether it is strictly compatible with the Berne and UCC principles. Where a licensing body controls the entire repertoire of a particular category of rights so that if it withhold permission for any work within that repertoire to be used, or demands exorbitant terms for permission, with the result that there are no alternative works available for the prospective user to use, the justification for compulsory arbitration is clear. On the other hand, if an individual author or publisher refuses permission for a particular work to be used and there are other works controlled by other copyright owners which are equally suitable and are available, then the justification for taking away the individual copyright owner's exclusive right to decide whether or not his individual work should be used is not so clear; indeed, such provisions might well be in conflict with the spirit, if not the letter, of the Conventions.

Moral Rights

Recognition of authorship - protection of reputation

48. The elements of copyright so far described have been the constituent economic rights. In addition to these rights, the Berne Convention requires member states to protect also what are

normally referred to as the author's "moral rights". These are described in the Convention as:

> the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work which would be prejudicial to his honour or reputation ... (Article 6 bis).

The copyright laws of countries which are members of Berne, and indeed the laws of most developing countries, will contain provisions along these lines. The first practical effect is that, for example, an author of a book or article may insist on his name appearing on all copies. Similarly, a composer or a script-writer may insist on appropriate credits being given in any programme in which his work has been included. The second is that without the permission of the author a work may not be modified in such a way that it might injure his standing as an author. Thus a serious writer on theology could object if a work of his was modified so as to give it a pornographic slant.

Duration of moral rights

49. Moral rights remain vested in the author personally throughout his life and may be exercised by him even if he has completely parted with his copyright. After an author's death the moral rights will normally last throughout the remainder of the period during which copyright will subsist, and it is usual for legislation to provide that they are to be exercised by the author's legal personal representatives.

IMPLEMENTATION OF COPYRIGHT

Publishing and Other Agreements

Authors not businessmen - professional advisers, administrators needed

50. Authors, composers and artists are creative people and are not normally good businessmen. If their works are to be disseminated effectively so as to reach the widest audiences and realise their full commercial potential, authors need the services of those who have experience and expertise in the work of publishing and promoting cultural works. In a developed country there are many sources from which an author may obtain these services. He may, of course, deal directly with the publisher, the record company, the film producer or the broadcaster; but in most cases he will be assisted, directly or indirectly, by the services of a wide range of expert advisers and organisations.

Authors' agents

51. In the literary field there are authors' agents who specialise in evaluating the potential of a literary work, in negotiating the most advantageous terms for the author with the publishers and other persons or enterprises which may wish to exploit the work commercially, and in servicing those contracts when made.

Societies, guilds etc.

52. There are also societies, guilds and associations of authors, composers, artists and photographers (sometimes constituted as trade unions, sometimes not) which look after the interests of creative people in various ways. They may negotiate standard or minimum

contract terms with users - e.g. with broadcasting services or national bodies representing publishers or record producers or film companies. They may provide advice and help about individual contracts, either in the initial negotiation or - more often - in resolving disputes arising after a contract has been made. Agents, societies, guilds or other bodies are not alone in serving creative people in developed countries. In both the legal and the accountancy professions there are individuals and firms which specialise in this branch of law and business. Their services are available for negotiations, litigation, or just general advice or guidance.

Contractual terms

53. Because cultural works - books, articles, plays, scripts, music, paintings - may be disseminated and commercially used in an infinite variety of ways, it is impracticable to include in a short booklet like this a comprehensive set of precedents for contractual terms. However, Appendix E contains a list of guidelines which identify some of the essential matters with which most contracts involving copyright should deal. It also mentions some of the important considerations that should be taken into account.

Guidelines in Appendix E

Collective Administration

Origins of "authors' societies"

54. By the middle of the last century European copyright laws had evolved to give copyright owners the right to control public performances of their works. In the case of literary works - i.e. plays - there was usually no insuperable difficulty in the individual author, or his agent or publisher, controlling the use of this right. Because performances took place in a limited number of theatres or other suitable premises, it was quite practicable for the copyright owner to monitor them. However, in the case of musical works the situation was different. They could be publicly performed in a multitude of different places. It was not

practicable for each individual composer and publisher to ensure that on each occasion his music was performed in public, the person responsible had obtained permission in advance and paid an appropriate royalty. Composers, song writers and music publishers therefore banded themselves together into associations to administer collectively the public performance rights in their music. The first of these societies was established in France but by the turn of the century there was a national society in most European countries and in the United States. In the United Kingdom the Performing Right Society was established in 1914.

Constitution of "authors' societies" - main features

55. The constitutions of these societies vary, of course, depending upon the laws and practices of each country; but in general character, function and method of operation they are all cast in a common mould. Their function is to administer the "performing rights" of their members. They license those who use these rights. They collect the royalties due under those licences and distribute them among the composers, lyric writers and publishers whose music is performed. Save in exceptional cases, such societies do not issue licences in respect of individual works. Instead they issue blanket licences under which licensees have access to all or any of the works in the Society's repertoire. The term "performing right" has become a term of art meaning not only the right to perform a musical work in public, but also the right to broadcast it on radio or television or to transmit it via a wired relay service such as cable TV (sometimes referred to as a "diffusion" service). These bodies operate on a non-profit basis. All the royalties collected are distributed to the composers, lyric writers and publishers after deducting simply the costs of administration. Today there are such societies either in, or with agencies in, most of the countries where there is a copyright law. All these societies are linked with each other by reciprocal representation agreements so that, within its own country or other territory for

which it is responsible, each national society controls the "performing rights" in virtually the world repertoire of copyright music.

Value of services of "authors' societies"

56. These societies perform a valuable twofold service. First, they enable individual composers, lyric writers and music publishers to obtain fair remuneration from public performances (including broadcasting and wire diffusion) of their works throughout the world. By this means the continued composition and dissemination of music is encouraged. Second, they provide a single central source in each country from which all those who use music for giving public performances or broadcasts may obtain permission.

Under the blanket licences issued by such societies, the user has access to almost every musical work in copyright, whether it comes from a developed or a developing country, a capitalist or a socialist country, an aligned or a non-aligned country. For example, any broadcasting service, even in a small developing country, may transmit hundreds of musical works every day. Through the services of the international network of composers' societies, such a broadcasting station can fulfil its obligations under the copyright law to the composers, arrangers, lyric writers and publishers of all the music it broadcasts simply by obtaining a single annual licence from the appropriate composers' society.

Collective administration of "mechanical" and other rights

57. In addition to administering the "performing rights" in music, many societies administer also the "mechanical rights" - i.e. the right to record music on to a disc or tape for retail sale. Societies also sometimes administer the "synchronisation right" which is the right to record music on to the soundtrack of a film intended for use in cinemas or on television. The collective administration of rights for other categories of works, such as literary works, has not been much developed until recently. But with the tremendous increase in the volume of use which modern technology

has made possible (e.g. the copying of extracts from books and articles by photocopiers) other right owners have begun to realise that collective administration is necessary if their interests are to be protected.

Supporting Services in Developing Countries

Societies in developing countries

58. In the first decades of this century the societies in the developed countries made their services available in many of the developing countries through agencies or representatives. However, with the coming first of self-government and then independence national societies have begun to be established to assume full responsibility for the administration of rights in their country. In Commonwealth countries, for example, there are now national societies serving Australia, Canada, Hong Kong, India, New Zealand, Sri Lanka and Zimbabwe; and at the date of printing there are projects in hand to establish composers' societies in Kenya, Nigeria and Singapore.

Infrastructure of supporting services not fully available in developing countries

59. In developing countries the range of services available to creative people to help them in implementing their rights of copyright is smaller than that outlined above for developed countries. Indeed, in some developing countries there are few such services and hardly any of the infrastructure needed to operate the system. Moreover in many developing countries there is a limited knowledge of either the law or the practice of the copyright system.

