

# Legal status of the cmo

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**Goal of Copyright:**

Copyright laws have been associated with two main broad objectives that it is intended to meet. These objectives are; Economics and the public interests and the moral rights of the creators.

In terms of economics and the public interest, the goals of copyright laws entails first, giving the original creator of content exclusive rights to their content, which means other individuals may not reproduce, distribute or modify their works without due credit or licences. Additionally, copyright laws secure original works to the authors and creators of the work. In this way therefore, copyright laws construct mechanisms through which creators can control their work and its distribution to ensure that they benefit from any activity related to their artistic and creative creations. Furthermore, copyright laws are intended to promote progress, creativity and production of new, creative and spontaneous works of art. The establishment of copyright laws furthermore by promoting originality and creativity, furthers the cultural diversity of works of art.

**Legal Status of the CMO**

CMOs are lawfully established and legally mandated with the task to collectively manage the rights of artists and authors. This role is enforced through the acquisition of consent from the right's owners. Additionally, it could be achieved by the acquisition of non-voluntary licences which give CMOs the right to manage the work of authors and artists without having to seek their consent prior to the reproduction, modification or distribution of their works.

The legal status of a particular CMO is dependent on the laws that are applicable in its country of operation; while some countries enforce laws concerned with the operation of CMOs within their jurisdiction, some do not have specific laws pertaining to the operation of the aforementioned institutions.

Furthermore, countries specifically have laws defining the business capacity of CMOs. Countries for instance, China, require that CMOs be non-profit organizations, while others allow CMOs to be profit making entities.

In assessing the legal status of CMOs, it is also imperative to identify the form of business in terms of competition that CMOs carry out. Most countries notably choose a monopolistic approach for the CMOs. This is done due to the sensitivity of copyright law and its infringement which warrants a central body/institution to provide a central voice for the artists and authors of that country who wish to be registered as members. In countries where this approach is taken, then the CMO is assigned a public authority role.

Additionally, the monopolistic CMOs are usually granted the power to exercise control over one type of copyright to avoid competition and further effect efficiency of roles within the CMOs. On the other hand, some countries encourage homogeneity of CMOs and competition among the CMOs by encouraging competitive behaviour in the copyright markets.

### **Acquisition of Rights**

For CMOs to effectively carry out their role, they have to first acquire the rights to the properties they intend to represent from their owners. Countries have adopted five models that are crucial in understanding the acquisition of

rights from their owners by CMOs. These models include: full-assignment of rights, non-exclusive licences, and authority to act as agents, a sui generis system and legal non-voluntary licences.

Under the full-assignment of rights model, the CMO becomes fully charged with the mandate and responsibility of matters licencing and exercise of the rights assigned for a given work of art. Additionally, the previous owner of the rights has no power or authority to exercise the rights within the term within which he/she has authorized the CMO to exercise the rights. On the other hand, under the non-exclusive licences model, competition between homogenous CMOs is encouraged since the rights can still be practised by the original owner in addition to persons or institutions he/ she intends to pass on the rights to. Under this model, CMOs more often than not act as agents which negotiate the acquisition and issuance of rights between the rights owners and potential users. The CMOs may not practice the rights for their own interests. The sui generis system/ model for acquisition of rights demands that all artists, authors and their works be treated equally. To this extent therefore, CMOs are required to grant licences on equitable terms to all users who subscribe to it or request for the issuance of the licence. Last, the legal non-voluntary licence model of acquisition of rights entails both statutory and compulsory licencing. This allows for the use of various works subject to the relevant legal guidelines to which they subscribe to, without the explicit permission of the owner of the rights. Despite of the distribution and copying rights being awarded to the CMO for control and issuance, the CMO has the duty to distribute any revenue arising from the distribution or replication of an author's work to the author or artist concerned.

Furthermore, four models have been identified at the legislative level, crucial for the acquisition of property rights. They comprise of: implied licencing, legal presumption, mandatory licencing and extended collective licencing.