

WIPO-ASEAN Copyright and Related Rights Collective Management 2022-2023 Study

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A. Introduction

This Study has been developed jointly by WIPO and the ASEAN Secretariat as part of the ASEAN Collective Management Best Practices Research Project Work Plan for 2022-2023.

The Project Board is composed of the ASEAN Secretariat, representatives of three ASEAN Member States (AMS) namely Indonesia, the Philippines and Viet Nam, and the WIPO Secretariat. AMS' Intellectual Property Offices and Copyright Offices (COs), Collective Management Organizations (CMOs) in AMS and international CMO umbrella federations (IFs), namely AGICOA, CISAC, IFPI, IFRRO and SCAPR, were also engaged and involved.

This Study includes the results of a survey, carried out by the Project Board with AMS' COs as well as CMOs in AMS in 2022, regarding the existing collective management regimes in AMS, with particular emphasis on actual CMO operations and recent developments in the existing legal and regulatory frameworks in AMS jurisdictions, including if available, landmark case law.

The purpose of this Study is to compile, document and analyse various practices in the area of collective management in AMS, based on the above.

B. Acknowledgements

We would very much like to express our gratitude to these ASEAN COs and CMOs for their assistance in providing information and documents in response to these questionnaires, and to the IFs for their feedback and support.

C. Basic Information

In this Study, standard questionnaires were released to the ASEAN COs and CMOs in June 2022 through the ASEAN Secretariat with 10 CO respondents and 38 CMO respondents from all 10 ASEAN jurisdictions. The standard formats for these 2 questionnaires are appended to this Study as Annexures 1 and 2 respectively.

The COs which responded were:

1. Brunei Intellectual Property Office (BruiPO), Brunei Darussalam
2. Department of Copyrights and Related Rights, Ministry of Culture and Fine Arts (DCRR), Cambodia
3. Directorate of Copyright and Industrial Design, Directorate General Of Intellectual Property (DGIP), Indonesia
4. Copyright Division, Department of Intellectual Property (DIP Lao), Lao People's Democratic Republic (Lao PDR)
5. Copyright Division, Intellectual Property Corporation of Malaysia (MyIPO), Malaysia
6. Copyright Division, Intellectual Property Department (CDIP Myanmar), Myanmar
7. Intellectual Property Office of the Philippines – Bureau of Copyright and Other Related Rights (IPOPIL – BCCR), Philippines
8. Intellectual Property Office of Singapore (IPOS), Singapore
9. Department of Intellectual Property (DIP TH), Thailand
10. Copyright Office of Vietnam (COV), Viet Nam.

The CMOs which responded were (by jurisdiction):

Brunei Darussalam

1. The Bruneian Authors & Composers (BeAT) Berhad (BeAT) representing musical works
2. Brumusic Copyright Sdn Bhd (BruMusic) representing sound recordings

Cambodia

3. Cambodian Music Collective Society (CAMCOS) representing musical works

Indonesia

4. Lembaga Manajemen Kolektif Nasional (LMKN) representing musical works, sound recordings and performers rights
5. Perlindungan Hak Penyanyi dan Pemusik Rekaman Indonesia (PAPPRI) representing performers rights
6. Perkumpulan Reproduksi Cipta Indonesia (PRCI) representing literary and artistic works
7. Performers' Rights Society of Indonesia (PRISINDO) representing performers rights
8. Wahana Musik Indonesia (WAMI) representing musical works
9. Sentra Lisensi Musik Indonesia (SELMI) representing sound recordings

Malaysia

10. Music Authors Copyright Protection Berhad (MACP) representing musical works
11. Malaysia Reprographic Rights Center (MARC) representing literary and artistic works
12. Public Performance Malaysia Berhad (PPM) representing sound recordings
13. Recording Performers Malaysia Berhad (RPM) representing performers rights

Myanmar¹

14. MMA - Myanmar Music Association (MMA) representing performers rights
15. Myanmar Record Labels Association (MRLA) representing sound recordings
16. Myanmar Performance Rights Organization (MPRO) representing musical works
17. Myanmar Vocal Artists Association (MVAA) representing performers rights
18. Union of Myanmar Music Rights Protection (UMRP) representing performers rights

Philippines

19. Filipinas Copyright Licensing Society, Inc. (FILCOLS) representing literary and artistic works
20. Filipino Society of Composers, Authors and Publishers, Inc. (FILSCAP) representing musical works
21. Philippines Recorded Music Rights Inc. (PRM) representing sound recordings and performers rights
22. Performers' Rights Society of the Philippines (PRSPH) representing performers rights
23. Sound Recording Rights Society Inc.(SR) representing sound recordings

Singapore

24. Copyright Licensing & Administration Society (CLASS) representing literary and artistic works
25. Composers and Authors Society of Singapore Limited (COMPASS) representing musical works
26. Music Rights (Singapore) Public Limited (MRSS) representing sound recordings

Thailand

27. Khon Muang Record 1999 Co., Ltd. (KMR)² representing musical works
28. Music Copyright Thailand, Ltd. (MCT) representing musical works
29. MPC Music Co., Ltd. (MPC) representing musical works and sound recordings
30. Piriya Music Sound Studio Limited Partnership (Piriya)³ representing musical works and sound recordings
31. Phonorights (Thailand) Ltd. (PNR) representing sound recordings
32. RMS Publishing Co. Ltd. (RMS) representing musical works

Viet Nam

33. Association for Protection of Performing Artists in Vietnam (APPA) representing performers rights
34. Recording Industry Association of Vietnam (RIAV) representing sound recordings
35. The Vietnam Association for Copyright Protection of Film and TV Movies (VAFC) representing audiovisual works
36. Vietnam Center for Protection of Music Copyright (VCPMC) representing musical works
37. Vietnam Reproduction Right Organization (VIETRRO) representing literary and artistic works
38. Vietnam Literary Copyright Center (VLCC) representing literary and artistic works.

Apart from the above-responding CMOs, the following are other CMOs which have been identified to also be existing and operating in AMS:

Lao PDR⁴

1. LASCAP representing musical works (LASCAP)

¹ At the time of writing and based on information from CDIP Myanmar, CMO Rules are being promulgated to require all organisations that would like to act as CMOs to be registered. Information has also been received that a new organisation called "Music Copyright Myanmar" has been created on 1 July 2023 with the intention of registering it to act as a CMO representing musical works.

² acting as licensing agent of MPC

³ acting as licensing agent of MPC

⁴ Source: DIP Lao

Malaysia⁵

2. Motion Picture Licensing Company Sdn Bhd representing audio-visual works (MPLC MY)
3. Music Rights Sabah Berhad representing musical works, sound recordings and performers rights in respect of ethnic songs in the state of Sabah (MRS)
4. Music Rights (Sarawak) Berhad representing musical works, sound recordings and performers rights in respect of ethnic songs in the state of Sarawak (MRSB)

