

A Guide to  
Media Monitoring and  
Corporate Licensing  
**A potential new market for  
IFRRO members**





# INDEX

	Introduction	3
<b>1</b>	<b>1.1</b> Media monitoring and the corporate sector	4
	<b>1.2</b> What content is used?	4
	<b>1.3</b> Legal Context	5
	<b>1.4</b> News publishers / RRO relations	5
<b>2</b>	<b>2.1</b> User needs and licence structure	6
	Licensing Media Monitoring Organisations	7
	Licensing Corporate (end users)	9
	<b>2.2</b> Best practice guide - summary	11
<b>3</b>	Case studies	12
	COPYRIGHT AGENCY (AUSTRALIA)	13
	COPYRIGHT LICENSING AGENCY (UK)	14
	CEDRO (SPAIN)	15
	CFC (FRANCE)	17
	OSDEL (GREECE)	18
	Notes / About PDLN	19



**T**here is a significant market for media monitoring by businesses, government and other organisations which need to measure their reputation and monitor their activities. This involves copying news material. In turn this creates a need for licensing the copying of news media in the corporate sector. This licensing, rarely addressed by news content publishers individually, is potentially an opportunity for IFRRO members to create a collective licensing scheme and to offer users and rights holders a one stop shop.

Addressing this market requires strong relationships with content owners, as well as an understanding of the needs of users and suppliers in this sector. Appropriate licensing of news monitoring can open

doors to significant licensing revenue but there are substantial challenges and obstacles to overcome. Some IFRRO members have proved that progress in this area can perform a valuable service to business users and create significant rewards for the rights holders. As educational licensing is increasingly threatened by exceptions, creating a licensing service for the corporate sector is a potential new market for many RROs.

This guide intends to describe the market and the steps leading to a fully functioning licensing system, which includes establishing the licensing conditions in terms of uses and prices, granting the authorisations to appropriate users, collecting and distributing the royalties to the rights holders.

## 1.1

# MEDIA MONITORING AND THE CORPORATE SECTOR

All large businesses and government engage in reputation management. Knowing, measuring and shaping their public reputation is crucial. The recent Volkswagen emissions scandal and the consequent damage to the company reputation, share price and management team is a good example of the meaningful impact of press coverage. In such cases - and in the more normal running of any medium to large business - the internal public relations staff, communications staff, and senior management need to know in detail who is saying what about them, and how their audiences are reacting to the news.

The requirement to monitor the media is nearly always met by Media Monitoring Organisations (MMOs) – traditionally known as press cuttings agencies. A few monitoring services are still internally run by users, but the ability of an MMO to monitor 5,000 + sources daily makes the case for outsourcing. The need of advanced technologies to monitor a fast growing source of

news and their diversity (printed press, web, social media, TV and radio) places the MMOs as necessary intermediaries. They have also developed a specific expertise in analyses, adding value to their services.

Demand for media monitoring is spread across thousands of corporate users. Most larger companies employ a MMO service (for example 7,500 in UK alone. In the US reliable estimates suggest over 30,000 businesses subscribe to an MMO service).

There are MMOs operating in most countries. Their trade bodies FIBEP [www.fibep.info](http://www.fibep.info) and AMEC [www.amecorg.com](http://www.amecorg.com) each have over 150 members. Each one those members will in turn serve between 50 and 3,000 clients. The corporate licensing opportunity is significant.

## 1.2

# WHAT CONTENT IS USED?

Press cutting agencies, such as l'Argus de la Presse, created in 1879 in France, traditionally cut press articles and sent them to their clients. They then evolved sending photocopies of articles mailed to their clients and then scanned articles e-mailed to their clients. Published printed news was initially the sole source of media monitoring. The landscape has since changed tremendously including all sorts of sources. A survey run by AMEC in 2017 showed that 72% of clients asked to monitor print media but 92% asked for sources from online media, and social media is required by 63% of the clients. Despite the diversity, publishers' content, printed or web, remains the main source of information and

represents the core material of MMO's business. Access to this content for reproduction, distribution or analysis is the core business for MMOs and therefore can represent substantial licensing revenues for press publishers.

Among the MMOs' sources, newspapers are well represented, but professional and specialised press are also important. The success of a licence will also depend on the variety of sources represented by an RRO. In France, 50% of MMOs licensing revenues goes to professional and specialised press, and CFC licences also now include TV and radio content.