UNESCO/WIPO development programmes

60. The international copyright secretariats - WIPO which administers the Berne Convention, and the Copyright Division of Unesco which administers the Universal Copyright Convention - both operate programmes to help developing countries in this field. They organise seminars in developing countries at which the purposes, principles and practices of the copyright system are discussed and explained with particular reference to the circumstances and needs of

developing countries. They sponsor courses of instruction for selected trainees from developing countries (usually officials nominated by governments) involving attendance at lectures given in various centres in developed countries. They arrange visits to the two international secretariats in Geneva and Paris and to a number of the authors' and composers' societies which administer rights collectively (see paras. 54 - 58). Besides these two secretariats there is the International Confederation of Societies

CISAC

of Authors and Composers (CISAC) based in Paris, to which about a hundred authors' and composers' societies from about fifty countries - both developed and developing - belong. It has earmarked resources for providing copyright aid programmes, in collaboration with the two international secretariats, to assist in the implementation of copyright laws and the improvement in their enforcement in developing countries. Appendix F contains information about these copyright organisations.

UNITED STATES OF AMERICA - COPYRIGHT LAW

U S law different from most other countries

61. The copyright law of the United States does not conform in certain respects to the requirements of the Berne Convention; hence it differs from the laws of all the member countries of that Convention. Indeed, in practice it differs in certain respects from the copyright laws of most countries including those which belong only to the Universal Copyright Convention. Save only in a handful of cases, the US copyright law has not served as a model for the copyright legislation of developing countries. However, because the United States is such a large market for cultural works, whatever their origin, it may be helpful to authors and others concerned with the creation and commercial promotion of cultural works in developing countries to have a brief summary of the salient features of US copyright law, in particular the requirements for securing protection in the USA for foreign works.

Principles of US law -

62. The present US copyright law is the Copyright Act, 1976 which came into force in January 1978. To understand its effect it is necessary to summarise briefly the law prevailing immediately prior to January 1978. This is done in the following sub-paragraphs.

Prior to 1 January 1978

dual system

(a) There was a dual system. Unpublished works were protected by common law; published works were protected by

Federal statute - the Copyright Act, 1909.

two statutory periods

(b) The duration of the protection of unpublished works at common law was indefinite. Published works were protected under the 1909 Act for a period of 28 years from the date of first publication, renewable for a second period of 28 years, provided certain conditions were strictly complied with.

registration and deposit

(c) Copyright under the 1909 Act could not be enforced unless the work -

(i) had been published with a copyright notice, i.e. the symbol © accompanied by the name of the copyright owner and the year of publication. (NB. a work published without the copyright notice went into the public domain); and

(ii) had been registered and copies had been deposited with the Copyright Office at Washington in strict compliance with certain rules.

copyright indivisible

(d) Copyright under the 1909 Act was indivisible in the sense that, unlike the position in most other countries as explained in para. 36 above, a copyright owner could not assign simply one of the component rights within copyright to another person. He could issue a licence, even an exclusive licence, but he could not transfer total ownership of, for example, the reproduction right to one person and the broadcasting right to another so as to enable each of those transferees to enforce the rights they received by litigation in their own names.

books must be "made" in USA

(e) Subject to certain exceptions, copies of all printed books or periodicals in the English language were protected only if they had been "manufactured" in the United States.

public performances must be for profit

(f) The right of a copyright owner to control the public performances of his works could only be exercised if the performances were given "for profit".

cable TV - no copyright liability

(g) Persons or enterprises which received "off air" programmes broadcast by radio and television broadcasters, and then transmitted those programmes by cable to members of the public, had no copyright liability either to the original broadcasters or to the copyright owners of the works incorporated in the programmes so transmitted.

From 1 January 1978

dual system abolished - copyright only under 1976 Act

(a) The dual system of protection under both common law and statute has been abolished. Copyright subsists exclusively under the Copyright Act, 1976.

duration - general rule life plus 50 years

(b) The duration of copyright protection is now the life of the author plus 50 years. But special periods apply to works in existence on 1.1.1978 which enjoy protection under the new Act in accordance with special transitional rules. These rules are:

special transition rules

(i) A work which on 1 January 1978 was within the first period of protection under the old law must have its copyright renewed within the last year of that first term - i.e. within the 28th year from the year when it was first published. When

this renewal is made the protection will extend under the 1976 Act for a further 47 years.

(ii) A work which on 1 January 1978 had already had its copyright renewed (i.e. was in its second renewal term) will have the duration of copyright automatically extended on the expiry of that renewal term. The total period of protection is therefore 75 years from the date of first publication.

(iii) A work unpublished on 1 January 1978 and protected at common law will automatically enjoy a further period of protection of 75 years.

indivisibility abolished

(c) (i) Rights subsisting under the 1976 Act are no longer indivisible and component elements may be individually assigned.

author has right to terminate grants

(ii) An author - or after his death his heirs - may terminate any assignment or licence executed after 1.1.1978. The right to terminate may be exercised during the five-year period following the first 35 years of the grant. In the case of publication rights, the five-year period starts 35 years from first publication or 40 years from execution of grant, whichever is earlier.

registration and deposit rules relaxed

(d) Registration and deposit are still requirements of the new law. But in the case of foreign works failure to register and deposit does not debar a copyright owner from bringing legal proceedings to protect his rights.

He may, however, lose certain subsidiary benefits, such as the right to claim statutory damages and attorney's fees in an infringement action unless registration is made within 90 days of publication.

"manufacturing clause" phased out

(e) The "manufacturing clause" (subpara (e) on page 8) is being phased out; it was originally intended that it would cease to operate from July 1982 but the cessation date has now been postponed for four years.

"for profit" requirement dropped

(f) The "for profit" requirement in the case of public performances has been abolished so that a copyright owner may exercise his public performance rights without having to prove that the performance in question was given "for profit".

cable transmissions liable under special rules

(g) The cable transmission of a copyright work by the relaying of a broadcast programme containing the work imposes an obligation on the cable operator to pay royalties which are calculated under formulae of bewildering complexity administered and distributed by a statutory tribunal.

Copyright Office

63. The US copyright law is administered by the Copyright Office which is a Department of the Library of Congress in Washington DC 20559. The Copyright Office has issued a series of leaflets explaining the principles of the law, the way in which it works in practice and the procedure for complying with the registration and deposit requirements. These pamphlets can be obtained on application to the Copyright Office.

THE IMPACT OF TECHNOLOGY

Copyright about communicating

64. Communication between people - between author and reader, composer and listener, film or TV producer and viewer, artist and beholder - is what copyright is principally about. If the twentieth century is the age of technology, it is probably in the field of communications that the wizardry of applied technology is most spectacular. At the turn of the century if a Canadian wished to hear Nellie Melba sing, he had to go to Australia or she had to go to Canada. Today, he can sit at home and listen to a high-fidelity recording or, by means of satellite television, he can even watch a live concert taking place in the Sydney Opera House. Similarly, in 1910 the cricket fan in Antigua could only read about the exploits of the West Indian team in India weeks after the matches had been played. Today he can watch at home the dazzling talents of the West Indian team while they are actually playing anywhere in the world. At the turn of the century a school teacher who wished her pupils to study passages from a particular book had to undertake the laborious task of making hand-written copies or duplicating them on hand-cranked apparatus. Today photocopying equipment (which eliminates all transcription error) enables instant facsimile copies to be produced in any number desired. In short, by the combined technologies of computer storage and retrieval facilities, cable networks, television and video recording equipment, vast amounts of information and countless works of literature, drama, music and

art can be summoned up in one's home from data-banks and libraries at the flick of a finger - the genii of Aladdin's lamp come true!

Communications technology produces benefits for society, problems for authors

65. Life has been, and is being, transformed by these twentieth century marvels. They bring enormous benefits to society, not least to the peoples of developing countries; for example, the special educational programmes brought to various regions in India by direct satellite transmission. But the impact of technology on the copyright system has given rise to problems of some complexity. Authors and other copyright owners have no wish whatever to restrict in any way the enjoyment by the public of these new technological facilities. All they seek is that they, too, should derive some benefit from them by receiving reasonable remuneration for the use of their works which these new techniques make possible. The following examples illustrate the practical aspects of some of these problems and indicate some possible solutions.

