

# WIPO



**PCIPD/2/3**

**ORIGINAL:** English

**DATE:** January 22, 2001

**E**

**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
GENEVA

## **PERMANENT COMMITTEE ON COOPERATION FOR DEVELOPMENT RELATED TO INTELLECTUAL PROPERTY**

**Second Session**  
**Geneva, February 5 to 8, 2001**

**DEVELOPMENT OF A REGIONAL SYSTEM FOR THE COLLECTIVE MANAGEMENT  
OF COPYRIGHT AND RELATED RIGHTS IN THE CARIBBEAN: PROGRESS REPORT**

*Document prepared by the International Bureau*

## I. INTRODUCTION

1. At the first session of the Permanent Committee on Cooperation for Development Related to Intellectual Property (hereinafter “The Permanent Committee”), held from May 31 to June 4, 1999, the newly established Copyright Collective Management Division (CCMD) made a presentation on the major developments relevant to collective management, the ways and means to further support those developments, as well as challenges and new perspectives of the CCMD (see document PCIPD/1/7).
2. Since that meeting, the CCMD has undertaken, in cooperation with the regional bureaus of the WIPO Cooperation for Development Sector, a large number of activities which are reflected in the relevant reports presented by those bureaus. Among the challenges was a project for establishing a regional collective management system for copyright and related rights in the Caribbean region. The present document focuses on that project and reflects on its goal, strategy and ways and means towards its implementation.
3. This progress report describes the steps taken to establish a modern, efficient, cost-effective system for managing the economic rights of interested parties under copyright and related rights legislation in countries forming part of the Caribbean region. Such rights have been managed throughout the world, in the vast majority of cases, by legally constituted not-for-profit organizations called “societies” that are owned and controlled by their members and which restrict their activities to their national territory. National societies provide rights management services to other national societies by means of reciprocal agreements which, when taken as a whole, provide coverage for right holders in all developed countries and in many developing countries. Six functions are common to all such systems: acquisition of rights from right holders, documentation, licensing, royalty collection and rights enforcement, royalty distribution and international management of rights. Societies are self-financing: the costs of operations are paid from management fees charged to members and other societies for the services provided.
4. The overall strategy adopted for the Caribbean project was to create a set of national societies along the standard lines described above and to link them via the Internet to a regional center whereby hardware, software, staff and data resources required by each society could be shared and back-office functions common to all the societies carried out at the center. This design reduces much of the duplication of resources that characterizes current stand-alone operations and eliminates their associated costs so that it is possible for Caribbean societies to operate at a lower cost than would otherwise be the case. At the same time, the speed of transmission of data required for licensing and royalty payments and the quality of data used for documenting works and rights ownership is ensured so that royalty income currently being lost in the Caribbean region and in foreign markets due to incomplete or late information will be able to be collected.
5. The regional approach to collective management described above is not completely new. It has been used in the past, in the Nordic region and most recently in South America, in situations where small markets will not support investments in the large stand-alone systems conventionally used by societies. In the case of the Caribbean countries, this condition made a regional approach virtually mandatory. A major problem that had to be dealt with to implement the project was to locate viable collective management software capable of operating in a PC environment. The General Authors’ and Publishers’ Society (SGAE) in Spain was able to provide a solution to this problem.

6. The project, potentially, includes 11 Caribbean countries, namely Antigua and Barbuda, Bahamas, Barbados, Belize, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Suriname, Trinidad and Tobago. Barbados, Trinidad and Tobago, Saint Lucia and Jamaica will be made operational in the first phase. The remaining countries will come into the system in a second phase.

7. The principal steps of the project implementation program are:

- (a) completion and approval of business plan;
- (b) approval of project budget and schedule;
- (c) location of appropriate collective management software;
- (d) establishment of national societies and regional center as legal entities;
- (e) purchase and installation of hardware and software for national societies;
- (f) purchase and installation of hardware and software for regional center;
- (g) training of national society and regional center staff in collective management operations.