## 1.3

# LEGAL CONTEXT

News articles published in newspapers, magazines, periodicals or on web sites are creative content protected by copyright. This means that any reproduction or communication of this content requires the prior authorisation of its rights holder and the payment of royalties. Users should therefore get a permission to reproduce and distribute news articles from the rights holders or a collective management organisation representing them.

Use for commercial purpose or professional uses are usually not authorised under an exception. The media monitoring activities are for commercial purposes and internal distribution in corporates are intended for professional use, and are rarely or very marginally covered by exceptions. There may still

however be some legal uncertainty resulting from jurisprudence in some countries. In Italy for example the representative of news publishers had to sue two MMOs refusing to take a licence. Some MMOs may take advantage of any confusion and at least buy some time though legal challenge.

In most cases, media monitoring uses and corporate licensing are subject to voluntary licensing. A few statutory licences exist with a remuneration right, as in Switzerland for example where it is administered by ProLitteris. This voluntary context gives a clear opportunity to RROs to investigate the sector.

## 1.4

# NEWS PUBLISHERS / RRO RELATIONS

In some territories the relationship between news publishers and RROs is weak, preventing progress being made in developing such new products.

In most cases RROs started their licensing activities in the education sector, which is not a significant source of revenue for news content, and therefore didn't raise too much the news publishers' interest. The traditional RRO focus on academic and STM publishing also creates and reflects differences in culture and business models. Besides, News publishers' awareness of MMO activity is still limited, and where there is awareness they may question that RROs collective management system and distribution model is the most appropriate.

As a result, we find very different situations across IFRRO members. Some IFRRO members represent books, periodicals and news content, as it is the case in France for example, where CFC has developed along licensing in education, a thriving media monitoring and corporate licensing which represent nearly 50% of licensing revenues. In some countries, newspaper publishers have decided to set up a separate organisation, which address this specific

sector, as it is the case for example in the UK, Ireland and Germany. Some RROs represent news content but only for specific licensing areas as Education or corporate internal uses but not MMOs.

When news publishers are not organised, the RRO will need to build or strengthen the publisher's trust and approach them in proposing a sustainable business model for the use of their content in the Media Monitoring sector. As the news publishing business model is under threat from the decline of print revenues not compensated by digital revenues as well as third party digital platform and social media, there is the opportunity to restart the conversation. The business challenges they are facing can make news publishers more receptive to engaging with RROs (or alternatively more distracted by the immediate challenges).

RROs have a unique position and shall demonstrate the benefit of setting up collective management system at a very low management cost and adapt their expertise in licensing mass uses to this sector.



## 2.1 | USER NEEDS AND LICENCE STRUCTURE

The core requirement of corporate users is an early morning alert to news of relevance to the user organisation. This is delivered as an email alert, or a link to an MMO hosted portal where articles can be viewed and (if relevant) copied, printed, or shared. It is created by the MMO provider copying web material and scanning print material, and searching the database created for relevant material.

Very often an external PR company will act as go between setting up a businesses' service from an MMO. In some cases PR companies will provide an MMO service.

The licensable activity in this provision will be based on:

- The copying of the MMO (typically web scraping and print scanning),
- The MMO (and or PR) delivery of copies or links to their clients,
- The MMO client users (business) printing, saving or sharing of the copies.

The complete licence structure needs to address the content distribution chain, typically by creating

- **An MMO licence**
- **A end user corporate licence**

Each of these licences has different features and a different target market.

Whether and where royalty fees are applied is important to consider. A direct relationship with the corporate user allows licensing of other copying activity and licensing value is greatly enhanced if that direct licence relationship can be established. Allowing MMOs to sub licence may be more convenient, but also dilutes the opportunity to engage with the end customer.



# LICENSING MEDIA MONITORING ORGANISATIONS

Most estimates of the MMO market suggest it has a global annual value of \$1b, but the value in media monitoring is their client - corporate user, not the MMO. Licensing media monitoring is a key to creating widespread corporate licensing. Media monitoring is a clear licensing market.

MMOs are both a valued business service and a structured, systematic commercial user of copyright. Their function requires large scale continuous copying of a large volume of published material.

## **A small proportion of media monitoring is licensed. This reflects a number of issues:**

- The market was initially served by cuttings (originals cut from hard copy) so no copy licence was required until that changed to photocopies and then to digital
- The relatively small size of the MMO market, and until recently the MMO companies
- Direct licensing by larger publishers
- The absence of understanding in both the publisher and RRO community of the market requirements
- Lack of communication between newspaper rights holders and RROs
- MMO resistance

Many of these issues have either changed in favour of licensing or can now be addressed.