Cable TV - origins and development

66. *Cable Television.* This began as a community antenna service in America - where most technology begins. In areas where reception of television signals via standard domestic aerials was of poor quality, possibly because of mountains or remoteness, groups of householders clubbed together and erected large central aerials which more effectively collected the signals which were then led by wire to the individual television sets. In origin it was simply a local co-operative operation, entirely non-profit and non-commercial in character. Today in North America and in Europe cable television has become a growth industry serving millions of subscribers. The latest dimension of this development is that it straddles national boundaries. For example, in Belgium there are some 42 different cable companies relaying by wire to their subscribers the programmes broadcast by the television broadcasters of France, Germany, Holland and the United Kingdom as well as by the Belgian

Broadcasting Service itself. In the Bahamas there are services relaying various television channels broadcast from the Miami area.

Problems

67. The problem which this development poses for the copyright system is as follows. When a script-writer, a composer, an illustrator or an animator grants permission to a broadcasting service to broadcast his works, the royalty paid is directly or indirectly related to the audience which the broadcaster is addressing by its transmissions. Normally this consists of the national audience (or part of it) within the country from which the broadcaster transmits. But if a cable company in a neighbouring country receives those broadcast programmes and transmits them via cable to its own subscribers, the audience for those programmes and the works in them is an entirely new one, not taken into account when the original royalty terms were settled.

Liability of cable operators

68. Under the international conventions and virtually all national copyright laws, the transmission of copyright works via a cable system (whether the works are in broadcast programmes which the system picks up off air or whether they are in programmes originated by the cable operator) requires the permission of the copyright owner. In the case of works contained in broadcast programmes, the original contract between the copyright owner and the original broadcaster does not as yet cover possible subsequent cable TV use. Consequently, the copyright owners expect to receive some payment in respect of this additional use, and the cable operators need to obtain permission for the right to transmit via cable all the copyright material in the broadcast programmes which they pick up off air and transmit in this way. It is clearly impracticable for a cable operator to negotiate separately with each copyright owner with an interest in each work transmitted by the operator. The problem has been much discussed both nationally and internationally. The only feasible solution lies in some system of blanket licensing under

which a cable operator can obtain from one central source, or a limited number of such central sources, permission covering all the copyright intereste in the broadcast programme he transmits. In Europe copyright owners have already established arrangements for issuing such blanket licences or are in the process of attempting to do so. In those developing countries where cable television is or may soon become a reality, there may not be an existing infrastructure of boides which administer rights on a collective basis. Hence it may be necessary for the copyright law itself to provide a legal authority for the operations of cable companies with appropriate provisions for ensuring payment at a reasonable level and providing a system for its distribution to the individual right owners.

Satellite broadcasting

69. *Satellite Broadcasting.* This differs from the standard method of broadcasting in which signals are transmitted through the ether directly to receiving equipment. With satellite broadcasting the signals are sent first to a special satellite equipped with receiving and transmitting apparatus, which beams them back to earth. These signals are able to reach not only the national territory of the original broadcaster, but the national territories of other countries as well. Even when the signals are intended for reception only in the country of the original broadcast, in the present state of the technology it is not yet possible to regulate the shape of the downward beam so as to eliminate "overspill", that is the possibility of the signals being received in adjoining countries. In practice, satellite broadcasting operates in two different ways, at least at present. One is direct satellite broadcasting where the programme-carrying signals from the satellite are received directly by any member of the public within the reception area possessing the necessary receiving apparatus. The other is point-to-point satellite broadcasting where the signals from the satellite are not receivable generally by the public in reception areas but only by a

direct satellite broadcasting

point-to-point satellite broadcasting

ground station whence they are re-transmitted either through cable systems (i.e. cable television) or over the air (i.e. re-broadcast) to the receiving equipment of the general public.

National considerations posed by satellite broadcasting

70. Satellite broadcasting clearly poses a host of national considerations of a political, social and cultural nature which must concern governments. Up to now foreign radio broadcasts have been largely tolerated by the governments of most countries. However, it is doubtful whether governments, particularly governments of developing countries, will allow their citizens to have unrestricted access to foreign television transmissions made available via satellite broadcasting. For this reason it is likely that satellite broadcasting will be subjected to a regime of control organized both internationally and nationally. Also because such control can be more easily exercised over point-to-point satellite broadcasting than over direct satellite broadcasting, it is probable that this will be the form normally authorised.

Direct satellite broadcasting

71. The copyright problem is essentially that of ensuring that the original contributor to the programme originally broadcast receives reasonable remuneration for the additional audiences reached by his work as a result of the extended coverage created by the satellite transmissions. In the case of direct satellite broadcasting, the problem will normally be confined to cases of "overspill". As we have seen, the programme-carrying signals go from the original broadcaster's transmitters via the satellite direct to the audience in whatever reception area is covered by the transmission. So it clearly must be the responsibility of the original broadcaster to obtain from the contributors the right to address these extended audiences. This needs to be done when the original contracts for the right to broadcast are negotiated.

Point-to-point satellite broadcasting

72. The same problem arises in the case of point-to-point satellite broadcasts, but its dimensions and permutations are greater. In the normal case the original broadcaster will negotiate agreements with ground stations in the territories receiving its transmissions via satellite. Such agreements should make provision to take care of the interests of the original contributors to the programmes. However, a problem arises when a ground station with which the original broadcaster has made no agreement picks up signals arriving by satellite and transmits them either by cable or by re-broadcasting. These "pirate" ground stations may be either in the country of intended reception or in an adjoining country. Already some countries in Africa have paid considerable sums for the right to receive via satellite programmes of certain events at the Olympic Games or matches in the World Football Cup only to find that ground stations in neighbouring countries which have made no payment have picked up the signals and re-transmitted them freely to the public in those countries.

Problems

73. If there is a copyright law in force in the country where this re-transmission takes place, it is probable that such re-transmissions will require the permission of all the copyright interests. So the operator of the ground station will be committing an infringement if he does not himself obtain consent from the copyright owners of the material in the programmes. But such copyright laws do not exist everywhere. Thus, to take a hypothetical example, the Trinidad Broadcasting Service might transmit its programmes via satellite to Jamaica where, under negotiated agreements, ground stations pick them up and re-transmit them (either by wire or by re-broadcasting) throughout the island. But because of the Dominican Republic's proximity to Jamaica, a ground station in the Dominican Republic might well be able to pick up the signals. It might then transmit the programmes throughout the Dominican Republic without any payment. As the

Dominican Republic does not belong to either of the copyright conventions, it is doubtful whether foreign works enjoy any protection there. So the interests of the Trinidad Broadcasting Service and the contributors to its programmes would be without any protection.

Brussels Convention 1974

74. Any solution to this problem must obviously be an international one. To this end a convention was established at Brussels in 1974. Its purpose was to require each country joining it to adopt legislative or administrative measures to prevent programme-carrying signals from being distributed in the country by persons or organisations for whom they were not intended. So far only six countries have joined.

Private recording - normally an infringement

75. *Audio- and video-recording.* Under normal copyright legislation, the private recording of a copyright work, unless done for private research or study, is an infringement if the permission of the copyright owner has not been obtained in advance. Tape recorders and cassette radios have been available to the general public for many years, and it is common knowledge that considerable home taping of records takes place. Until recently, however, copyright owners paid little attention. One reason was that the record industry was booming and the composers, publishers and record companies were content with producing and selling more and more records. But with the coming of the economic recession the record industry, though still basically sound, cannot afford to overlook any significant area of potential but unrealized income. Nor can it ignore the fact that the use of the recording facility is no longer confined to producing copies at home for home listening. Today record piracy in all its variations is world-wide in extent and enormous in dimension. It is estimated that probably half the records currently being sold around the world are either "pirated", "counterfeit" or "bootlegged". These three expressions have come to denote different versions of unauthorised recording.

A "pirated" recording is one made by transferring without permission a legitimate recording intended for retail sale on to a blank tape carrying no label. A "counterfeit" recording is made in the same way save that it carries a label imitating the original label - i.e. purporting to be an authorised recording. A "bootlegged" recording is a recording made of the music played at a live convert without the authority of either the performer(s) or the copyright owner(s).