Myanmar⁶

5. Music Copyright Myanmar (MCM) representing musical works

Thailand (29 other CMOs)⁷

6. Thai Music Copyright Co., Ltd. representing musical works
7. GMM Music Publishing International Co., Ltd. representing musical works and sound recordings
8. Thai Copyright Collection Co., Ltd. representing musical works and sound recordings
9. K.T. Publishing Co., Ltd. representing musical works and sound recordings
10. Rose Media & Entertainment Co., Ltd. representing musical works and sound recordings
11. Digital One Solution Co., Ltd. representing musical works and sound recordings
12. All Dance Copyright Co., Ltd. representing musical works and sound recordings
13. Four S (Thailand) Co., Ltd. representing musical works and sound recordings
14. Suraporn Copyright Collection Limited Partnership representing musical works and sound recordings
15. Sahaphan Copyright Thai Music Co., Ltd. representing sound recordings
16. Smile Music Licensing Co., Ltd. representing musical works and sound recordings
17. Copyright Good Song Co., Ltd. representing musical works
18. K.V. Promotion Limited Partnership representing musical works and sound recordings
19. Juadjard Production House Co., Ltd. representing musical works and sound recordings
20. Naphol Inter Music Production Co., Ltd. representing musical works and sound recordings
21. Naiphol Record Co., Ltd. representing musical works and sound recordings
22. Me Copyright Co., Ltd. representing musical works and sound recordings
23. Topline Music Co., Ltd. representing musical works and sound recordings
24. SSK Publishing Co., Ltd. representing musical works and sound recordings
25. UOK Inter Co., Ltd. representing musical works
26. CMC Entertainment Co. Ltd. representing sound recordings
27. Dream Dotato & Kraut Co., Ltd. representing musical works and sound recordings
28. Music Enjoy Co., Ltd. representing musical works and sound recordings
29. DMC 2021 Co., Ltd. representing musical works and sound recordings
30. Copyright Center Co., Ltd. representing musical works and sound recordings
31. Music Train (1995) Co., Ltd. representing musical works and sound recordings
32. V.P. 88 Music Center Co., Ltd. - representation information unavailable at time of writing
33. Inter Music Copyright Co., Ltd. representing musical works and sound recordings
34. PK Record Limited Partnership - representation information unavailable at time of writing

Singapore⁸

35. Motion Picture Licensing Company (Singapore) Private Limited (MPLC SG) representing audiovisual works.

⁵ Source: MyIPO (<https://www.myipo.gov.my/en/list-of-declared-licensing-bodies/>)

⁶ Notification received of new CMO pending accreditation as at the time of writing.

⁷ Source: DIP TH (www.ipthailand.go.th/images/26669/2566/Copyright/copyright-fee%20_20230713.pdf)

⁸ Source: IPOS (<https://www.ipos.gov.sg/about-ip/copyright/copyright-owners/collective-management-organisations>)

D. Observations and Qualifications

This Study endeavours to transparently set out and analyse responses and documentation provided in response to the questionnaires. At the same, because of differences in systems and CMO development levels, and the voluntary nature of the submissions, it may not be the case that this Study has obtained all the relevant information and documents that exist.

As a result of this, there may be certain gaps in information and documentation. It should therefore be noted that the contents of this Study are for reference purposes and should not be taken to be a comprehensive and/or exhaustive finding on the state of play in the area of collective management in AMS at the present time.

This Study is further not intended to prejudice in any way the operation of exceptions and limitations to copyright and related rights as they may exist in national law.

Any analysis contained herein are therefore preliminary analysis and trend observation only. The summaries of data herein does not represent the entirety of the data received from the CMOs and COs via the survey whereby the said complete data will be fully available to the Project Board for review to address any gaps which may exist, when preparing further material including the WIPO-ASEAN CMO Resource Document.

E. Glossary

Wherever relevant and/or possible, the descriptions hereunder have been adopted from those contained in the WIPO Good Practice Toolkit for Collective Management Organizations (WIPO CMO Toolkit) as of September 15, 2021⁹ as well as WIPO administrated copyright related treaties. Except for cases with clear reference to WIPO treaties, no description should be interpreted as normative, legal or representative of the definitions in national legislations. It should be noted that those descriptions have been drafted for the primary purpose to facilitate an understanding and smooth reading of this document.

(Right of) Adaptation

The exclusive right of authors of literary or artistic work to authorize adaptations, arrangements and other alterations of their works.¹⁰

Non-exhaustive usage example(s): adapting a novel to make a motion picture; adapting an instructional textbook originally prepared for higher education into an instructional textbook intended for students at a lower level; and translating the lyrics of a song to be recorded using the same music as that of the original song.

ASEAN

The Association of Southeast Asian Nations, or ASEAN, was established on 8 August 1967 in Bangkok, Thailand, with the signing of the ASEAN Declaration (Bangkok Declaration) by the Founding Fathers of ASEAN: Indonesia, Malaysia, Philippines, Singapore, and Thailand. Brunei Darussalam joined ASEAN on 7 January 1984, followed by Viet Nam on 28 July 1995, Lao PDR and Myanmar on 23 July 1997, and Cambodia on 30 April 1999, making up what are today the 10 Member States of ASEAN.¹¹

⁹ <https://www.wipo.int/publications/en/details.jsp?id=4561&plang=EN>

¹⁰ Article 12, the Berne Convention for the Protection of Literary and Artistic Works (as amended on September 28, 1979) (the Berne Convention)

¹¹ <https://asean.org/about-us/>

ASEAN Member States (AMS)

1. Brunei Darussalam
2. Cambodia
3. Indonesia
4. Lao PDR
5. Malaysia
6. Myanmar
7. Philippines
8. Singapore
9. Thailand
10. Viet Nam

Audiovisual Fixation

The embodiment of moving images, whether or not accompanied by sounds or by the representations thereof, from which they can be perceived, reproduced or communicated through a device.

Audiovisual Works

Any work that consists of a series of fixed related images, with or without accompanying sound, susceptible of being made visible and, where accompanied by sound, susceptible of being made audible.

Broadcasting; right of ~

The communication of a work or an object of related rights to the public by wireless transmission. It covers both terrestrial broadcasting and satellite broadcasting. "Broadcasting" is not to be understood as including interactive making available of works and objects of related rights over computer networks (where the time and place of reception may be individually chosen by members of the public).¹²

Non-exhaustive usage example(s): The electronic transmission of radio, television and satellite signals that are intended for general public reception.

Cablecasting

The communication to the public of a cable-originated program. Transmission by cable of encrypted signals carrying a cable-originated program is "cablecasting" where the means for decrypting are provided to the public by the cablecasting organization or with its consent. "Cablecasting" shall not be understood as including making available to the public through transmissions in an interactive manner through a computer network.¹³

Non-exhaustive usage example(s): Television channels that are transmitted only to paying subscribers, via a cable.

Collective Management Organization (CMO)¹⁴

Collective Management Organizations (CMOs) typically exist in a situation where it would be impossible or impractical for owners of copyright and related rights to manage their rights directly, and

¹² Guide to the Copyright and Related Rights Treaties Administered by WIPO and Glossary of Copyright and Related Rights Terms 2004 (<https://www.wipo.int/publications/en/details.jsp?id=361>)

¹³ ibid

¹⁴ WIPO CMO Toolkit

where it is to their advantage that the licensing of the rights that they own or represent be aggregated with a CMO.

The CMO's authority is typically conveyed by its Statute (if membership-based), by voluntary mandates, by Representation Agreements with other CMOs and/or by national law. In most (but not all) cases, CMOs are organised on a not-for-profit basis and are owned or controlled by their Members. CMOs ensure that their Members and represented Rightholders receive fair and appropriate payment for copyright-protected uses of their works and other subject matter.

CMOs represent different categories of rights, for instance, a Mechanical Rights Organization (MRO), a Music Licensing Company (MLC), a Performers' Collective Management Organization (PMO), a Performing Rights Organization (PRO), a Reproduction Rights Organization (RRO) and a Visual works Collective Management Organization (VCMO).

Communication to the Public; right of ~

For copyright authors: The exclusive right of authorizing any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them.¹⁵

For the purposes of this Study and notwithstanding the above definition which has been adopted from the WIPO Copyright Treaty (WCT), the right of communication to the public for copyright authors excludes the right of making available to the public which is separately defined in this Study.

For phonogram producers¹⁶ and performers:¹⁷ Performers and producers of phonograms shall enjoy the right to a single equitable remuneration for the direct or indirect use of phonograms published for commercial purposes for broadcasting or for any communication to the public.¹⁸ For this right to a single equitable remuneration, "communication to the public" includes making the sounds or representations of sounds fixed in a phonogram audible to the public.¹⁹

"Communication to the public" of a performance or a phonogram means the transmission to the public by any medium, otherwise than by broadcasting, of sounds of a performance or the sounds or the representations of sounds fixed in a phonogram.²⁰

For audiovisual performers: The exclusive right of authorizing the broadcasting and communication to the public of their performances fixed in audiovisual fixations.²¹

However, Contracting Parties may notify that instead of the right of authorization, they will establish a right to equitable remuneration for the direct or indirect use of performances fixed in audiovisual fixations for broadcasting or communication to the public. Any Contracting Party may restrict or – provided that it makes a reservation to the Treaty – deny this right. In the case and to the extent of a

¹⁵ Article 8, WIPO Copyright Treaty (WCT)

¹⁶ In Brunei Darussalam, Cambodia, Malaysia, Singapore and Thailand, legislation provides phonogram producers with the exclusive rights to control the communication to the public of phonograms/sound recordings.