## » CRITERIA FOR THE MMO LICENCE



### USES

MMOs need licenses to reproduce, store and communicate protected content to their clients. Reproduction and storage are always a prerequisite for them to search analyse and select the relevant content. They scan printed articles and scrape the web articles or receive them from publishers or RRO platforms. Not always but in most cases they then communicate the protected content either by sending them or making them available on their own platform accessible by their clients through their account.



### PRICING

Different approaches to the pricing structure are observed. As the basic MMO service generally consists of sending press clips either by photocopy or digitally to their clients, a tariff per clip sent to the client has been established through many RRO licenses. The licence fee is then proportionate to the activity of the MMO. It may also be a preferred option for publishers as the MMO pays for the actual uses. Another approach may be a flat fee, which may be proportionate to the annual turnover of the MMO or the number of clients. A mix of both tariff structures can also be envisaged to cover on one hand the reproduction of content by the MMO to make its selection and on the other hand the sending of articles to their clients.

As many MMOs now claim they are sending less articles but merely an analyse of press coverage, this evolution may be taken into consideration when building a tariff structure, especially for web content, which are not necessarily sent to clients as a copy but as hyperlink on the publisher website – with or without a paywall.



### REPORTING

Publishers will often require that the license forecasts a title specific reporting to enable the RRO to distribute the royalties according to real use. When the RRO licenses the MMO's clients for internal distribution of the news articles, client disclosure is preferred – though MMO naturally won't like sharing client details. MMO reporting can make revenue allocation much easier for news licensing than on other sectors.

## » CURRENT RRO – MEDIA MONITORING LICENSING STATUS

The following table of IFRRO members have developed an MMO licence. In some cases press licensing bodies address the market, but in others MMOs (and PRs) are simply not licensed.

**IFRRO and PDLN – sample members licensing MMOs :** (This list may be incomplete. Updates are welcome)

Australia	CAL	Fully established
Austria	VOEZ	Partly established
France	CFC	Fully established
Germany	PMG/VG Wort	Partly established
Ireland	NLI	Fully established
Italy	Promopress	Legal challenge
Netherlands	CLIP	Partly established
New Zealand	PMCA	Fully established
Norway	MBL	Web only, established
Poland	Repropol	Legal challenge
Portugal	Visapress	Legal challenge
South Africa	DALRO	Partly established
Spain	CEDRO	Partly established (web content issues)
UK	NLA	Fully established
UK	CLA	Fully established

It follows that most other countries have no central clearing house licence system. The Scandinavian countries, for example, have a series of publisher owned MMOs and as a result difficult publisher MMO licensing agreements. MMO legal challenges have delayed progress elsewhere (Italy, Portugal, Poland and Spain are examples). Direct publisher licensing of MMOs and end users also exists in patches, which often leaves users seeking a simpler solution frustrated.

## » MEDIA MONITORING IN 2017

Media monitoring has become a global industry invested in by major companies like WPP. They serve large and small clients through online dashboard services giving same day alerts to news, plus tools for media analysis and evaluation. The leading players are WPP owner of Kantar operating in 18 countries including UK, France, Germany, Spain; listed Australian company iSentia; and Cision, which recently acquired MMOs Gorkana in UK and Argus de la Presse in France. Typically a leading business will employ 200+ staff in a country, and use extensive digital production processes to handle thousands of content sources. Traditionally these would be dominated by print media (delivered digitally) but web and social media is increasingly important. MMOs are represented in two global bodies. FIBEP ([www.fibep.info](http://www.fibep.info)) is focused on monitoring and AMEC ([www.amecorg.com](http://www.amecorg.com)) on evaluation. Media Monitoring is a growing business.

An AMEC survey reports that 80% of their members increased the number of clients. MMO business is an evolving one, media monitoring is moving from print copying towards web and from the provision of copies to added value services like evaluation of sentiment.

PDLN has established strong relations with FIBEP and AMEC, which promote the respect of copyright. Many MMOs complain about the lack of licensing, or the discrepancy of licensing coverage creating disparities and unfair competition. However they often object to its introduction, which involves a loss of revenue and control. MMOs are often not sensitive to copyright issues and – as with publishers – there is a cultural gap to cross. The requirement to license all players equally – which can mean enforcing agreements with resistant MMOs – is a real challenge.