Measures needed to combat piracy

76. There is no single, simple remedy for dealing with piracy. It can probably never be entirely eliminated, but by a combination of measures it can be reduced to an acceptable level. The following measures are needed:

(a) Governments should ensure that the penalties in their copyright laws are adequate to provide effective deterrents, taking into account the high profits which can be made in a very short space of time by large-scale piracy.

(b) Copyright owners should concert their efforts and resources into planned enforcement campaigns. For such campaigns to achieve maximum effectiveness, government support is needed in various ways -

(i) The Government should ensure that the public is aware that the Government regards piracy as a serious offence, not simply against the rights and interests of individual copyright owners but against the public interest generally.

(ii) The Government should, wherever appropriate, act in support of such infringement campaigns. For example, in Hong Kong the Government established a

special copyright squad within the Customs and Excise Department which acted in co-operation with the record industry in a planned and successful campaign against record piracy.

(iii) Effective procedures designed to ensure that pirates cannot evade their liabilities should be made available to copyright owners, either through the development by the courts of new forms of process or by legislation (see the discussion in paras. 41 and 42 about "Anton Piller Orders").

(c) A sustained programme of public information and education should be mounted to illustrate the overall value to society of the copyright system and the injury suffered by society when widespread piracy flourishes.

Computers

77. *Computers*. The use of computers poses two quite different questions:

(a) Is storage in, and retrieval from, a computer system of a work protected by copyright an act requiring the permission of the copyright owner?

(b) Is computer "software" - i.e. the programme written so as to produce the desired result from a computer - a work entitled to copyright protection?

Storage of copyright works in computers

The first question is immensely important. The use of computers for storing and reproducing copyright works in one form or another is becoming increasingly common. Storing the contents of standard textbooks in a computer database to which schools and other educational institutions may have access so as to reproduce passages on classroom television screens is

by no means a Jules Verne vision. There is virtually no case law on this aspect of computer use so far, but there has been considerable study of the question, both nationally and internationally. Informed opinion is unanimous that under the Berne Convention - and hence under most national copyright laws - such use of copyright material requires the permission of the copyright owner.

Computer programmes

78. The second question is equally important. There is no doubt that the writing of programmes requires considerable skill and, many argue, as much imagination and creativity as composing a symphony. This question, too, has been much discussed, and there is general agreement that computer software should enjoy protection against unauthorised use. So far, however, there has been no final decision at international level as to whether this protection should be provided under the copyright system, under the patent law, or by some new international convention and new national legislation. In the United States computer programmes have already been registered at the Copyright Office as works entitled to copyright protection. Legal and official opinion in the United Kingdom is that computer programmes are entitled to protection under the Copyright Act, 1956, as a form of "literary work".

PERFORMERS

Need for performers' interests to be protected by legislation

79. The copyright conventions, and the national laws which implement them, do not protect the interests of those who perform literary, dramatic, musical or artistic works. Actors, singers and dancers do not enjoy protection in the same way that authors and composers do. Until the technologies of the mid-twentieth century emerged, there was little need for a similar kind of protection for performers. If the public wanted to see or listen to performances of a talented actor, singer or musician, the performances would have to be repeated live. But as technology developed it became possible to capture on record, film or tape the performances of actors, singers and musicians and to replay their performances without the performer having to give a repeat performance. It was therefore apparent that performers should have some power of control over the recording of their performances and their subsequent communication to the public. This need was first recognised in the United Kingdom in 1925 by the enactment of the Dramatic and Musical Performers' Protection Act, 1935 subsequently replaced and consolidated in the Performers' Protection Acts, 1958 - 1970. The effect of this legislation is to protect performers. It is an offence for anyone to make sound-recordings or films (including video-tapes) of a performer's performance without his permission. It is also an offence to sell or distribute to the public such

unauthorised recordings or films, to use them for public performances or broadcasting purposes, or to relay them through a cable distribution system. The protection thus given is not the same as the protection given to authors. Performers do not have "property rights" which they can assign or license in the way copyright can be dealt with. They are, however, enabled to protect their interests by exercising control over the extent to which performances are recorded, filmed or broadcast, and they may, of course, attach conditions - financial or other - to the granting of their permission for the recording and subsequent use of their recorded performances.

Performers not usually protected by developing country laws - but should be

80. The need to protect performers against the unauthorised recording and subsequent use of their recorded performances was recognised internationally by the establishment in Rome in 1961 of the Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations. Today only 23 countries have joined this Convention. So, although most countries which belong to either the Berne or the Universal Copyright Convention now give a form of copyright protection to record manufacturers and broadcasters, only a few protect the interests of performers. There are hardly any developing countries among them. As the trade unions and other organisations which look after the interests of performers in the developing countries are not as well established or as effective as the unions which serve the interests of other categories of workers, governments of developing countries should give urgent consideration to the enactment of legislation to protect the interests of their performers. For example, at present there is no legislation which protects the calypsonians of Trinidad and Tobago from having their live performances recorded by either national or foreign recording

companies. The result is that calypsonians (otherwise than by possibly using the control over the copyright in the material they sing) are unable to ensure that they share in the proceeds of sales abroad of the recordings of their performances.

Value of copyright to developing countries

81. In a booklet entitled *'The ABC of Copyright'*, UNESCO has explained the importance of the copyright system to developing countries:

> Young countries are anxious to have access to the best works of other nations and to export their own. They must therefore protect their own authors and provide them with the same guarantees as others. By protecting expressions of the human mind, copyright enables countries to communicate their aspirations, ideas and accomplishments to the entire world. Copyright has a critical impact on the flow of literary, scientific, musical and artistic works, information and culture from one country to another. All countries therefore have an interest in copyright. The regulation of copyright is consequently a major task facing developing countries. (p. 67)

APPENDIX A

COUNTRIES BELONGING TO THE BERNE UNION CONVENTION AND THE UNIVERSAL COPYRIGHT CONVENTION AS AT 1 JANUARY 1983

Be = Berlin 1908
Br = Brussels 1948
R = Rome 1928
P = Paris 1971

Country	*Member of Berne Union*	*Text adhered to*	*Member of UCC*	*Member of both*
Algeria			x	
Andorra			x	
Argentina	x	Br	x	x
Australia	x	P	x	x
Austria	x	Br	x	x
Bahamas	x	Br	x	x
Bangladesh			x	
Belgium	x	Br	x	x
Benin	x	P		
Brazil	x	P	x	x
Bulgaria	x	P	x	x
Cameroon	x	P	x	x
Canada	x	R	x	x
Central African Republic	x	P		
Chad	x	Br		
Chile	x	P	x	x
Columbia			x	
Congo	x	P		
Costa Rica	x	P	x	x
Cuba			x	
Cyprus	x	R		
Czechoslovakia	x	P	x	x

Country	*Member of Berne Union*	*Text adhered to*	*Member of UCC*	*Member of both*
Democratic Kampuchea			x	
Denmark	x	P	x	x
Ecuador			x	
Egypt	x	P		
El Salvador			x	
Fiji	x	Br	x	x
Finland	x	Br	x	x
France	x	P	x	x
Gabon	x	P		
German Democratic Republic	x	P	x	x
Germany, Federal Republic of	x	P	x	x
Ghana			x	
Greece	x	P	x	x
Guatemala			x	
Guinea	x	P	x	x
Haiti			x	
Holy See	x	P	x	x
Hungary	x	P	x	x
Iceland	x	R	x	x
India	x	Br	x	x
Ireland	x	Br	x	x
Israel	x	Br	x	x
Italy	x	P	x	x
Ivory Coast	x	P		
Japan	x	P	x	x
Kenya			x	
Laos			x	
Lebanon	x	R	x	x
Liberia			x	
Libya	x	P		
Liechtenstein	x	Br	x	x
Luxembourg	x	P	x	x
Madagascar	x	Br		
Malawi			x	
Mali	x	P		
Malta	x	R	x	x
Mauritania	x	P		
Mauritius			x	
Mexico	x	P	x	x
Monaco	x	P	x	x
Morocco	x	Br	x	x