¹⁷ Notwithstanding that the language in WPPT for "communication to the public" encompasses the playing of phonograms in public places, and due to the format of the Study questionnaire, some CMOs representing phonogram producers and/or performers may have declared, as summarised in Chapter 1D of this Study, the right to play recorded music in public places in the column "public performance" instead of the column "communication to the public". A further check will be made with the concerned CMOs.

¹⁸ Article 15 (1), WIPO Performances and Phonograms Treaty (WPPT)

¹⁹ Article 2, WPPT

²⁰ Article 2, WPPT

²¹ Article 11 (1), Beijing Treaty on Audiovisual Performances (BTAP)

reservation by a Contracting Party, the other Contracting Parties are permitted to deny, vis-à-vis the reserving Contracting Party, national treatment ("reciprocity").²²

Non-exhaustive usage example(s): The transmission of recorded music, movies and television programmes by various means (compact disc players, wireless radio, television and satellite broadcasts, and wired encrypted cablecasts) in public places (bars, discotheques, shops, etc.). Broadcasting and cablecasting here excludes any transmissions over computer networks or where the time and place of reception may be individually chosen by members of the public.

Commercial Rental; right of ~

*For copyright authors*²³: The exclusive right of authorizing commercial rental to the public of the originals or copies of their works, as determined in national legislation.²⁴

For phonogram producers: The exclusive right of phonogram producers to authorize the commercial rental to the public of the original and copies of their phonograms, even after distribution of them, by or pursuant to, authorization by the producer.²⁵

However, some countries have kept the right of equitable remuneration, instead of the exclusive right.²⁶

For performers: The exclusive right of authorizing the commercial rental to the public of the original and copies of their performances fixed in phonograms and audiovisual fixation as determined in the national law, even after distribution of them by, or pursuant to, authorization by the performer.²⁷

Non-exhaustive usage example(s): the rental of movies and TV shows by video rental stores or online streaming platforms for temporary access and viewing for a fee; and the rental of music albums or recordings in both physical and digital formats for a specified period in exchange for a fee by stores or mobile music suppliers/disc jockeys.

Distribution(s)

Payment(s) to Members of a CMO, CMOs with whom Representation Agreements have been concluded, or other represented Rightholders, after the deduction of Operating Expenses and other authorized deductions.²⁸

Distribution Rights

The exclusive right of authorizing the making available to the public of the original and copies of works, performances fixed in phonograms or in audiovisual fixations through sale or other transfer of ownership.²⁹

In many countries, the right of distribution is limited by the "first sale" or "exhaustion" doctrine, which provides that once the first sale or distribution of a particular copy, phonogram or audiovisual fixation has been authorised, further distribution of this copy in the same territory cannot be limited. However,

²² Based on Article 11 (2) and (3), BTAP

²³ Specifically copyright authors of works embodied in phonograms and in cinematographic works (Article 7 (1), WCT)

²⁴ Based on Article 7 (1), WCT

²⁵ Article 13 (1), WPPT

²⁶ Based on Article 13 (2), WPPT

²⁷ Based on Article 9 (1), WPPT and Article 9 (1), BTAP

²⁸ WIPO CMO Toolkit

²⁹ Article 6(1) of WCT, Article 8(1) of WPPT, and Article 8(1) of BTAP

the purchaser cannot make copies or make derivative works based on it and authors continue to enjoy the exclusive right of authorising adaptations, arrangements and other alterations of their works.³⁰

Non-exhaustive usage example(s): the sale of copies of music recordings and films.

Financial Income / Bank Interest

Income received as interest for monies/royalty revenue kept in banks pending distribution to Rightholders.

General Meeting³¹

A regular meeting of a CMO's Members and/or their elected representatives, convened at least once per year.

International Federations (IFs)

The following international CMO umbrella federations who were engaged and involved in this Study:

- a) AGICOA – The Association of International Collective Management of Audiovisual Works (www.agicoa.org)
- b) CISAC – The International Confederation of Societies of Authors and Composers (www.cisac.org)
- c) IFPI – The International Federation of the Phonographic Industry (www.ifpi.org)
- d) IFRRO – The International Federation of Reproduction Rights Organisations (www.ifrro.org)
- e) SCAPR – The Societies' Council for the Collective Management of Performers' Rights (www.scapr.org).

Licensee

A User who is licensed by a CMO to make copyright-protected uses of copyright works or other subject matter is a Licensee of a CMO.

Typically, such a Licensee is responsible for payment of licensing fees or statutory remuneration and, when relevant, to provide CMOs with accurate and timely usage information.³²

Literary and artistic works

Literary and artistic works 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 pantomime; 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.³³

³⁰ Based on Article 6(2) of WCT, Article 8(2) of WPPT, and Article 8(2) of BTAP

³¹ WIPO CMO Toolkit

³² WIPO CMO Toolkit

³³ Article 2 (1), the Berne Convention

Making Available to the Public; right of ~

For copyright authors: The exclusive right of authorizing the making available to the public of their works by wire or wireless means, in such a way that members of the public may access these works from a place and at a time individually chosen by them.³⁴

For phonogram producers: The exclusive right of authorizing the making available to the public of their phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.³⁵

For performers: The exclusive right of authorizing the making available to the public of their performances fixed in phonograms and audiovisual fixations, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.³⁶

Non-exhaustive usage example(s): the exploitation of works on any digital services, including but not limited to commercial and non-commercial platforms, social media platforms and via live streaming.

Mechanical Right

The mechanical right is involved when reproductions of protected works are carried out and royalties are payable for each copy.

Non-exhaustive usage example(s): the reproduction of musical works through the making of sound recordings.

Member

A member of a CMO recognized as such in its Statute, and who may be a natural person or legal entity.

Typically, members of a CMO include, depending on the rights managed by the CMO, authors (such as writers, composers, painters and photographers), performers (as defined herein), publishers, phonogram producers, film producers and other Rightholders which fulfil the membership requirements of a CMO.³⁷

Musical works

A song's underlying composition created by a songwriter or composer along with or without (depending on the legal definition in the relevant jurisdiction) any accompanying lyrics written by a lyricist.

Operating Expenses

Includes salaries, rents, utilities, and other expenses directly relating to the running of the operation of a CMO.³⁸

³⁴ Adapted from Article 8, WCT

³⁵ Article 14 WPPT

³⁶ Article 10 of WPPT, Article 10 of BTAP

³⁷ Based primarily on the definition in the WIPO CMO Toolkit

³⁸ WIPO CMO Toolkit

Overseas Revenue

Monies/royalties received from foreign affiliate CMOs.³⁹

Phonograms or Sound Recordings

The fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other sounds fixed in in a cinematographic or other audiovisual work.⁴⁰

Any embodiment of sounds, or of the representations thereof, from which they can be perceived, reproduced, or communicated through a device is a fixation. Fixation fully applies in the digital environment, in particular to the use of phonograms in digital form, where it is an internationally understood that the storage of a protected phonogram in digital form in an electronic medium constitutes a reproduction within the meaning of the WPPT.

Performers

Performers are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore.⁴¹

Public Performance; right of ~

The right of authorising the public performance of works by any means or process.⁴²

A public performance includes any live performance of a work (at a place where the public is or can be present, or at a place not open to the public but where a substantial number of persons outside the normal circle of a family and its close acquaintances are present).⁴³

Non-exhaustive usage example(s): Performing plays and music live in public.