8. Ongoing review and approval by Caribbean government representatives and representatives of national societies form part of the implementation program. Details of the program are set out below.

## II. BACKGROUND

9. Prior to the start of the project, two organizations for the management of music rights existed in the Caribbean region, these being the Copyright Organization of Trinidad and Tobago (COTT), and the Barbados Agency for Musical Culture Inc. (BAMCI). COTT was able to manage its members' rights domestically but, for reasons of cost, it was required to use The Performing Right Society Ltd. (PRS), the British society, to carry out its international royalty distributions as well as for the other international operations, such as documenting its members' works for licensing and royalty collection purposes outside of Trinidad and Tobago. BAMCI managed related rights domestically for performing artists of Barbados. Music rights in the rest of the Caribbean were managed by PRS through a network of local licensing and royalty collection agents that had been in place for several decades. Caribbean governments and right owners wished to improve this rights management infrastructure.

10. In July 1997, the WIPO Regional Meeting of Heads of Intellectual Property Offices of the Caribbean Countries, members of the CARICOM, and the WIPO Ministerial-level Meeting on Intellectual Property for Caribbean Countries held in Port of Spain, Trinidad and Tobago, concluded that there should be increased cooperation between WIPO and the Caribbean countries at both regional and national levels to "promote the increased use of intellectual property system by local creators." The cooperation was to be accomplished by WIPO-funded regional and national projects. The Ministers requested WIPO "in liaison with

Governments of the region to undertake a study regarding a regional approach to the collective management of copyright in the Caribbean region based on minimizing operating costs at the national level.”

11. WIPO carried out a series of fact-finding missions in the region and commissioned a feasibility study to report on the findings and to make recommendations. The study (made by Mr. Paul Berry, WIPO consultant) was reviewed, and its recommendations to develop a collective management infrastructure in the Caribbean organized on a regional basis were approved in June 1999 by the Caribbean Ministers responsible for intellectual property matters, at the WIPO Roundtable on Collective Management of Copyright and Related Rights and the WIPO Ministerial-level Meeting on Intellectual Property for Caribbean Countries, held in Montego Bay, Jamaica.

12. A Regional Committee on Collective Management of Copyright and Related Rights (“Regional Committee”) composed of representatives from Barbados, Haiti, Jamaica, Saint Lucia, Suriname and Trinidad and Tobago was set up at the meeting in Montego Bay to act as a relay between WIPO and the region in implementing the project. WIPO has organized four meetings in the region with the Regional Committee since then, the last being in Saint Lucia in October 2000, during which project elements were discussed and decisions made on implementation strategy. The Regional Committee was replaced by the Board of Directors of the regional center named “Caribbean Copyright Link” (CCL) at a Regional Committee meeting in Nassau in May 2000.

13. In WIPO, the Bureau for Latin America and the Caribbean (LAC), together with the CCMD, adapted WIPO’s review and decision-making procedure to the regional initiative by creating a new tool called: a “Regionally Focused Action Plan” (RFAP). Stemming from the conceptual approach of the Nationally Focused Action Plan, which aims at strengthening the capacities at the national level of the various intellectual property sectors in an integrated manner, the RFAP is meant to strengthen one aspect of intellectual property for a group of countries, a sub-region.

14. The objective of the RFAP for the Caribbean region is to assist the region in its efforts to establish a regional infrastructure designed to cover collective management of musical works. It is flexible enough to address, at a later stage, other categories of works and rights that can be managed collectively, such as reprographic rights, photographic works, etc. Its concept is in line with WIPO’s activities and policy with respect to the “digital agenda,” in particular, rights management information and technological measures of protection, as provided in the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT).