Country	*Member of Berne Union*	*Text adhered to*	*Member of UCC*	*Member of both*
Netherlands	x	Br	x	x
New Zealand	x	R	x	x
Nicaragua			x	
Niger	x	P		
Nigeria			x	
Norway	x	Br	x	x
Pakistan	x	R	x	x
Panama			x	
Paraguay			x	
Peru			x	
Philippines	x	Br	x	x
Poland	x	R	x	x
Portugal	x	P	x	x
Romania	x	R		
Senegal	x	P	x	x
South Africa	x	Br		
Soviet Union			x	
Spain	x	P	x	x
Sri Lanka	x	R		
Suriname	x	P		
Sweden	x	P	x	x
Switzerland	x	Br	x	x
Thailand	x	Be		
Togo	x	P		
Tunisia	x	P	x	x
Turkey	x	Br		
United Kingdom	x	Br	x	x
United States of America			x	
Upper Volta	x	P		
Uruguay	x	P		
Venezuela	x	P	x	x
Yugoslavia	x	P	x	x
Zaire	x	P		
Zambia			x	
Zimbabwe	x	R	x	
	74		74	50

APPENDIX B

SPECIAL CONCESSIONS FOR DEVELOPING COUNTRIES

General Background

1. The provisions under which developing countries may provide for the grant of compulsory licences to translate and reproduce certain categories of copyright works are contained in the Berne Convention in the Appendix to the Paris text, and in UCC in Articles V bis - V quater. Prior to 1971 certain members of the Berne Union enjoyed special translation rights exerciseable ten years after the first publication of a work, and under UCC there was a similar provision save that the corresponding period was seven years and not ten. It is not known to what extent, if any, translations were ever made pursuant to either of these provisions.

2. The purpose of the 1971 regimes in both conventions is to enable developing countries to provide for the issue of non-exclusive, non-assignable compulsory licences carrying an obligation to make fair payment to the copyright owner, to translate and/or reproduce works protected by the conventions provided the translations and/or reproductions are intended exclusively for systematic instructional activity (or in some cases for teaching, scholarship or research). During an initial period after first publication in the developing country (the duration of which varies depending upon the category of work) the copyright owner

enjoys his normal exclusive rights and no compulsory licences may be granted during that period. However, if at the expiry of the period no translations or reproductions required in the developing country made with the authority of the copyright owner are available there, then compulsory licences may be granted by the competent authority designated by the law.

Rules and Conditions

3. The detailed rules and conditions which regulate the granting of such licences are contained in an elaborate code which is virtually impossible to condense, but the essential features are:

translation licences

4. Translation licences may be granted -

(a) only for the purpose of teaching, scholarship or research; or

(b) for use in broadcasting, where the broadcast is intended exclusively for teaching or for the dissemination of the results of specialized technical or scientific research to experts in a particular profession.

5. If the translation is into a language which is in general use in the developing country, then three years must have elapsed from the date when the work was first published, and there must be no translation in that language made by the copyright owner currently available.

6. If the translation is into a language which is not in general use in one or more developed countries, the three year period may be reduced to one year; and the one year period may be applied even to translations into a language which is in general use amongst certain developed countries, provided those developed countries agree; but in no case may the one year period be applied to translations into English, French or Spanish.

reproduction licences (i.e. for re-printing)

7. Compulsory licences for reproducing works may be granted if, at the expiry of the periods stipulated in paragraph 8 below, copies are not available in the developed country at a price reasonably related to the prices normally charged for comparable works and provided the copies to be made under the licence will be used in connection with systematic instructional activity.

8. The stipulated periods are -

(a) seven years for works of fiction, poetry, drama and music, and art books;

(b) three years for works of the natural and physical sciences, including mathematics, and of technology;

(c) five years for all other works.

conditions applicable to both types of licence

9. Each licence must be non-exclusive and non-assignable, and may be granted only to nationals of the developing country.

10. Each licence is limited to the country in which it is granted, and no copy of translations or reproductions made under it may be exported (save that translations into languages other than English, French or Spanish may be exported by the authority granting the licence for the use of its nationals in another country, provided that country agrees and the translations are to be used for teaching, scholarship or research and not for any commercial purpose).

11. The right to make copies under a licence ceases as soon as equivalent copies are made available by the copyright owner.

12. Each compulsory licence must provide for payment to the copyright owner of royalties consistent with the standard of payment normally applying to licences freely negotiated between the two countries concerned, and the competent authority in the developing country must make all efforts to ensure payment in "internationally

convertible currency".

13. No licence for either translation or reproduction may be issued if the author has withdrawn the work from circulation to the public.

Procedure

14. In a developing country which has adopted measures for the granting of compulsory translation or reproduction licences, an applicant must submit his application for a licence to the designated competent authority, and in adddition to evidence that the foregoing rules and conditions have been complied with, he must show -

(a) that he has applied to the copyright owner for permission to translate or reproduce the work, and has been refused such permission; or

(b) that he has with due diligence sought and failed to find the copyright owner, and has sent copies of the application to the publisher of the work and to such copyright information centre as has been designated.

15. After an application has been submitted no licence may be issued until a period for negotiation with the copyright owner has elapsed. This period may be three months, six months or nine months depending on the type of licence sought, the category of the work and the grounds for the application.

16. If translations are issued, or reproductions are made available at appropriate prices by the copyright owner during the "negotiating period", then no licence may be issued.

17. All translations or reproductions made under a licence shall bear the original title of the work and the name of its author.

APPENDIX C

LIST OF PROTECTED WORKS UNDER THE BERNE CONVENTION - ARTICLE 2

1. The expression "literary and artistic works" shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic works and entertainments in dumb show; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

2. It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general of any specified categories of works shall not be protected unless they have been fixed in some material form.

3. Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.

4. It shall be a matter for legislation in the countries of the Union to determine the protection to be granted to official texts of a legislative, administrative and legal nature, and to official translations of such texts.

5. Collections of literary or artistic works such as encyclopedias and anthologies which, by reason of the selection and arrangement of their contents constitute intellectual creations, shall be protected as such without prejudice to the copyright in each of the works forming part of such collections.

6. The works mentioned in this Article shall enjoy protection in all countries of the Union. This protection shall operate for the benefit of the author and his successors in title.

7. Subject to the provisions of Article 7(4) of this Convention, it shall be a matter for legislation in the countries of the Union to determine the extent of the application of their laws to works of applied art and industrial designs and models, as well as the conditions under which such works, designs and models shall be protected. Works protected in the country of origin solely as designs and models shall be entitled in another country of the Union only to such special protection as is granted in that country to designs and models; however, if no such special protection is granted in that country, such works shall be protected as artistic works.

8. The protection of this Convention shall not apply to news of the day or to miscellaneous facts having the character of mere items of press information.

APPENDIX D

EXCEPTIONS TO COPYRIGHT OWNER'S RIGHT OF CONTROL AS CONTAINED IN SECTION 7 OF THE TUNIS MODEL LAW ON COPYRIGHT FOR DEVELOPING COUNTRIES

Commentary

On the basis of Article IV bis of the Universal Convention and Articles 2 bis, 9, 10 and 10 bis of the Berne Convention, Section 7 of the Model Law lists a number of exceptions which are in conformity with the spirit and letter of the two Conventions.

The *preamble* to Section 7 specifies that the uses of protected works permitted under this Section without the author's authorization, by way of exception to the rights granted to him under Section 4, may be made "either in the original language or in translation". This means that all the limitations provided for in Section 7 are likewise applicable in cases where the work has first to be translated to allow the permitted use to be made.

Text

7. Notwithstanding Section 4, the following uses of a protected work, either in the original language or in translation, are permissible without the author's consent:

(i) in the case of any work that has been fully published:

(a) the reproduction, translation, adaptation, arrangement or other

transformation of such work exclusively for the user's own personal and private use;

Commentary

Subparagraph (a) of paragraph (i) permits specified uses of a work for the user's own personal and private use. The expression "personal and private use" is interpreted with varying degrees of restrictiveness, but as a rule this concept is the reverse of collective use and presupposes that no profit-making purpose is pursued; a case in point is the student who copies a text, or causes it to be copied, in accomplishing his work of personal research or his studies. Certain delegations on the Tunis Committee wondered whether the words "adaptation, arrangement or other transformation" should be retained, as in fact such action constitutes a serious violation of the author's moral rights. It was decided that they would be kept, however, in view of the practical impossibility of controlling such acts in the hypothetical case of their being strictly private in character.