Representation Agreement

Includes unilateral bilateral and reciprocal representation agreements, signed between CMOs, whereby one CMO mandates another CMO to manage the rights it represents. Most Representation Agreements will include the transfer to the receiving CMO of Distributions allocated to the Rightholders.⁴⁴

Reproduction; right of ~

The exclusive right of authorizing the direct or indirect reproduction of works, performances fixed in phonograms, or in audiovisual fixations, or phonograms, in any manner or form, and includes all reproduction in the digital environment.⁴⁵

Non-exhaustive usage example(s): the making of copies of a text-based work by a publisher for distribution to the public, whether in the form of printed copies or digital media; and the making of

³⁹ WIPO CMO Toolkit

⁴⁰ Article 2, WPPT

⁴¹ Article 2, WPPT

⁴² Adapted from Article 11(1)(i) of the Berne Convention

⁴³ Adapted from WIPO publication "Understanding Copyright and Related Rights" (https://www.wipo.int/edocs/pubdocs/en/wipo_pub_909_2016.pdf)

⁴⁴ WIPO CMO Toolkit

⁴⁵ Article 9(1) of the Berne Convention and Agreed statements concerning Article 1(4) of WCT; Articles 7 & 11 of WPPT and Agreed statement; Article 7 of BTAP and Agreed statement

copies of sound recordings containing recorded performances of musical works for downloads via digital platforms.

Reprographic Right

Reprographic right is the right regarding reproduction by the facsimile of a literary or artistic work or part of a work through any mechanical or electronic means, including hard copy and digital reproduction. Reprographic licensing also includes licensing the storage of digital reproductions on closed networks and intranets managed by the Licensee.

Non-exhaustive usage example(s): the photocopying and digital copying of printed works (i.e. text, music, photographs, illustrations, visual art etc. which are reproduced as sheet music, in books, journals, newspapers and other printed material) by businesses and educational establishments.

Rightholder

Any person or entity, other than a CMO, that holds a copyright or related right, or, under an agreement for the exploitation of rights or by law, regulation or Statute, is entitled to a share of the Rights Revenue.⁴⁶

Statute

Means the memorandum and articles of association, charter, by-laws, the rules or documents of constitution of a CMO.

This includes, but is not limited to, a summary of the CMO's role and function, and an explanation of each category of Rightholders and rights which it represents.⁴⁷

Synchronization

The act of reproducing sound recordings and/or musical works in combination with any visual media output.

Non-exhaustive usage example(s): the inclusion of musical works in the sound tracks of films, television shows, advertisements, video games, movie trailers, etc.

User

The User is a natural or legal person who uses a copyright work or other subject matter protected by copyright or related rights, whether permitted by legal exception or limitation, statutory or contractual license.⁴⁸

⁴⁶ WIPO CMO Toolkit

⁴⁷ WIPO CMO Toolkit

⁴⁸ WIPO CMO Toolkit

1. General Framework of Collective Management Systems

(reference: WIPO Good Practice Toolkit for CMOs Chapters 1)

A. Nature of CMOs⁴⁹

All the responding CMOs indicated that they are not-for-profit and/or private organisations except for the following CMOs:

- a) 4 CMOs [MPRO & MRLA (Myanmar), VIETRRO & VLCC (Viet Nam)] which have identified themselves as public-private organisations;
- b) 1 CMO [LMKN (Indonesia)] identifying as a self-funded auxiliary body (i.e. a self-funded supporting state institution);
- c) 1 CMO [PIRIYA (Thailand)] which declared their status as for-profit; and
- d) 1 CMO [VAFC (Viet Nam)] indicating its nature as a professional social organisation.

B. One-Stop Shop⁵⁰

In response to the question of whether the CMO is a one-stop shop, 9 responded affirmatively with 1 being government-driven, 2 representing both musical works and sound recordings, and the remaining 6 still representing a single category of works (for example, for digital licensing). Due to the lack of a clear and official definition of what “one-stop shop” stands for, the above responses should therefore be taken solely as a snapshot of the current perceptions of certain ASEAN CMOs and will need to be revisited in detail.

The following situations below are non-exhaustive and non-exclusive examples of how CMOs have either arranged themselves according to the market, followed regulatory measures or were in circumstances where they were the sole CMO collecting for various sets of rights. Depending on whether they were in fact or perceived as a dominant aggregator of rights and licensing, the term “one-stop shop” CMOs may have been used to describe any or all of the situations (which is to say that the term “one stop shop” is not a term of art and currently suffers from a lack of definition):

- a) CMOs managing a specific category of right and/or a specific category of Rightholders, respectively (“mono-right” or “mono-work” CMO);
- b) CMOs managing several category of rights and/or several categories of Rightholders, respectively (“multi-rights” or “multi-works” CMO);
- c) Only one CMO established in a given country (the CMO with a *de facto* monopoly position);
- d) A CMO with a monopolistic position which may be statutorily allowed in a given country (the CMO with a *de jure* monopoly position);
- e) Multiple CMOs co-existing in a given country, each one of which manages a distinct category of rights for a distinct category of Rightholders;
- f) A few CMOs co-existing in a given country competing each other, managing the same specific category of rights for the same specific category of Rightholders;
- g) Competing CMOs co-existing under the administration of a central umbrella CMO; and
- h) CMOs in a given country, each one of which manages a distinct category of rights and providing a joint licensing service for users.

C. Categories of works (and rights) represented⁵¹

The 38 CMO respondents can be classified according to the following 8 categories of works and rights managed:

⁴⁹ Data compiled from responses to Question A4 of the CMO Questionnaire.

⁵⁰ Data compiled from responses to Question F1 of the CMO Questionnaire.

⁵¹ Data compiled from responses to Question A9 of the CMO Questionnaire.

- a) Musical works – 11 CMOs;
- b) Sound Recordings – 8 CMOs;
- c) Performances embodied in Sound Recordings (“Recorded Performances”) – 8 CMOs;
- d) Musical Works and Sound Recordings – 2 CMOs (both in Thailand);
- e) Sound Recordings and Recorded Performances – 1 CMO (Philippines);
- f) Musical Works, Sound Recordings and Recorded Performances – 1 CMO (Indonesia);
- g) Literary and artistic works – 6 CMOs; and
- h) Audiovisual works - 1 CMO (Viet Nam)⁵².

Category of Works	Jurisdiction	Name of CMO	Nature of CMO	Legal Form of CMO	Year of Incorporation
Musical works	Brunei	BEAT	Private entity	Public company limited by guarantee	2010
	Cambodia	CAMCOS	Not-for-profit	Association	2019
	Indonesia	WAMI	Not-for-profit	Association	2006
	Malaysia	MACP	Private entity	Public company limited by guarantee	1989
	Myanmar	MPRO	Not-for-profit, Public-private organisation	Association	2015
	Philippines	FILSCAP	Not-for-profit	Association	1965
	Singapore	COMPASS	Not-for-profit	Public company limited by guarantee	1987
	Thailand	KMR	Private entity	Private limited company	
		MCT	Not-for-profit	Private limited company	1994
		RMS	Private entity		2013
Viet Nam	VCPMC	Not-for-profit	Association	2002	
Sound Recordings	Brunei	BRUMUSIC	Private entity	Private limited company	2011
	Indonesia	SELMI	Not-for-profit	Association	2013
	Malaysia	PPM	Not-for-profit	Public company limited by guarantee	2016 (1988 previous entity)
	Myanmar	MRLA	Not-for-profit, Public-private organisation	Association	2020
	Philippines	SR	Private entity	Corporation	2013
	Singapore	MRSS	Not-for-profit	Public company limited by guarantee	2018 (RIPS previous entity)
	Thailand	PNR	Not-for-profit	Private limited company	1992
	Viet Nam	RIAV	Not-for-profit	Association	2003

⁵² One of the CMOs managing Recorded Performances, namely PRSPH of the Philippines additionally represents performers (singers, musicians, dancers, and actors) for audiovisual works.