### III. STATUS OF PROJECT ELEMENTS AND STEPS

#### A. Business Plan, Budget and Implementation Schedule

15. To respond to the Ministers’ request in Montego Bay, WIPO commissioned a business plan for the project that was delivered for review by the LAC and CCMD team in July 1999. The RFAP for the project, including two-year project funding, was approved in November 1999. A budget and preliminary schedule were drawn up which called for the first phase societies and the regional center to be operational for documentation, licensing and royalty collection functions by July 2001.

## B. Collective Management Software

16. In June 2000, WIPO negotiated a cooperation agreement with SGAE under which SGAE, among other things, agreed to license to Caribbean societies, at no cost, collective management software it was developing in a joint venture with an umbrella organization of several South American societies ("Latinautor") and to work with WIPO to ensure the proper functioning of the software at the societies.

17. The software includes six modules originally written in Spanish covering all collective management operations and has been designed to work as a regional system according to the latest technical standards set by the International Confederation of Societies of Authors and Composers (CISAC), for data interchange among societies worldwide. These standards are in flux due to development strategies occurring within the music industry. SGAE has been updating and adapting the modules to incorporate the required changes as well as those gathered from its experience with the Latinautor regional operation. This led to a new product that was developed for the Caribbean region taking into account specific needs and characteristics.

18. The software for documentation and mechanical licensing modules of the system has been prepared and tested and the user's manual written. WIPO has arranged to have the manuals translated into English so that the required language adaptations can be incorporated into the software modules. This work was completed by the end of the year 2000, according to schedule. Delivery of the royalty distribution module is scheduled for February 2001. Extensions to existing modules will possibly be examined to incorporate functions for the management of related rights early in 2001.

## C. National Societies and Regional Center

### (a) National Societies

19. Caribbean-owned and managed societies have been established as legal entities in Barbados (Copyright Society of Composers, Authors and Publishers (COSCAP), Jamaica (Jamaica Association of Composers, Authors and Publishers (JACAP) and Saint Lucia (Hewanorra Musical Society (HMS)), to administer authors' and related rights. The new societies replaced the local PRS agents that had managed rights until then in those countries and joined COTT in Trinidad and Tobago to cover most of the principal markets in the region. The Bahamas, a major Caribbean market, continues to be managed by PRS in the absence of a national authors' society. Up to six new societies from smaller countries are expected to be brought into the system in 2001. WIPO will be continuing its work in this area this year.

### (b) Regional Center

20. The regional center, "Caribbean Copyright Link" (CCL), was established as a legal entity in Trinidad and Tobago on August 15, 2000, pursuant to the decision of the Regional Committee on Collective Management of Copyright and Related Rights in May 2000. CCL is the hub of the regional system and as such will house the database of Caribbean works and provide data management services for royalty distribution and other collective Management functions by means of servers networked, via the Internet, to national societies.

21. As constituted, it will also represent, promote and defend the interests of the Caribbean collective management organizations in regional and international issues relevant to the region. It will have the authority and capability to conduct regional and international negotiations of all types and to develop and implement regional policy with respect to intellectual property legislation and related regulations, rights management and market development for authors, composers, performers and producers of the region. It will also apply and implement international documentation standards across the region.

D. Purchase and Installation of Hardware and Software for National Societies

22. The business plan calls for each national society to be equipped with PC hardware, printers, collective management software and commercially available third-party networking software (Oracle), as well as other products (Windows, Lotus Notes, etc.) WIPO has arranged for the purchase, delivery and installation of the required hardware and third-party software in the four first phase societies and CCL. These authors' societies are now technically prepared to take the SGAE collective management software on board. Each society has subscribed to a dial-up 28 or 56 kps Internet service, but recent changes (described in the next paragraph) will require a minimum 56 kps service for good response time.

E. Purchase and Installation of Hardware and Software for the Regional Center (CCL)

23. The CCL requires high capacity servers capable of handling the data transaction and storage requirements of the national authors' societies and related software and equipment. The purchase of these materials was approved in late November 2000. Delivery of the servers to the site and installation of the required networking and collective management software is expected to be completed by February 2001.