Text

(b) the inclusion, subject to the mention of the source and the name of the author, of quotations from such work in another work, provided that such quotations are compatible with fair practice and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries;

Commentary

Subparagraph (b) of paragraph (i) deals with quotations. A quotation consisting of the word-for-word reproduction of passages from a work, with a view to reviewing or criticizing the work or to using passages of it for purposes of illustration or explanation, can only cover extracts from works. "Press summaries", which consist almost exclusively of a compilation of extracts from articles in newspapers or periodicals, are given a special mention. A quotation may equally well be made from a book,

a newspaper, a cinematograph film, a sound of visual recording, a broadcast, etc. The limits of permissible quotation depend on the extent to which it is justified by the purpose and by fair practice. In all cases the source and the name of the author of the work must be mentioned. Respect of the "extent justified by the purpose" is a factor that varies according to the circumstances of a case, and therefore can only be evaluated by the courts. Thus a quotation made in good faith, in accordance with fair practice and within the limits of requirements, for the demonstration of a proposition for instance, is lawful. If, on the other hand, it transpires that the demonstration of the proposition did not call for quotations, or if they are too long or too numerous, the courts may rule that the extent justified by the purposes has not been respected.

Text

(c) the utilization of the work by way of illustration in publications, broadcasts or sound or visual recordings for teaching, to the extent justified by the purpose, or the communication for teaching purposes of the work broadcast for use in schools, education, universities and professional training, provided that such use is compatible with fair practice and that the source and the name of the author are mentioned in the publication, the broadcast or the recording;

Commentary

Subparagraph (c) of paragraph (i) permits the use of a work for illustration in teaching by means of publications, broadcasts or sound or visual recordings. In some respects this exception to copyright in the work thus used joins up with the previous exception, namely, "quotation". But there is a further restriction on the exception for the purpose of illustration: the illustrations must actually illustrate the teaching, and they are permitted only to the extent justified by the purpose. In practice this means that the publication, broadcast or

sound or visual recording in which the work is used by way of illustration is itself made solely for teaching purposes. Also, as in the case of quotations, the illustration must be compatible with fair practice and in all cases the source and the name of the author of the work used must be mentioned.

This provision likewise authorizes communication, for teaching purposes, of a work which has been broadcast for use in schools, education, universities and professional training, terms merely designed to render more explicit the concept of use by way of illustration for teaching purposes.

Text

(ii) in the case of any article published in newspapers or periodicals on current economic, political or religious topics, and in the case of any broadcast work of the same character, the reproduction of such article or such work in the press, or the communication of it to the public, unless the said article when published, or the said broadcast work when broadcast, is accompanied by an express indication prohibiting such uses, and provided that the source of the work when used in the said manner is clearly indicated;

Commentary

Paragraph (ii) deals with articles on current economic, political or religious topics published in newspapers or periodicals, or broadcast works of the same character. Unlike press news items, which are merely impersonal statements of fact, these articles are genuine works. Like many current legislations, the Model Law allows them to be reproduced in the press or communicated to the public without the author's authorization, but on certain conditions: the articles in question must be on one of the three topics limitatively enumerated, they must have been published in the press or broadcast, and the source of the work must be clearly indicated. However, the provision specifies that the use of the work may be prohibited by an express indication to this effect.

Text

(iii) for the purposes of reporting on a current event by means of photography, cinematography or communication to the public, the reproduction or making available to the public, to the extent justified by the informatory purpose, of any work that can be seen or heard in the course of the said current event;

Commentary

Paragraph (iii) permits the use of any work that can be seen or heard in the course of a current event for reporting on that event by means of photography, cinematography or by other methods of communication to the public. It is essential that such use should be purely incidental or accidental, that the work used should be merely accessory to the subject of the report and that the use of the work should not exceed the extent justified by the informatory purpose of the report. It is natural in this case that, as many legislations moreover provide, there should be no necessity to seek the authorization of the author of the work thus used.

Text

(iv) the reproduction of works of art and of architecture, in a film or in a television broadcast, and the communication to the public of the works so reproduced, if the said works are permanently located in a place where they can be viewed by the public or are included in the film or in the broadcast only by way of background or as incidental to the essential matters represented;

Commentary

Paragraph (iv) also exempts from the author's consent the reproduction in a film or television broadcast of architectural works or works of art in two cases: if the works are permanently located in a public place, their reproduction is totally unrestricted; if not, their inclusion in the film or broadcast is permitted only if it is by way of background or incidental to the main subject.

Text

(v) the reproduction, by photographic or similar process, by public libraries, non-commercial documentation centres, scientific institutions and educational establishments, of literary, artistic or scientific works which have already been lawfully made available to the public, provided that such reproduction and the number of copies made are limited to the needs of their activities, do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author;

Commentary

Paragraph (v) deals with the reprography of works protected by copyright. It seemed preferable to deal with this question only in very general terms and by reference to Article 9(2) of the Berne Convention, which provides that "it shall be a matter for legislation in the countries of the Union to permit the reproduction of such [literary and artistic] works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author." The latter two conditions have been taken over word for word. The "special cases" are defined in the Model Law as cases where the reproduction is "by public libraries, non-commercial documentation centers, scientific institutions and educational establishments, ... provided that such reproduction and the number of copies made are limited to the needs of their activities."

Text

(vi) the reproduction in the press or the communication to the public of:

(a) any political speech or speech delivered during legal proceedings, or

(b) any lecture, address, sermon or other work of the same nature delivered in public, provided that the

use is exclusively for the purpose of current information,

the author retaining the right to publish a collection of such works.

Commentary

Finally, *paragraph (vi)* permits the reproduction, but exclusively in the press, or communication to the public of certain oral works on specified conditions. In this connection the Model Law distinguishes between:

(a) political speeches and speeches delivered during legal proceedings; their use is subject to one restriction: they may not without authorization be brought together in a collection of the author's works, even if that collection is published in the press; and

(b) lectures, addresses, sermons and other works of the same nature delivered in public. Their use is permissible only for the purposes of current information and, like political and judicial speeches, they may not be brought together in a collection of the author's works.

APPENDIX E

GUIDELINES FOR NEGOTIATING A CONTRACT FOR THE USE OF A WORK PROTECTED BY COPYRIGHT

Because copyright is a specialised field and because many of the expressions used have special meanings given either by the law or by accepted business use, it is especially necessary for contracts relating to copyright works to be carefully worded. The following guidelines list a number of important points which should be borne in mind when a contract is being negotiated.

Copyright contracts should be in writing

1. Every agreement should be in writing; permission to use a copyright work may be given orally or may be implied from conduct, but in practice it is most desirable that any business arrangement affecting a copyright work should be in writing.

Describe subject of contract carefully

2. The work which is the subject of a contract must be carefully described; in the case of a musical work of which there is more than one arrangement, it is important that the contract specify either that it relates to the work in all its arranged forms or identify exactly which arrangements are covered by the contract. As titles are not protected by copyright, the names of works, particularly musical works, are often duplicated; therefore it is always desirable to describe a work by referring not only to its title but also to its author or composer or artist as the case may be.

Assignment or licence

3. The language of the contract must show quite clearly whether rights are being assigned or whether a licence is simply being granted.

Exclusive or non-exclusive

4. If a licence is granted it must be clearly stated whether it is exclusive or non-exclusive.

Rights must be precisely described

5a. The particular right or rights which are being assigned or licensed must be described with precision. Certain expressions which have been in common use in a particular industry, such as book publishing for example, have acquired a more or less generally accepted meaning but, nevertheless can give rise to uncertainty and dispute unless carefully defined in the contract. Thus in book publishing "volume form publication rights" is an expression often used but not often defined. It is generally understood to mean the right to publish a hard-back edition of a book for sale through normal retail outlets or through book clubs or in a "condensed book" form. "Paperback rights" simply means the right to print and sell through any outlet copies of the book in paperback form.