Category of Works	Jurisdiction	Name of CMO	Nature of CMO	Legal Form of CMO	Year of Incorporation
Recorded Performances	Indonesia	PAPPRI	Not-for-profit, Public-private organisation	Association	2015
		PRISINDO	Public-private organisation	Association	2009
	Malaysia	RPM	Non-for-profit	Public company limited by guarantee	2011
	Myanmar	MMA	Not-for-profit	Association	1963
		MVAA	Not-for-profit	Association	2012
		UMRP	Non-profit	Association	2018
	Philippines	PRSPH ⁵³	Not-for-profit, Private entity	Association	2014
	Viet Nam	APPA	Not-for-profit	Association	2015
Musical Works & Sound Recordings	Thailand	MPC	Not-for-profit, private entity	Private limited company	
		PIRIYA	For profit	Private limited company	2012
Sound Recordings & Recorded Performances	Philippines	PRM	Private entity	Corporation	2021
Musical Works, Sound Recordings & Recorded Performances	Indonesia	LMKN	Self-funded state auxiliary body	State auxiliary body	2014
Literary & Artistic works	Indonesia	PRCI	Not-for-profit	Association-like	2016
	Malaysia	MARC	Not-for-profit	Public company limited by guarantee	2021
	Philippines	FILCOLS	Not-for-profit	Association	2008
	Singapore	CLASS	Not-for-profit, private entity	Public company limited by guarantee	1999
	Viet Nam	VIETRRO	Not-for-profit, Public-private organisation	Association	2010
		VLCC	Not-for-profit, Public-private organisation	Association	2004
Audiovisual works ⁵⁴	Viet Nam	VAFC	Professional Social Organisation	Association	2019

⁵³ Ibid.

⁵⁴ Ibid.

D. Types of rights managed⁵⁵

The number of CMO respondents by the categories of rights managed are as follows:

- a) Communication to the Public (including broadcast) – 29 CMOs;
- b) Public Performance – 29 CMOs;
- c) Making Available to the Public – 14 CMOs;
- d) Reprographic – 6 CMOs;
- e) Other rights:
 - a. Reproduction – 7 CMOs;
 - b. Overseas Revenue – 4 CMOs;
 - c. Mechanical and Synchronisation⁵⁶ – 3 CMOs;
 - d. Financial Income/Bank Interest – 2 CMOs;
 - e. Distribution and Adaptation Rights – 1 CMO; and
 - f. Commercial Rental – 1 CMO.

Note: Some CMOs manage multiple rights.

Category, CMO & Jurisdiction	Type of Rights / Licences				
	Communication to the public and Broadcasting	Public Performance	Making Available to the public	Reprographic (not applicable)	Other rights
BEAT (Brunei)		X			
CAMCOS (Cambodia)	X	X			
WAMI (Indonesia)	X	X	X		Overseas
MACP (Malaysia)	X	X	X		Overseas, Mechanical & Synchronisation
MPRO (Myanmar)	X	X	X		Mechanical & Synchronisation
FILSCAP (Philippines)	X	X	X		First Public Distribution & Transformation (on a limited basis)
COMPASS (Singapore)	X	X	X		Reproduction Rights
MCT (Thailand)	X	X	X		Reproduction

⁵⁵ Data compiled from responses to Question A10 of the CMO Questionnaire.

⁵⁶ The terms “Mechanical” and “Synchronisation” are as defined in the Glossary section above and are industry right characterisations which are not specifically defined as such in legislation and treaties.

Category, CMO & Jurisdiction	Type of Rights / Licences				
	Communication to the public and Broadcasting	Public Performance	Making Available to the public	Reprographic (not applicable)	Other rights
Musical Works					
KMR (Thailand)					
RMS (Thailand)					
VCPMC (Viet Nam)	X	X	X		Foreign Revenue & Bank Interest
Sound Recordings	Communication to the public and Broadcasting	Public Performance	Making Available to the public	Reprographic (not applicable)	Other rights
BRUMUSIC (Brunei)	X	X			Reproduction
SELMI (Indonesia)	X	X			
PPM (Malaysia)	X	X			Reproduction & Commercial Rental
MRLA (Myanmar)	X	X	X		Mechanical, Master & Synchronization Rights
SR (Philippines)	X	X			Reproduction
MRSS (Singapore)	X	X			Reproduction
PNR (Thailand)	X	X	X		Reproduction & Performers Rights (agent for Federation of Korean Music Performers)
RIAV (Viet Nam)		X			
Recorded Performances	Communication to the public and Broadcasting	Public Performance	Making Available to the public	Reprographic (not applicable)	Other rights
PAPPRI (Indonesia)	X	X			
PRISINDO (Indonesia)	X	X			

Category, CMO & Jurisdiction	Type of Rights / Licences				
	Communication to the public and Broadcasting	Public Performance	Making Available to the public	Reprographic (not applicable)	Other rights
Recorded Performances					
RPM (Malaysia)	X	X			Foreign Revenue
MMA (Myanmar)	X	X	X		X
MVAA (Myanmar)	X	X	X		X
UMRP (Myanmar)	X	X	X		X
PRSPH (Philippines)	X	X			
APPA (Viet Nam)	X	X	X		
Musical Works & Sound Recordings	Communication to the public and Broadcasting	Public Performance	Making Available to the public	Reprographic (not applicable)	Other rights
MPC (Thailand)	X	X			
PIRIYA (Thailand)	X	X	X		
Sound Recordings & Performers Rights	Communication to the public and Broadcasting	Public Performance	Making Available to the public	Reprographic (not applicable)	Other rights
PRM (Philippines)	X	X			
Musical Works, Sound Recordings & Performers Rights	Communication to the public and Broadcasting	Public Performance	Making Available to the public	Reprographic (not applicable)	Other rights
LMKN (Indonesia)	X	X			
Literary & Artistic works	Communication to the public	Public Performance	Making Available to the public (included under reprographic)	Reprographic (inclusive of Making Available to the public)	Other rights
PRCI (Indonesia)				X	
MARC (Malaysia)	X			X	

Category, CMO & Jurisdiction	Type of Rights / Licences				
	Communication to the public	Public Performance	Making Available to the public (included under reprographic)	Reprographic (inclusive of Making Available to the public)	Other rights
Literary & Artistic works					
FILCOLS (Philippines)				X	
CLASS (Singapore)	X			X	
VIETRRO (Viet Nam)				X	
VLCC (Viet Nam)				X	
Audiovisual works	Communication to the public and Broadcasting	Public Performance	Making Available to the public	Reprographic (not applicable)	Other rights
VAFC (Viet Nam)					Viet Nam movies & TV series

E. Categorisation by Annual Revenue⁵⁷

25 CMOs submitted figures for their annual revenue collections and they have been segmented by the 5 revenue categories below based on an average of their total annual revenues over the past 3 years (namely 2019, 2020 and 2021 where submitted) or their sole total annual revenue figure if there was only one year's submission.

Annual Revenue by Tier (United States Dollars - USD)	Number of CMOs	Name of CMO(s)
>10 million	2	COMPASS (Singapore), MACP (Malaysia).
5 to 10 million	5	WAMI (Indonesia), PPM (Malaysia), FILSCAP (Philippines), MCT (Thailand), VCPMC (Viet Nam).
1 to 5 million	6	LMKN & SELMI (Indonesia), RPM (Malaysia), CLASS & MRSS (Singapore), MPC (Thailand).
0.5 to 1 million	2	MPRO (Myanmar), RIAV (Viet Nam).
<0.1 million	8	BruMusic (Brunei), PRCI & PRISINDO (Indonesia), MMA, MVAA & UMRP (Myanmar), FILCOLS & SR (Philippines), PIRIYA (Thailand), VLCC (Viet Nam).
zero revenue	4	FILCOLS (Philippines), MARC (Malaysia), PRCI (Indonesia), VIETRRO (Viet Nam).