# LICENSING CORPORATE (END USERS)

The corporate licence is where the most of the licensing revenue lies as the content received from the MMO is generally shared among multiple employees. The media monitoring material is a good starting point to address a company but the RRO should seek to cover larger internal uses like occasional sharing from other sources or other content (from subscription), internal storage.

## >> CRITERIA FOR CORPORATE LICENCES



### USES

The corporate will need a licence to reproduce and share press articles internally. The internal uses of articles include for example posting articles on the company's intranet, sending by e-mails to employees, storing on a central internal database. The license may distinguish structured distribution of press articles such as press review, from non-structured distribution such as occasional sharing among employees, or not. The license will also need to define the limits of uses, such as the proportion of a publication in percentage or number of articles, the duration of storage, etc.

The demand for authorisation to send content externally is growing. The RRO may propose to authorise certain external uses with the corresponding mandate from the rights holders and without overlapping with the publisher offers. External uses such as posting on the corporate web site or republishing in schoolbooks may be licensed by the RRO. These are usually uses not addressed by publishers, and are therefore poorly regulated and remunerated.



### REPertoire

When representing publications by virtue of mandates, the RROs' licence should specify the repertoire to which the rights pertain. Those repertoires can be opt in lists or on the contrary it can be presented as exclusion lists of publications or categories of works.



### PRICING

Again the pricing structure may be a fee per article for the media monitoring material (press review). In this case, the tariff per article generally increased according to the number of employees having access to the press review. A flat fee option covering the press review or for other internal uses is another option and can be presented as a fee per employee or per size of the company in term of employees or turnover. A mix of different tariff structures can be envisaged to cover on one hand the press review distribution and on the other hand other internal uses.

The licence price will often result from three-party negotiations with rights holders and users. The licence fee should provide a fair share of value for publishers and creators and shall in the meantime reflect the local market conditions.



### REPORTING

Reporting really depends on the uses covered and the licence structure. Exhaustive title specific reporting is possible for press review distribution and is often the publisher's preferred option. It is however rarely possible for other non-structured uses. Alternative distribution methods may be based on surveys or other information. Reporting is an important aspect of the right management as the right holders claim for an always higher standard of transparency, which is the fundamental to ground and build their trust. RROs should be in a position to provide information on the licences, the fees and administration retention, the uses generating their income.

## ➤ CURRENT RRO - CORPORATE LICENSING STATUS

PDLN and IFRRO surveyed members in summer 2017 on the extent of corporate licensing, the extent to which news material and the media monitoring sector were addressed. The table below summarises responses.

Name	License corporates ?	Percentage rev	Rel Growth	Started	Licence MMOs	Paper copies	Digital copies	Web links
<b>Bonus Copia</b>	Yes	5%	Slower	1982	No	Y	Y	N
<b>CAL</b>	Yes	18%	Faster	1990	Yes	Y	Y	Y
<b>CFC</b>	Yes	38%	Faster	1998	Yes	Y	Y	Y
<b>CLA</b>	Yes	39%	Faster	1993	Yes	Y	Y	Y
<b>CLIP</b>	Yes	3%	Falling	5+	Yes	Y	Y	N
<b>Copibec</b>	Yes	22%	Level	2009	Yes	Y	Y	N
<b>Kopinor</b>	Yes	50%	NA	1992	No	Y	Y	N
<b>Kopiosto</b>	Yes	28%	Slower	1980	No	Y	Y	N
<b>NLA</b>	Yes	95%	Faster	1994	Yes	Y	Y	Y
<b>NLI</b>	Yes	98%	Faster	2003	Yes	Y	Y	Y
<b>Prolitteris</b>	Yes	35%	Same	1996	Yes	Y	Y	Y
<b>SR</b>	Yes	50%	Same	2004	No	Y	Y	Y

### COMMENTS

It is noticeable that the proportion of overall licensing revenue from the corporate and government sector is highly variable, which might suggest – on a positive view – that the potential for those organisations with limited revenue from this sector have a significant opportunity to develop new licences. It is also noticeable that 5 RROs report faster growth in this sector than their average and 2 slower. All RROs answering the questions had a corporate licence and most for many years.

But the variety of local factors makes generalisations dangerous, as the business objectives, methods, legal and market factors. IFRRO is a broad church covering statutory and voluntary licensing models, levy systems, with many rights holders with differing perspectives operating in differing cultural contexts. There is no one right answer.