Expressions in common use

volume form publication

paperback rights

Other rights to be considered

5b. Neither "volume form publication rights" nor "paperback rights" include the following rights which should be expressly reserved or be the subject of specific assignment or licence -

cheap editions

(i) The right to publish cheap editions. If this right is granted it should be clear what a cheap edition is - usually an edition published at less than two-thirds of the price of the original publication.

remainder sales

(ii) The right to authorise remainder sales - i.e. the right to sell stock at substantially reduced prices on which the author normally gets no royalty. It is therefore desirable to define the price below which a sale is to be treated as a remainder sale - usually about 25% of the price of the original publication.

serial rights

(iii) Serial rights - i.e. the right to publish extracts in a newspaper, either before or after the first publication in hardback or paperback form.

reprint rights

(iv) The reprint right - i.e. the right to authorise someone else, usually a book club, to produce its own edition.

reprographic rights

(v) The reprographic reproduction right - i.e. the right to make facsimile copies by using photocopying or similar equipment.

sound and video recording rights

(vi) Sound and video recording rights - i.e. the right to make a record or a tape without or with accompanying visual images of the work.

strip cartoon rights

(vii) Strip cartoon rights - i.e. the right to publish the work, suitably adapted, in the form of a strip cartoon.

anthology and quotation rights

(viii) Anthology and quotation rights - i.e. the right to include the work, or extracts from it, in anthologies or other similar compilations, or to publish substantial quotations from it (otherwise than purely for criticism or review purposes).

dramatic rights

(ix) Dramatic rights - i.e. the right to adapt and present the work in dramatic form, as a play.

film rights

(x) Film rights - i.e. the right to adapt the work so as to make a film out of it.

broadcasting rights

(xi) TV and radio broadcasting rights - i.e. the right to adapt the work for the purpose of broadcasting it either on television or on radio.

translation rights

(xii) Translation rights.

Rights not mentioned to be reserved

5c. The foregoing list is not necessarily comprehensive. It indicates, however, most of the kinds of use which the parties to a contract for the exploitation of a literary work should consider. Those rights to be covered by the contract should be fully described, and the contract should always state that all rights and kinds of use not expressly mentioned in the contract are reserved to the author or other copyright owner.

Musical works - performing and mechanical rights

5d. In the case of musical works the terms "performing rights" and "mechanical rights" are frequently used in contracts. Their normal meanings are explained in paras 55 and 57. The contract should include definitions specifying precisely what they are to cover.

Commissioned portraits - ownership of copyright

6. When a photographer or painter is commissioned to do a portrait or other special assignment, the contract should clearly state whether the copyright in the photograph or painting is to belong to the photographer or artist or to the person who commissioned it. In some cases it may be reasonable for some of the rights of copyright to be retained by the photographer or artist and some acquired by the person who commissioned the work. For example, a company which commissions the painting of a portrait of a distinguished chairman might quite reasonably expect to acquire the right to make reproductions of the painting for distribution to its branch offices, whereas the painter might wish to retain the right to authorise the reproduction of the portrait in, for example, a book about the particular industry of which the firm in question was a leading member.

Territorial limits

7. The countries or territories for which the rights are assigned or licensed must be precisely specified. Colloquial or political regional terms, no matter how much they are in everyday use, should be avoided as few are precise in meaning. Thus, the Commonwealth, the West Indies, Latin America, South East Asia, South West Africa, are all expressions of

inexact connotation.

Financial terms

8. The financial terms are obviously of paramount importance. Payment may take every conceivable form - lump sum, fixed periodical payments, percentages of sales proceeds or other income, and so on. The following points indicate the main matters and alternatives the parties should consider:

(a) When an author is commissioned to write a book, a writer to produce the script for a film or television programme, a composer to compose music for a film or a lyric writer to write the words for a song, or indeed a TV commercial, his contract should provide, either expressly or in its effect, for two forms of payment -

(i) a commissioning fee for his creative effort in producing the work irrespective of whether it is ultimately used;

(ii) a royalty related to the extent and commercial value of the use to which the work is put.

Commissioning fees should be outright

(b) Lump sum payments may take various forms depending on the purpose of the payment. A fee for the purpose mentioned in subparagraph (a)(i) above should be an outright payment, neither returnable nor set off against future royalties; it may be paid in instalments, part on the signing of the agreement and part on the delivery of the script etc.

Advances may be set off

(c) A lump sum payment which is an advance is not normally returnable, though to such extent as the work earns royalties the advance may be set off against the author's share of the royalties. However, it is reasonable that the author should receive part of his share of the royalties, perhaps 50%, from the moment they accrue, the other 50%

being applied as a set off against the advances he has received.

Royalty rates

(d) The rate of royalty payable to an author or composer varies considerably depending on the kind of work, the kind of use, the standing of the author or composer, and other factors. The following examples must be regarded as very broad guides -

(i) The author of a book should expect to receive a royalty of 10 - 15% of the published retail price of his book for the volume form publication rights. It is common for the rate to increase, within the range just mentioned, as the number of copies sold rises - e.g. 10% on the first 2,500; 12½% on the next 2,500 and 15% on all further copies sold. For paperback rights an author may expect the equivalent of 7½%, rising in the case of established popular writers to perhaps 15%. If the author is unable to license the paperback rights directly and they are licensed by his hardback publisher instead, the author may only be able to receive a proportion of the royalties paid by the paperback publisher. This proportion should normally not be less than 60%.

(ii) When sales of the book are promoted abroad, (otherwise than in the case of the United States of America, for which see paragraph (cc) below), special royalty terms will normally apply. For books first published in the United Kingdom there are two common formulae -

(aa) the standard royalty rates for domestic sales are applied, but only to the *amounts actually received* by the publisher for

all copies sold abroad or for copies sold in the United Kingdom *at a discount of 45% or more* for export;

(bb) reduced royalty rates (perhaps half the United Kingdom rates) are applied to *the United Kingdom published* price for all copies sold abroad or for copies sold in the United Kingdom at a discount of 45% or more for export.

(iii) In the case of a book first published outside the United States of America but intended to be sold in that country, many arrangements are possible. Three alternatives might be -

(aa) where the first publisher has a subsidiary or established distribution arrangements in the United States of America, the author should expect to receive the full royalty rates on all American sales calculated on the American published price;

(bb) the first publisher will sub-licence an American publisher to produce a United States edition. In such a case the author should seek at least 80% of the receipts by the first publisher from the United States sub-publisher;

(cc) the first publisher may ship bound or unbound copies of his edition to the United States of America for distribution by a United States publisher. In this case the author will probably not be

able to negotiate more than 10% - 12½% of the first publisher's receipts from the United States' sub-publisher.

(iv) Unless the author employs an agent, the other rights listed in subparagraphs (i) - (xii) of para 5 above will normally be licensed by the author's main hardback publisher; in those cases where the publisher himself does not invest in the exploitation of these other rights his service to the author is, in effect, that of agent or negotiator for which it is reasonable that he should receive a share between 15% and 25% of the royalties or other payments received from the exploitation of these rights, the balance, 85% - 75%, going to the author.

(v) In the case of musical works there is a similar distinction, as in the case of literary works, between royalties from sales of sheet music (the cost of producing and selling of which are entirely borne by the publisher) and royalties on other forms of exploitation, such as recordings, synchronisation on to the soundtrack of films and TV programmes, and so on.

On sales of sheet music the royalty payable to the composer/lyric writer should not be less than 10%.

On royalties accruing from public performances, broadcasting, recordings and all other forms of exploitation, the share of the composer/lyric writer should never be less than 50%; and for established and popular composers/lyric writers there has been a growing trend for them to receive a greater share than 50%. The

important consideration is the extent to which the publisher is responsible for securing these forms of exploitation and does in fact provide a service for the composer in respect of them.