There were no revenue figure submissions from the remaining 11 CMO respondents.

⁵⁷ Data compiled from responses to Question A16 of the CMO Questionnaire.

F. List of CMO-related Documentation⁵⁸

All CMO-related documents received and/or compiled as part of this Study are listed by document category below.

No.	Document	Number of CMOs
1.	Statutes (Constitution/Memorandum and Articles of Association)	15
2.	Board Charter/Governance Policies/Code of Conduct	2
3.	Licensing Operations Manual	3
4.	Membership Policy	1
5.	Rightsholders Data Management Policy	2
6.	Royalty Distribution Policy	8
7.	Members/Rightholders Dispute Resolution Procedures	1
8.	Tariff Setting Policy	-
9.	Tariffs	8
10.	User Dispute Resolution Procedures	2
11.	Market Study/Survey Reports (from the past five years)	-
12.	Case law	11
13.	Policy regarding representation arrangements with foreign CMOs	-
14.	Other documents <ul style="list-style-type: none"> a) Members Mandate b) Licence Agreement template c) Conflict Claim Guidelines d) Membership application forms (2) e) Members' Complaints Procedure f) List of foreign mandating CMOs 	7

2. **Governance**

(reference: WIPO Good Practice Toolkit for CMOs Chapter 4.1, 5 & 6)

A. Board

Supervisory functions⁵⁹

The answers from 38 CMO respondents indicated that 22 (58%) had supervisory functions exercised by the General Meeting, 7 (29%) by government authorities, 3 (7.9%) by a board of trustees, 1 (2.6%) by an association and the remaining 5 (13.2%) did not respond.

Of the 35 CMO respondents which answered the question on supervisory functions, 34 indicated having only 1 supervisory body whilst the remaining 1 indicated having 2 supervisory bodies. It is

⁵⁸ Data compiled from responses to Questions B1 to B13 of the CMO Questionnaire.

⁵⁹ Data compiled from responses to Question C2 of the CMO Questionnaire.

necessary to note the possibility that the CMO respondents may not have listed all their supervisory bodies (e.g., stating only one of the few supervisory bodies).

Control by Members⁶⁰

In response to the question whether the CMO (and its Board) was controlled by the Members it represents, 34 (90%) replied affirmatively, 2 (5%) replied in the negative and the remaining 2 (5%) did not respond.

Number of Board meetings⁶¹

The following were the CMO responses to the question on how many times the CMO Board meets a year:

Number of CMO Board meetings a year	Number of CMO responses
1 time	3
2 times	4
3 times	3
4 times	7
6 times	1
7 times	1
10 times	1
12 times	8
20 times	1
24 times	3
52 times	1
Many times	1
Nil response	4
Total	38

Independent directors⁶²

In response to the question whether the CMO has independent directors (i.e. members of a board of directors who do not have a material or pecuniary relationship with the CMO company or related persons, except sitting fees) on its Board, 20 (52.6%) replied affirmatively, 13 (34.2%) replied in the negative and the remaining 5 (13.2%) did not respond.

⁶⁰ Data compiled from responses to Question C5 of the CMO Questionnaire.

⁶¹ Data compiled from responses to Question C9 of the CMO Questionnaire.

⁶² Data compiled from responses to Question C18 of the CMO Questionnaire.

B. Financial Reporting Obligations

External Audit⁶³

In response to the question whether the CMO has an external auditor to audit its accounts, 30 (78.9%) replied affirmatively, 13.2 (5%) replied in the negative and the remaining 3 (7.9%) did not respond.

Financial Reporting to Members⁶⁴

On the question of whether the financial reports are sent to Members of the CMO, 16 (42.1%) replied affirmatively, 13 (34.2%) replied in the negative, 3 (7.9%) replied available on website, on request and with a right to inspect respectively, and the remaining 2 (5%) did not respond.

C. Management

Appointment of the CEO/GM⁶⁵

On the question of who appoints the CEO/GM, 25 (65.8%) replied the Board, 2 (5.3%) replied the General Meeting, 3 (7.9%) replied the honorary members, the owner and an association respectively whilst the remaining 8 (21%) did not respond.

Independence of Management⁶⁶

On the question of whether the management enjoys the required independence in managing the operations of the CMO, 22 (57.9%) replied affirmatively, 12 (31.6%) replied in the negative, and the remaining 4 (10.5%) either did not respond or replied not applicable.

D. Transparency⁶⁷

The following are the number of CMOs who responded on documentation and information regularly published and under obligation to publish:

CMO Documentation and Information	Regularly Published	Under Obligation to Publish
Statute, membership terms and conditions	26	24
Tariff information	24	22
General distribution policy	18	18
Policy on deductions (such as any costs of operations, social, cultural or educational deductions) and the deducted amounts	19	12
Policy on the use of non-distributable rights revenue	10	9
Annual financial report (or its annual accounts, including the total amount received and total amount distributed)	14	15

⁶³ Data compiled from responses to Question C38 of the CMO Questionnaire.

⁶⁴ Data compiled from responses to Question C40 of the CMO Questionnaire.

⁶⁵ Data compiled from responses to Question C44 of the CMO Questionnaire.

⁶⁶ Data compiled from responses to Question C51 of the CMO Questionnaire.

⁶⁷ Data compiled from responses to Question C52 of the CMO Questionnaire.

Complaint and dispute resolution procedures	13	9
A list of the persons who manage its business and who sit on the CMO Board	19	12
The total amount of remuneration paid, and other benefits provided to the persons who manage the business of the CMO	9	8
The rights revenue attributed, the amounts paid by the collective management organization per category of rights managed, and per type of use, for the rights it manages under the representation agreement, and any rights revenue attributed which is outstanding for any period.	7	10

3. Relations with Rightholders

(reference: WIPO Good Practice Toolkit for CMOs Chapters 3, 4 & 5.1)

A. Number of General Meetings⁶⁸

The following were the CMO responses to the question on how many times per year the CMO holds its General Meetings:

Number of General Meetings a year	Number of CMO responses
1 time	20
2 times	3
4 times	1
As per casual	3
Once every 4 years	1
Once every 5 years	1
Nil response	9
Total	38

B. Collection for non-members⁶⁹

On whether the CMO is allowed to collect for non-members (i.e. for rights that have not been assigned or mandated to it by Rightholders), 5 (13.2%) replied affirmatively (1 for literary works, 1 for musical works, 2 for sound recordings and 1 for audiovisual works), 23 (60.6%) replied in the negative and the remaining 5 (13.2%) either did not respond or replied not applicable.

C. Relationships between Rightholders and CMO⁷⁰

In response to the question of how the relationships between Rightholders and the CMO are regulated, 19 (50%) replied by contract, 16 (42%) replied by combination of law and contract, and the remaining 3 (8%) either did not respond or replied not applicable.

⁶⁸ Data compiled from responses to Question C27 of the CMO Questionnaire.

⁶⁹ Data compiled from responses to Question D2 of the CMO Questionnaire.

⁷⁰ Data compiled from responses to Question D3 of the CMO Questionnaire.

4. Relations with Users

(reference: WIPO Good Practice Toolkit for CMOs Chapter 8)

A. Tariff Model⁷¹

In response to the question whether the CMO has a structured tariff model, 26 (68.4%) replied affirmatively, 7 (18.4%) replied in the negative, 4 (10.6%) did not respond, and 1 (2.6%) replied that they did not understand the question.