**>> EVALUATION OF THE MARKET AND CLEAR DEFINITION OF THE ACTIVITIES TO BE REGULATED BY THE LICENCE**

Identifying local players and researching their overall business and licence status is a crucial first step. Simply searching media monitoring can be very revealing. The fact MMOs are market facing means they advertise via the web, which makes it easier to understand their size and business models.

The definition of MMO will need to be carefully drawn to avoid confusion with other players directly licensed by the publishers through their syndication departments such as aggregators, BtoC services, platforms, kiosks... MMOs are delivering BtoB Media Monitoring Services intended for internal distribution within their clients organisations. Publishers will usually grant the RRO the right to authorise internal uses for corporate and external distribution from their MMO.

**>> THE PUBLISHER MANDATE**

RROs will need to acquire publishers' mandates or extending existing mandates to cover the activity of MMOs and Corporate downstream internal distribution.

Simply establishing dialogue is crucial. The local news publisher association is the natural starting point. The fact that both parties (RRO and newspapers) face revenue challenges may be helpful! News publishing is challenged by new technologies and few news publishers would reject ideas that generate revenue and support copyright. The challenge for RROs is to present a credible business opportunity. RROs licensing activities imply to approach newspaper advertisers (corporate), to deal with onward sellers of content (MMOS). This requires sensitivity to a publisher's other distribution channels and credibility.

Beside publishers, the attitude of author and journalist and visual art organisations will be crucial. Broking an acceptable compromise between publishers and these groups is fundamental to progress. There is no single approach that can be applied to managing this area, which depends very much on national law and traditions regarding rights retention and ownership. Newspapers include graphical, photographic and text material created by employees and by freelance contributors. In most cases, either the law, or a global agreement between journalist/creators and the publisher or individual journalists or freelance agreements will address the rights and obligations of the parties in relation to the uses of the News content including secondary uses. It is important to note that both authors and publishers have more to gain than lose if a jointly agreed solution can be found.

**>> PRICING AND REPORTING OPTIONS**

The regular delivery of a range of material creates scope for transactional pricing, but flat rate options may be preferred. The wider prize is to carry a broader licence into the corporate user via the MMO service licence, suggesting a two stage licence (MMO+ extension). MMOs are an excellent source of copy share data crucial for very accurate royalty attribution. Monthly or quarterly reporting should be possible.

**>> THE MMO LICENCE**

MMOs will seek a copyright indemnity for copying any content from a print or web publication and sending copies to clients. There will likely be tension over any requested client disclosure and appropriate compromises will be needed in respect of confidentiality and the use to which names are put. Creating confidence is difficult but is the key to success.

**>> THE USER AGREEMENT**

Typically users need to share an MMO service daily with a defined user group – often just 5-190 people, but to secure ad hoc rights for wider dissemination to larger staff numbers, and to cover ad hoc copying by wider users groups.



# 3

## CASE STUDIES

In this whole process, working with RROs that have established licensing on the drivers of success and failure is the best starting points for evaluating the opportunity. Different arenas are dedicated to these issues and encourage the sharing of experience and collaboration between RROs, such as IFRRO through the Newspapers and Periodicals Working Group, and PDLN, which plays an important role in helping make these connections.

Different RROs have been asked to share and describe their experience in licensing MMOs and corporate. The following case studies are intended to illustrate the challenges and potential benefits of press cuttings licensing.

- Australia.....12
- United Kingdom.....13
- Spain.....14
- France.....15
- Greece.....16



## CASE STUDIES : **COPYRIGHT AGENCY (AUSTRALIA)**

**CONTACT :** Sarah Tran // [stran@copyright.com.au](mailto:stran@copyright.com.au)

### > **WHY COPYRIGHT AGENCY STARTED MMO LICENSING ?**

MMO Licensing in Australia began in the early 1990's after the Federal Court of Australia determined that media monitoring did not fall under any of the fair dealing exceptions in the Copyright Act and as such a licence was needed by the press clipping operation from the rightsholder (*De Garis, B.K. & Anor v Neville Jeffress Pidler Pty Ltd* [1990] FCA 352; 18 IPR 292). Copyright Agency began licensing MMOs shortly after.