24. It should be noted that several elements of the original business plan were changed substantially in August 2000. The original business plan called for the regional center servers to be located in Miami, due to the high cost of leased data lines in the Caribbean. For the same reason data transactions between the national societies and the servers were required to be in batches. A team of three software developers and an IT technician from the region were to be assembled to work on software development and to learn collective management operations at SGAE in Madrid for a period of 18 months. Upon their return, they would act as the vehicle for further training in the region. This team, which could not be assembled in time to coordinate with the work of SGAE's software development program, was also considered to entail an exercise which would be quite costly.

25. The modified program, worked out with SGAE in August 2000, provides for SGAE to manage the technical aspects of the system during the early stages of the project and to train Caribbean societies' administrative staff in the use of the collective management software and international documentation standards and procedures. To facilitate data and network management operations, the servers will be housed in Madrid, at a third-party company, where SGAE technical staff will have easy access to them. Data input and inquiry operation will be carried out online to the servers from PC terminals at each society of the region and CCL by means of a 56 kps Internet line at the societies and a dedicated high-speed line at the server end.

26. This new configuration would move the data processing workload from the PCs to the servers and result in lower installation costs, easier and more reliable software and system maintenance and lower risk for the project as a whole. Caribbean societies will be able to concentrate on collective management matters in their start-up period rather than applying resources to solving technical data processing problems. Additionally, the initial heavy costs associated with engaging IT personnel are deferred to a later stage when society income levels will be higher and more stable. Locating and training such personnel will be facilitated by the fact that they will have access to a system that is operating. There is no fixed duration for providing system management services; Caribbean national authors' societies and CCL will take over the technical side of the system when they are ready to do so and when the cost of telecommunications services permits. Although the system will be managed by an outside party (SGAE), all data entry and collective management operations remain fully within the control of the national authors' societies of the Caribbean region and CCL. National societies therefore retain their independence *vis-à-vis* the center.

#### F. Training Program

27. The training of managerial and operational staff is an essential aspect of the project since, in the long term, it will be well informed and highly motivated staff that will carry the national societies and regional center into the future. The training program for Caribbean society staff is expected to cover copyright and related rights law, the collective management of rights in an environment of global standards and electronic distribution systems, certain aspects of company management and hands-on use of the collective management software.

28. To date, PRS has provided training in London for the managers of the societies in collective management and WIPO has provided courses relating specifically to the rights that will be managed. WIPO and SGAE have designed a program for training in the software whereby one operational staff person from each society and the regional center CCL will have the opportunity to work with the software, using actual data from the countries concerned, in what would be the normal society environment, for a period of one month under SGAE's supervision in Madrid. The expectation is that the persons following the course will be ready and able to work effectively upon their return to the region, and give a multiplier effect to their respective training.

29. The training program will be held in February and March 2001. To enable the Caribbean society staff to be trained on the actual software modules which they will be using thereafter, it is necessary that the software be installed and operating on the servers in Madrid.

#### G. Progress in Collective Management Activity by National Societies

30. The four national societies respectively from Barbados (COSCAP), Jamaica (JACAP), Saint Lucia (HMS) and Trinidad and Tobago (COTT), established in the region, have focused their efforts, in priority, on the acquisition of rights, licensing and royalty collection.

##### (a) Rights Acquisition

31. To be able to license effectively, societies must represent the foreign and national repertoires. In the Caribbean, the entire foreign repertoire, which currently represents between 50% and 75% of total licensing revenues, is controlled by the British society PRS.

The transfer of rights in the repertoire from PRS to national societies is, consequently, vital to their being properly established and for their long-term economic viability.