B. Tariff-Setting Criteria⁷²

In response to the question of which criteria/factors of tariff-setting are usually used by the CMO, the following were the responses:

Criteria/Factors	Number of CMO responses
International good practices	15
Benchmark of tariffs in other CMOs	19
Market studies (i.e. licensing market penetration and/or market valuation in respect of tariff categories)	15
Cross-sectoral tariff comparisons	11
The commercial value of the rights in use, and/or the benefits to Licensees	15
Other relevant criteria (state authorities/agencies cited)	3

5. Relations with other CMOs, including Foreign CMOs and IFs

(reference: WIPO Good Practice Toolkit for CMOs Chapter 7)

A. IF affiliations, Representative Agreements & Distribution Procedure⁷³

Of the 38 CMO respondents, 47.4% (18) are IF members and 57.9% (22) have signed Representation Agreements. 36.8% (14) do not have any difference in distribution procedures for local and foreign Rightholders whilst 26.3% (10) have separate procedures, 5.2% (2) have other responses (with one response being “not applicable due to inaccessibility of historical data and another being “foreign works are represented by one of 11 CMOs” under a one-stop licensing structure) and the remaining CMOs did not respond.

- a) IF affiliations – CISAC (6 CMOs), IFPI (6 CMOs), IFRRO (5 CMOs), SCAPR (1 CMO), None (20 CMOs).
- b) CMOs with Representation Agreements – 22 CMOs, None (16 CMOs).
- c) Type of CMO distributions for domestic & foreign Rightholders – Single (14 CMOs), Separate (10 CMOs), Others (2 CMOs), No response (12 CMOs).

⁷¹ Data compiled from responses to Question E1 of the CMO Questionnaire.

⁷² Data compiled from responses to Question E6 of the CMO Questionnaire.

⁷³ Data compiled from responses to Questions F2, F4 & F7 of the CMO Questionnaire.

Category of Works	Jurisdiction	Name of CMO	IF Affiliation	Representation Agreements	Distribution Procedure (Single or Separate for Domestic & Foreign Rightholders)
Musical works	Brunei	BEAT	IFPI (previously with CISAC)	Yes	-
	Cambodia	CAMCOS	-	-	-
	Indonesia	WAMI	CISAC	Yes	Single
	Malaysia	MACP	CISAC	Yes	Single
	Myanmar	MPRO	No	No	-
	Philippines	FILSCAP	CISAC	Yes	Single
	Singapore	COMPASS	CISAC	Yes	Single
	Thailand	KMR	No	No	-
		MCT	CISAC	Yes	Single
		RMS	No	No	-
Viet Nam	VCPMC	CISAC	Yes	Separate	
Sound Recordings	Brunei	BRUMUSIC	IFPI	Yes	Separate
	Indonesia	SELMI	No	Yes	Single
	Malaysia	PPM	IFPI	No	Single
	Myanmar	MRLA	No	No	-
	Philippines	SR	No	Yes	Single
	Singapore	MRSS	IFPI	No	Others
	Thailand	PNR	IFPI	Yes	Separate
	Viet Nam	RIAV	No	Yes	-
Performers	Indonesia	PAPPRI	No	No	Single
		PRISINDO	No	Yes	Separate
	Malaysia	RPM	SCAPR	Yes	Separate
	Myanmar	MMA	No	Yes	Separate
		MVAA	No	Yes	Separate
		UMRP	No	Yes	Separate
	Philippines	PRSPH	No	Yes	Single
	Viet Nam	APPA	No	No	Single
Musical Works & Sound Recordings	Thailand	MPC	No	No	-
		PIRIYA	No	No	-

Category of Works	Jurisdiction	Name of CMO	IF Affiliation	Representation Agreements	Distribution Procedure (Single or Separate for Domestic & Foreign Rightholders)
Sound Recordings & Performers	Philippines	PRM	IFPI	Yes	Separate
Musical Works, Sound Recordings & Performers	Indonesia	LMKN	No	No	-
Literary & Artistic works	Indonesia	PRCI	IFRRO	Yes	Single
	Malaysia	MARC	IFRRO	Yes	Single
	Philippines	FILCOLS	IFRRO	Yes	Single
	Singapore	CLASS	IFRRO	Yes	Separate
	Viet Nam	VIETRRO	IFRRO	-	Others (Entrustment contracts)
		VLCC	No	No	-
Audiovisual works	Viet Nam	VAFC	No	No	Single

6. Distribution Practices

(reference: WIPO Good Practice Toolkit for CMOs Chapter 6)

A. Distribution Methodologies⁷⁴

The following is a summary of distribution methodologies which have been accepted by most if not all of their Members, according to responses of 13 CMOs:

- a) Use of available usage log sheets as proxies;
- b) Use of audio fingerprinting technology to monitor TV and radio broadcasts to generate usage report;
- c) Sampling (gradually increasing sampling size as pool of royalties gets bigger and as digital usage data becomes available);
- d) Split according to agreed shares for CMOs that are central collectors; and
- e) Following National CMO methodologies (response from an Indonesian performer CMO).

B. Frequency of Distribution⁷⁵

On the frequency of distribution of royalties, the following is a summary of the CMO responses received:

⁷⁴ Data compiled from responses to Question D8 of the CMO Questionnaire.

⁷⁵ Data compiled from responses to Question D10 of the CMO Questionnaire.

Frequency	Number of CMO responses
Not yet	1
Only once since inception	1
Once every 3 years	1
Once a year	6
1 to 2 times a year	2
2 times a year	1
3 times a year	1
Quarterly	6
6 times a year	1
Monthly	4
As soon as possible	2
Nil or Not Applicable	12

C. Undistributed Royalties⁷⁶

On the question of what the CMO does with undistributed royalties for which entitled Rightholders could not be identified, the following is a summary of the CMO responses received:

Action for/Use of Undistributed Royalties	Number of CMO responses
Distribute to pool after 3 years	4
Distribute to pool after 2 years	2
Distribute to pool after 1 year	3
Distribute to pool (no timeline provided)	3
Continue to verify, search and contact Rightholders	1
Distribute or use for CMO operations	1
Use for welfare of Members, social activities and training related to music	1
Use for social and cultural activities	1
Unknown data	3
No real distribution due to lack of collections	1
Have not done this yet	1
Nil or Not Applicable	17

⁷⁶ Data compiled from responses to Question D16 of the CMO Questionnaire.

7. Regulators and the Law

(reference: WIPO Good Practice Toolkit for CMOs Chapter 13)

A. Legal provisions for CMO authorisations⁷⁷

On the question of whether there are any legal provision that grants a CMO the authorization to carry out its functions, 7 (70%) of the COs replied affirmatively and the remaining 3 (8%) replied in the negative.

B. Responsible Government Agency⁷⁸

On the question of whether there is an agency of government charged with the responsibility to issue such authorization of CMOs, the following were the CO responses received:

Agency	Number of CO responses
CO/IP Office	4
Ministry of Home Affairs	1
Yes, according to draft regulation	1
Yes, mentioned in the CMO regulation	1
No	3

C. CMO-related Regulations⁷⁹

On the existence of CMO-related Regulations, 5 of the 10 ASEAN COs confirmed having such regulations in place and of the remaining 5 COs, 2 COs indicated that their countries were planning to put in place such regulations in 2023.

D. Areas of CO interest⁸⁰

The following were CO responses (listed by category) to the question on whether there any areas and/or issues involving CMOs in which the ASEAN Member States may wish to have international and/or regional best practice guidance and reference:

a) General

- Forming the CMO ecosystem;
- Forming a sustainable music industry ecosystem; and
- Right Management Information.

b) Legal and regulatory framework

- CMO regulatory framework;
- Drafting regulations to establish CMOs; and
- International/regional best practice guidance on legislation regarding CMOs and how to regulate CMOs in general.

c) Establishing CMOs

- CMO set up, governance and organisation; and
- Establishing one-stop shop CMO.

⁷⁷ Data compiled from responses to Question D1 of the CO Questionnaire.

⁷⁸ Data compiled from responses to Question D2 of the CO Questionnaire.

⁷⁹ Data compiled from responses to Question B12 of the CO Questionnaire.