### > **HOW THE DEVELOPMENT WAS DESIGNED ?**

The licence initially allowed MMOs to copy the hardcopy newspaper and provide photocopies of relevant articles to their clients, this was later amended to allow MMOs to copy from digital editions of the print newspaper and to communicate the clips digitally. The remuneration was on a per clip basis. In 2007 Copyright Agency introduced a downstream element which allowed MMOs to act as our agent to provide a limited licence for its clients to use the clipped content internally. Again, the remuneration was on a per clip basis. In response to changes in both the newspaper and MMO industry, Copyright Agency introduced an online scraping licence in 2014. The scraping licence would allow MMOs to scrape and copy online news content and communicate a headline, snippet and a link to their clients. Copyright Agency also works with the newspaper publishers to facilitate access to individual articles behind the paywall for MMOs and their clients. From 2014, the licence became a hybrid of the per clip licence for hardcopy press clippings and a percentage of attributable revenue for content scraped from websites.

### > **HOW WELL OR BADLY IT WORKED**

The hardcopy licence charged on a per clip basis was the Australian industry standard for nearly 20 years. As we moved to an online scraping licence in 2014, we found that the per clip model did not translate to a per scrape model – this was because the sheer number of scrapes that the licence would generate would require a minute per scrape licence fee in order to keep the licence fee attainable, which in turn risked undervaluing our member's content. From 2014 -17, CA has been using a hybrid model (as mentioned above) – however it has been hard to define, audit and enforce what revenue is attributable to our members content and this has led to some incorrect perceptions in the market. Copyright Agency is introducing a new MMO Industry Standard Agreement in 17/18 which will provide a level playing field in the Australia market in regards to licensing fees and the rights available; and will also be a clearly defined licence offer for new entrants to the Australian market.

### > **MESSAGE TO RROS**

- 1 Key message to RROs is to provide consistency in the market place
- 2 Establish strong relationships with key publisher and journalist stakeholders
- 3 Define the MMO offer and pricing with consideration to future market factors i.e. digital disruption of print publications, closure of key newspapers or magazine titles.



## CASE STUDIES : **COPYRIGHT LICENSING AGENCY (UNITED KINGDOM)**

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### > **WHY CLA STARTED MMO LICENSING**

CLA started licensing media monitoring of magazines in the mid-1990s, having identified a gap in the market, and influenced by the development of similar licensing schemes in other countries, particularly Australia.

### > **HOW THE DEVELOPMENT WAS DESIGNED**

CLA's original Press Cuttings Agency licence allowed MMOs to copy articles from printed magazines and to provide photocopies of relevant articles to their clients. In 2008 the PCA Licence was upgraded to allow MMOs to create and store digital copies of print magazines, and to facilitate web-based delivery of these copies on a secure network.

In response to MMO demand and changes in the market, in 2012 CLA introduced what is now known as the MMO licence. This evolution of the PCA Licence was negotiated amicably with the UK Media Monitoring Association and also includes permission to scrape articles from opted in websites and to supply a headline, snippet and a link to their clients. MMOs were also permitted to create a PDF of the full text article to be distributed in the same way as scanned print articles. Scraping of websites is licensed on an annual subscription fee basis.

An International variant of the MMO licence was introduced in 2015 to enable non-UK MMOs to supply UK magazine and web content on a copyright compliant basis. The licence uses the same pricing model as the UK licence.

Since the 1990s, supply of clippings and snippet links had been priced solely on a transactional basis, with a fee per clip. In 2016, CLA introduced 'all-you-can-eat' pricing for web clippings, to accommodate the huge increase in clipping volumes which would have made the licence pricing unsustainable.

Since digital copying was introduced in 2008, MMOs have been required to supply details of customers receiving clippings. While a CLA licence is not required to access an MMO's services, customers must have a CLA licence to permit internal circulation and multiple access to those clippings. This customer and multiple access data is an important source of leads and revenue for CLA.

### > **HOW WELL OR BADLY IT WORKED**

CLA licensing of MMOs has been a long term success, with a record revenue year in 2016-17. CLA now has all the major MMOs in the UK under licence, with Meltwater the latest to sign up in 2017.

- Number of licensed MMOs has more than doubled since 2015
- More than 2.6 million cuttings and snippet links reported in 2016/17
- Over 35% of new blanket licence revenue generated by MMO and PR firm leads in 2016/17

### > **MESSAGE TO RROS**

Once up and running, MMO licensing can deliver consistent primary revenues and provide leads for further blanket licensing sales – it is worth persevering!