32. While still active in the region, in particular in the Bahamas, PRS has been progressively winding down its operations in most Caribbean countries. PRS has agreed to assign its repertoire to Caribbean societies that have been properly established and whose activities are in compliance with the statutes and regulations of CISAC. To date, PRS has assigned its rights to the four Caribbean societies that have been established in the region. This year, these national societies are expected to sign reciprocal representation agreements directly with foreign societies, including the two American societies, the American Society of Composers, Authors and Publishers (ASCAP) and the Broadcast Music Inc. (BMI), a step that will bring the Caribbean societies within the traditional framework of inter-society relations for the management of rights across national borders.

33. Membership campaigns to sign up local authors and other right holders are progressing. A substantial number of potential members who are active internationally currently have agreements with the North American and British societies. These authors and publishers will have to be encouraged by the Caribbean national societies to sign agreements with them. In addition, there is a large number of authors in Caribbean countries, estimated at approximately 33%, who are not members of a society. The existence of a national society creates an opportunity for this group to receive royalties for the use of their copyrights for the first time, but they also must be persuaded to join the national society.

(b) Licensing and Royalty Collection

34. The newly established national Caribbean societies have been engaged in closing the substantial gaps that existed in their territories in licensing and royalty collections. They have established their licensing rates for the different categories of use but have experienced strong resistance in some cases from particular users to accepting a license or paying a license fee. The societies have reported licensing revenues in their first eight months of operation that match or exceed, and in some cases substantially exceed, income collected in the countries in previous years. In the absence of organized resistance by user industries to licensing in the national territories which would entail substantial outlays for legal costs as well as delays in arriving at a stable income level, there is a significant potential for income growth in the future, due to the size of the unlicensed sector.

(c) Royalty Distribution

35. PRS has agreed to carry out royalty distributions for the societies in the year 2001 for a 10% fee. The societies are expected to carry out their next distribution using the distribution module of the SGAE collective management software, which is scheduled for delivery in March 2001. When this step is accomplished, each national society will have the capacity to carry out all of the necessary collective management functions in-house and at less cost than is currently the case.

(d) Operating Costs

36. With respect to operating costs, generally, the initial target for society administration costs when the national societies are fully functioning is 25% of gross licensing revenues. Administrative costs are currently running 5% to 10% above that level. Overall, this means



that while the national societies are currently financing their rights management functions out of licensing revenues, independently of external financing, their costs will have to be reduced in the future.

#### IV. CONCLUSION

37. The project is developing in a way that should lead to a realization of the project objectives for the first phase societies, and conceivably for one or more of the second phase societies, by the end of 2001. The pace of development has been somewhat slower than was originally anticipated but a longer time-line for development has worked to the overall benefit of the project in certain respects, since it has permitted the acquisition of more powerful computer hardware and data services at lower overall cost to the project and national societies. Additionally, it has allowed for the development at SGAE of a second version of the collective management software and the development of a system management plan which facilitates entry into the system by placing lower demands for financial and staff resources on the societies and the regional center at the start-up stage, when they are most vulnerable.

38. The project reaches a turning point with the purchase and installation of the regional center server, since it is from this point that Caribbean society staff enter the system in practical terms and begin to control its processes. The success of this stage of the project will depend on two factors: the effectiveness of the training program and the motivation of the staff selected by the national societies for the training program. The program will concentrate on transferring a maximum amount of information and know-how to the trainees.

39. Given the reconfiguration of the system design to allow for on-line operation, the entry of second phase country societies has been simplified to the extent that once a society has been organized administratively and legally within a country, a single PC and Internet line will suffice to provide it with the resources necessary to begin managing rights nationally and internationally for its members. The possibility exists from a technical point of view, therefore, to accelerate the completion of the project for the region as a whole.

40. The first phase societies have a great deal of work to do in their own countries. They must build a database of national works, gain the confidence of the community they represent, the understanding and the respect of the enterprises they license, and the support of government and the public. These matters are outside the scope of what the project can do but they are clearly within the long-term expectations of what the project will accomplish.

*41. The Permanent Committee is requested to take note of the present progress report on the regional project of collective management in the Caribbean region and express its views on the desirability of developing similar approaches in other regions.*

[End of document]