(vi) In no case should a share of the royalties or fees payable under a contract relating to the use of a copyright work - whether it be between author or composer and publisher, between publisher and sub-publisher, or between script-writer and film producer - be expressed as a percentage of "profits". The determination of "profits" is a profitable source of controversy and in relation to the commercial exploitation of a single work it is quite impracticable to attempt to ascertain. Percentage shares should always be applied to the gross proceeds from the exploitation in question.

(vii) In contracts which contemplate exploitation in other countries it is important to be clear whether the agreed percentages are to be applied to the gross proceeds accruing in the foreign countries or only to the net amounts received in the country where the contract is made. Where the party accounting for the receipts operates through subsidiaries in the foreign countries it is desirable, if at all possible, to avoid expressing the agreed shares as applying to the net amounts received in the country of contract.

Duration

9a. It is essential that the contract specifies with precision the duration for which the rights have been assigned or licensed. At the turn of the century authors and composers normally granted rights for the entire copyright life of the work in question; today this is not

necessarily standard practice. The overriding consideration is that the publisher, film producer or broadcaster should acquire the rights for a period which is reasonable, having regard to the use to which the work in question is put.

9b. Broadly speaking, the use to which copyright works are put falls into two categories - first, where the work is exploited on its own - i.e. the printing and publication of a book or a song; secondly, where the work is incorporated in a larger work forming simply one of the components in it - e.g. the script or sound-track of a film or TV programme.

In the first case the period for which it is reasonable that the publisher acquires rights should be related to the period within which he may be expected to recover his investment in the exploitation of the work and receive a fair return on that investment, having regard, of course, to the kind of work. Thus, today it would be reasonable to expect the publisher of a work of fiction to have realised the commercial potential of the work within a period of ten years; on the other hand, in the case of a textbook, particularly one likely to require new editions from time to time, a much longer period would probably be reasonable. In either case it is also reasonable that a publisher should have a first option at the end of the first period to obtain a renewed grant on terms no less favourable to the author than those which a competing publisher is prepared to offer.

In the second case, it is clearly reasonable that the film producer or broadcaster should acquire the *rights needed for the exploitation* of his film or programme for the entire copyright life of the film or programme.

Exploitation Period

10. Every contract should contain a clear obligation on the party responsible for the exploitation of the work (e.g. the publication) that it be so exploited within a specified

period, say two years, in default of which the other party should be entitled to terminate the contract in which case all rights will revert to the grantor.

Accounts

11. Every contract should require the party responsible for exploitation and the receipt of the revenue generated to submit accounts at regular intervals (usually six months) giving reasonable details of all income received from all sources. In the case of works likely to generate income in foreign countries in foreign currency, it is desirable to stipulate the currency in which accountings are to be made.

Enforcement

12. Finally, again with contracts which are likely to cover commercial exploitation in foreign countries, it is desirable to state which national legal system shall govern the interpretation and enforcement of the contract.

APPENDIX F

COPYRIGHT ORGANISATIONS

WIPO

The acronym WIPO stands for the World Intellectual Property Organisation. The origin of WIPO is the Paris Convention for the Protection of Industrial Property of 1883 which provided for an "International Bureau or Secretariat". In 1886, with the establishment of the Berne Convention for the protection of literary and artistic works, provision was also made for a Secretariat for that Convention. The two Conventions were united in 1893. Today WIPO is responsible for administering some fifteen conventions, treaties and international agreements relating to various forms of industrial property - i.e. trademarks, designs, appellations of origin, patents, type-faces, scientific discoveries and new plant varieties. In the field of intellectual property WIPO administers -

(a) The Berne Convention for the protection of literary and artistic works, in all its textual versions, reflecting some six revisions between 1886 and the last in Paris in 1971/72;

(b) The Rome Convention of 1961 for the protection of performers, producers of phonograms and broadcasting organisations;

(c) The Geneva Convention of 1971 for the protection of producers of phonograms against unauthorised duplication of their phonograms (the "anti-piracy convention");

(d) The Brussels Convention of 1974 relating to the distribution of programme-carrying signals transmitted by satellite.

The address of WIPO is 34, Chemin des Colombettes (Place des Nations), CH-1211 Geneva 20, Switzerland.

UNESCO

The Universal Copyright Convention was established under the auspices of the United Nations in 1952 and a special division of UNESCO was established to administer the Convention and deal with copyright matters.

The address of the Division is UNESCO, 7, Place de Fontenoy, 75700, Paris, France.

The Copyright Division of UNESCO has, among other activities in this field, promoted the establishment of Copyright Information Centres, listed below.

International Copyright Information Centres

International Copyright Information Centre, Unesco, Place de Fontenoy, 75700 Paris, FRANCE.

Regional Copyright Information Centres

Centro regional para el Fomento del Libro en Amērica Latina, Calle 70 No. 9-52, Bogota, COLOMBIA.

Unesco Regional Centre for Book Development in Asia, 26/A, P.E.C.H. Society, Karachi 29, PAKISTAN.

National Copyright Information Centres

Australia Australian Copyright Council, 24 Alfred Street, Milsons Point, N.S.W., Australia 2061.

Belgium Centre national d'information sur le droit d'auteur, Fēdēration des Editeurs belges, 111 avenue du Parc, B-1060 Bruxelles.

Bulgaria Agence pour la protection des droits d'auteur, Pl. Slaveikov 11, Sofia.

Canada Canadian Copyright Institute, Suite 305, 8 King Street East, Toronto, Ontario M5C 1B5.

France Centre d'information sur le droit d'auteur, Hotel du Cercle de la Librairie, 117 Boulevard Saint-Germain, 75279 Paris Cedex 06.

Federal Republic of Germany Urheberrechtsburo, Borsenverein des Deutschen Buchhandels E.V., Grosser Hirschgraben 17/21, 6 Frankfurt/Main 1.

German Democratic Republic Copyright Informations Zantrum der D.D.R., Krausenstrasse 9-10, 108 Berlin.

Hungary ARTISJUS, Szerzoi Jogvēdō Hivatal, Vorosmarty tēr 1, Budapest V.

Israel International Promotion and Literary Rights Department, Book Publishers Association of Israel, 29 Carlebach Street, P O Box 1317, Tel Aviv.

Italy Centro Nazionale del Diritto d'Autore, Ufficio della Proprieta Litteraria, Artistica e Scientifica della Presidenza del Consiglio dei Ministri, Via Boncompagni 15, Roma.

Mexico Centro Nacional de Informaciōn sobre el Derecho de Autor, Mariano Escobedo 438, 6° piso, Mexico 5, D.F.

Spain Centro nacional de Informaciōn sobre el Derecho de Autor, I.N.L.E., Santiago Rusinol 8, Madrid 3.

United Kingdom The National Clearing House of the United Kingdom, Book Development Council, 19 Bedford Square, London WC1B 3HJ.

United States of America International Copyrights Information Centre (INCINC), Association of American Publishers, 1920 L Street, NW, Washington D.C. 20036.

U.S.S.R. V.A.A.P., Agence soviētique pour les droits d'auteur, 6-a Bolchaia Bronnaia, Moscow 103-104.

CISAC

The Confederation Internationale des Societes d'Auteurs et Compositeurs, established in 1926, now has a membership of over 100 authors' and composers' societies from about 50 countries. In the field of music the documentation banks maintained by the member societies contain copyright information about most of the world's music.

The names and addresses of the national member societies may be obtained from the Secretariat of CISAC, which is at 11, Rue Keppler, 75116 Paris, France.

IFPI

International Federation of Producers of Phonograms and Videograms, established in 1933 with a membership today of 600 phonogram members from 70 countries; with a video division established in 1980 with a current membership of 250 members from 18 countries. Its Secretariat is at 123, Pall Mall, London, SW1Y 5EA.

IPA

The International Publishers Association, representing 43 national affiliated associations, with a separate music section; the Secretariat is at 3, Avenue de Miremont, Geneva.

A simple guide to the copyright system, both national and international, written in non-legal language for authors, editors, publishers and others in developing countries, with a special section containing advice on publishing and other agreements, and a brief outline of recent developments with special reference to those brought about by technology.

May be purchased from
Commonwealth Secretariat Publications
Marlborough House
London SW1Y 5HX

ISBN 0 85092 233 X