## CASE STUDIES : CEDRO (SPAIN)

**CONTACT :** Patricia Riera Barsallo [priera@cedro.org](mailto:priera@cedro.org)

### > WHY CEDRO STARTED MMO LICENSING ?

Until 2006, the legal framework in Spain protected the development of press clippings to the limitation on quotations (Royal Legislative Decree 1/1996 of April 12, 1996 and Law 23/2006 of July 7)

*Article 32.1 Quotations and Summaries (...)*

*Periodical compilations made in the form of press summaries or reviews shall be deemed quotations.*

Obviously, in view of this regulation, licensing for MMOs was impossible and even affected the development of the licensing market for end users. In 2006, the pressure from newspaper publishers bore its first fruit and the legal text was reworded as follows:

*Article 32. 1 Quotations and Summaries (...)*

*Periodical compilations made in the form of press summaries or reviews shall be deemed quotations.*

*However, when collections of newspaper articles are made consisting mainly in their mere reproduction and such activity is carried out for commercial purposes, the author who has not expressly objected shall be entitled to receive equitable remuneration. If the author expresses opposition, such activity shall not be deemed to be covered by this limit.*

With this new wording, it is clear that the development of press clippings for commercial purposes (the specific activity of the MMOs) is not covered by the scope of the limitation on quotations.

With this new regulation, CEDRO began the development of a license for the press clipping activity.

### > HOW THE DEVELOPMENT WAS DESIGNED ?

As a first step, CEDRO initiated, at the request of its newspaper publishers, negotiations with AFEC (a Spanish association that represents part of the MMOs industry, including two of the largest, Kantar Media Spain and Acceso) with the aim of agreeing on the fees to be applied for the use of articles from the print edition of daily newspapers.

The fees accepted by the MMOs were set by each publisher; the structure of the fees for articles from print editions is usually based on establishing a monthly fixed amount (some sort of minimum remuneration that the publisher wishes to receive), which includes a number of excerpts / cuts and a price per cut to cover additional excerpts / cuts that exceed the number included in the fixed amount – there are also some publishers that establish a monthly fixed amount without additional cuts together with a fee per cut from the first cut, or publishers that simply set a fee per cut included in the press clipping that they develop – At this negotiating table the licensing model for the development of press clippings was also agreed with the MMOs, as was the assistance that MMOs would give to CEDRO by informing their end customers of the need to obtain an authorisation from CEDRO for the internal or external uses made of the articles included in the press clippings.

At the end of 2015, the newspaper publishers set the fees for the use of articles from web editions of their daily newspapers in the development of press clippings.

CEDRO communicated the proposed fees to the MMOs, however up until now no agreement has been reached for them to report and pay the fee for the use of this type of articles (currently, only 5 MMOs are regularising the use thereof).



## CASE STUDIES : **CEDRO (SPAIN)**

**CONTACT :** Patricia Riera Barsallo [priera@cedro.org](mailto:priera@cedro.org)

In 2016, CEDRO developed two new model contracts for MMOs:

- Contract for the development of interactive press clippings: a contract developed based on the different information and data that we are confirming through the audits carried out in clipping companies and which reveal new service models that the clipping companies offer to their customers. This contract regulates the development activity of press clippings consisting in the creation of a database with content from daily newspapers that is linked to a search engine. The end customer indicates its specific search criteria and the system displays the articles that comply with such criteria.
- Contract for the supply of digital content to third parties: a contract which authorises the crawling of content from web editions of daily newspapers from CEDRO's repertoire and making available such content to the MMOs to develop press clippings.

### > **HOW WELL OR BADLY IT WORKED**

At present, the use of articles from print editions by Spanish MMOs has been regulated. However, this is not the case with web editions of such daily newspapers from CEDRO's repertoire.

In this respect, not only do the MMOs question the uses that they should report, but they also reject the fees established by the publishers (only 5 MMOs are reporting and paying for the use of this type of articles).

Furthermore, the MMOs that are AFEC members have not collaborated with CEDRO in the dissemination of the licence for end users, and in many cases they have even been an obstacle for the formalisation thereof. In general, the relationship with MMOs is not peaceful and this hinders market developments.

On the other hand, CEDRO does have the complete and absolute support of its newspaper publishers, who consider that the management activities that we carry out are the road for improving the sector.

### > **MESSAGE TO RROS**

- 1 It is important to have the support from newspaper publishers in order to respond to the challenges of this market.
- 2 Continuously analyse how services offered by MMOs evolve: to adapt the authorisation models it is essential for us to offer the uses and the way of pricing such uses.
- 3 The relationship with MMOs is difficult, but necessary: we must treat them like any other external customer and get them to see us as facilitators of their work and that they understand the added value that we can provide to their market.



## CASE STUDIES : **CFC (FRANCE)**

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### > **WHY CFC STARTED MMO LICENSING ?**

The corporate sector was an obvious consumer of copies of protected works after the education sector. CFC represented reproduction rights of books as well as newspapers and periodicals under a compulsory collective management system. Federations of press publishers, as the Federation of professional Press, one CFC founding member, were willing to regulate the corporate sector and stop infringing copies of their content. CFC addressed the corporate market in the late 90's to authorize internal paper copies with the bank sector, which first resisted and forced CFC to sue the French Federation of Bank for infringement of copyright. The Federation gave in and the first corporate license was signed in 1999. At the same time CFC started to license paper copies to media monitoring organizations.

### > **HOW THE DEVELOPMENT WAS DESIGNED ?**

The real breakthrough came with digital uses. The development of corporate licensing leaned on the digital press reviews, which were easily identified. In 2003, CFC proposed to the main newspapers and professional publishers to grant a mandate to authorize and control digital copies of articles made within the press reviews. CFC negotiated a specific grid of tariff per article and approached the media monitoring organizations. Licenses were signed with them as well as with their clients for the internal distribution of the press review. In 2011, CFC extended the license to other internal copies, which were non structured copies, remunerated by a flat fee. In 2012, CFC decided to set up a platform, as the NLA did in the UK and in collaboration with them, to offer new service alongside the license. Then in 2016, CFC onboard TV and Radio content in the press review license. The last development has been to set up a license for crawler, which are scraping publishers' web content to send link to their clients.

### > **HOW WELL OR BADLY IT WORKED**

The licensing of press review grew quite fast with new publishers joining the scheme and new licensees.

The prospection was driven by MMOs clients. The license for non structured internal uses has been more difficult to sell as evidences of digital uses were difficult to establish and there was a real lack of understanding from users. On the overall, the corporate sector is a very vivid one and generating significant income for rights holders. It represents for CFC as much as the revenue from the education sector and is 97% coming from digital uses.

### > **MESSAGE TO RROS**

The key to the success in licensing the corporate sector is constant discussions with rights holders and users. A lot of pedagogy is needed. Besides, this market is evolving quite fast and the need to adapt is crucial. Licensing the business sector proves to be a real added value service for the rights holders.



## CASE STUDIES : **OSDEL (GREECE)**

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### > **WHY OSDEL STARTED MMO LICENSING ?**

The press clipping business in Greece was operating without a licence, thus illegal and without producing any income to the rightholders-publishers. Greek publishers were seeing MMO as parasites who were stealing their content and not as a business opportunity. At the same time it was not practical for them to manage individually the relevant market which was deemed too small. Having already, since 2013, identified the need for a licensing scheme, especially from the perspective of the MMOs, OSDEL started examining licensing schemes already in place in other countries within the PDLNetwork.

### > **HOW THE DEVELOPMENT WAS DESIGNED ?**

The first difficult task was to persuade press publishers to grant mandates to OSDEL. Explaining the licensing scheme, providing a business plan, describing the benefits for them and the process was not sufficient all the time. We had to overcome the mistrust and preoccupation against MMOs. The first mandates were signed during 2015 and gradually we covered more than 60% of the market including almost all national newspapers.

At the same time OSDEL started discussions with the MMOs. Though they were very positive to the prospect of legalizing their business it was very difficult for them to introduce a new significant cost factor or drastic changes in their operation. In Greece there are 3 major MMOs covering more than 95% of the market. Financial situation in Greece was something that had to be taken into account during the designing of the licensing scheme and even more, during its implementation. The publishing sector has been shrinking dramatically, and the overall economy was declining significantly. We finally end it up with a rather original licensing scheme. We offered a license to MMOs covering only the reproduction right and not the distribution of the press clippings. The MMOs undertook the obligation to inform their clients that they need a licence from OSDEL covering the distribution and any further internal reproductions. Due to the need of end users for a licence in order to receive press cuts, MMOs have agreed that they cannot offer their services to their customers if they are not licensed. Initial tariffs of the licenses to business are low, so they have been received without major reaction.

### > **HOW WELL OR BADLY IT WORKED**

Since the launching of the program in early summer 2017 OSDEL has licensed the three major MMOs and approximately 300 end users without significant investment in resources.

### > **MESSAGE TO RROS**

Always keep in mind that we are the intermediaries. It is very important to understand and adapt to the needs of both publishers and licensees. Moderate pricing helps the adoption of a license fee for uses that have been free of costs up to now.



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