⁸⁰ Data compiled from responses to Question I12 of the CO Questionnaire.

d) Licensing and Tariffs

- Tariff Setting Methodology and Licensing Schemes;
- Competition Law/Anti-Trust Considerations in relation to CMOs, Tariff Setting and Licensing Schemes; and
- Criteria and Basis of Copyright Tariff.

e) Good practices

- Technical assistance and exchange of experiences and best practices on collective management with other countries;
- Best practice guide and reference on operation and management of CMOs;
- Transparency, accountability, good governance; and
- A regional version of the WIPO CMO toolkit will be useful for understanding the approaches which countries in ASEAN adopt to the matters set out therein. Other areas which can benefit from best practice guidance/reference include the interpretation of revenue models for digital music services, the percentage of revenue to accrue to public performance rights and reproduction rights, and whether “offline streaming” services are regarded as exercising public performance rights or reproduction rights.

f) Enforcement

- Cross border jurisdiction and enforcement.

E. Enforcement Mechanisms⁸¹

On whether the law provides for enforcement mechanisms against users, 23 CMOs (60.5%) replied affirmatively, 10 (26.3%) replied in the negative and the remaining 5 (13.2%) either did not respond or replied not applicable.

8. Complaints and Dispute Resolution Procedures

(reference: WIPO Good Practice Toolkit for CMOs Chapter 12)

A. CMO Member Conflict Resolution Mechanisms⁸²

The following is a summary of CMO responses to the question of what mechanisms exist within the CMO to resolve conflicts arising between CMO Members:

- a) Ad-Hoc / Distribution / Mediation Committee;
- b) Procedures to encourage self-resolution by CMO Members;
- c) Board meetings;
- d) Consultation with CO;
- e) Court (especially when reconciliation fails, and including specialised forums such as Copyright Tribunals);
- f) Negotiation, reconciliation and/or facilitation procedures;
- g) Under specific contractual conditions (for example where illegal reproduction has taken place, the CMO may request the User to attend dispute resolution by way of arbitration);
- h) No mechanism;
- i) Nil or Not Applicable.

⁸¹ Data compiled from responses to Question G1 of the CMO Questionnaire.

⁸² Data compiled from responses to Question D24 of the CMO Questionnaire.

B. CMO Tariff Arbitration/Mediation Mechanisms⁸³

On whether there are any arbitration/mediation mechanisms in relation to CMO tariffs, 11 CMOs (28.9%) responded affirmatively, 20 (52.6%) replied in the negative and the remaining 7 (18.5%) either did not respond or replied not applicable.

9. **Human Resources and IT Infrastructure**

(reference: WIPO Good Practice Toolkit for CMOs Chapters 10 & 11)

A. Human Resource Development⁸⁴

In response to the question of whether the CMO has employee training and development opportunities and/or programmes for key departments including licensing, membership, documentation, 10.5 CMOs (57%) responded affirmatively, 28 (28%) replied in the negative and the remaining 6 (15%) either did not respond or replied not applicable.

B. IT Infrastructure Sharing⁸⁵

On whether Is the CMO connected to any international or regional system (network), 9 CMOs (23.9%) responded affirmatively, 22 (57.9%) replied in the negative and the remaining 7 (18.2%) either did not respond or replied not applicable.

10. **CMO Feedback**

Part 1 – CMO responses⁸⁶

The following is a compilation of CMO responses segmented by country on challenges that affect the CMO from fulfilling its licence mandate together with recommendations from their own perspectives. It is important to note that these individual CMO responses do not necessarily represent the general or overall views or consensus of all CMOs and IFs, and represent the respondents' own interpretation of domestic laws and prevailing legislative and/or regulatory environments.

A. Brunei Darussalam

	<u>Cluster</u>	<u>Challenges</u>	<u>Recommendations</u>
1.	Legislative and/or Regulatory	a) Laws exist on paper but seldom practiced.	a) Increase public awareness to develop the respect for copyright.
2.	CMO institutional	a) CMO not operational due to insufficient knowledgeable personnel.	a) Restructure and revitalise with appropriate training and guidance from knowledgeable personnel.
3.	User group specific	a) Importance and relevance of copyright is miniscule.	a) Education related to copyright will better inform the users.

⁸³ Data compiled from responses to Question E13 of the CMO Questionnaire.

⁸⁴ Data compiled from responses to Question H9 of the CMO Questionnaire.

⁸⁵ Data compiled from responses to Question H7 of the CMO Questionnaire.

⁸⁶ Data compiled from responses to Question I of the CMO Questionnaire.

4.	CMO member related	a) CMO is still non-operational due to compliance issues with the state government.	a) CMO needs to continue compliance efforts to re-establish its operational status.
5.	Digital licensing	a) Individual Rightholders are managing their own rights globally via online infrastructures and their royalty income streams are not able to cross into Brunei Darussalam.	a) A compromise for the allowance for decentralised income streams should help mitigate the losses of international revenue streams for ASEAN citizens who acquire services from content aggregators rather than CMOs.
6.	Regional and/or global (cross-border) licensing	a) Currently in Brunei Darussalam, only international licenses are flowing out of the country while local royalties are not entering the economy.	a) Standards are in place for the collection of royalties for major publishers but not so much for local and independent Rightholders. A solution for this must be reviewed.
7.	Political	a) State-run broadcasters are reluctant to obtain proper licenses due to their non-profit nature and certain private broadcasters are following suit since the Government are not obtaining licenses and taking advantages of loopholes regarding terrestrial broadcasting and internet broadcasting.	
8.	Others	-	-

B. Cambodia

Nil response.

C. Indonesia

	<u>Cluster</u>	<u>Challenges</u>	<u>Recommendations</u>
1.	Legislative and/or Regulatory	<p>a) Regulations for compliance are in place, but law enforcement is weak against recalcitrant users.</p> <p>b) After the copyright law was enacted in 2014, no regulations under it were made, such as presidential and ministerial regulations. For the Indonesian RRO in particular, this lack of</p>	<p>a) The government must intervene with proper enforcement.</p> <p>b) The legislature should immediately encourage the formation of these derivative regulations, either as legislative or government initiatives.</p>

		<p>regulatory progress has been very challenging with delays since 2014 for the ‘Draft Implementing Regulation on Management of General Licence for Books and Other Written Works’ undermining the RRO’s ability to license effectively.</p> <p>c) There is no government regulation describing that fair use is not free use.</p> <p>d) The regulatory setting-up of a National CMO/LMKN.</p> <p>e) Inconsistency between ministerial regulations and LMKN statute.</p> <p>f) Unfair distribution from LMKN.</p> <p>g) Conflict of Article 1.16 & Article 24 of Indonesia Copyright Law No. 28 of 2014.⁸⁷</p>	<p>c) Accelerate the process of finalizing the current draft regulation on secondary use licensing, now being discussed with the IP office.</p> <p>d) the person(s) in charge at the National CMO and related positions need to focus 100% for the benefit of CMO members.</p> <p>e) LMKN statute needs to be revised.</p> <p>f) Have better LMKN distribution rules/policy.</p> <p>g) Revise Copyright Law.</p>
2.	CMO institutional	<p>a) CMO database is still incomplete and there is no integrated system yet.</p> <p>b) One CMO feels that it has received little support in carrying out its role as a mandate holder to collect royalties for copying copyrighted works, such as from institutions and the ministry of education, the</p>	<p>a) Have an integrated music database information system.</p> <p>b) Institutions and ministries related to copyright protection in literary works should be made aware that they are still reluctant in supporting such protection. Thus, it is necessary to hold discussions with the affected CMO so that</p>

⁸⁷ Law of the Republic of Indonesia Number 28 of 2014 on Copyrights

Definition - Article 1.16

Communication to the public, hereinafter referred to as Communication, means the transmission of Works, performances, or Phonograms, by wire or other media other than Broadcasting to be received by the public, including producing Works, performances, or Phonograms available for public access from a place and at a time individually chosen by them.

Economic Rights of Producers of Phonogram - Article 24

(1) Producers of Phonogram have economic rights.

(2) The economic rights of Producers of Phonogram as referred to in Section (1) include the exclusive right to authorize or prohibit others from engaging in:

- a. reproduction of Phonograms by any means or in any forms;
- b. distribution of original of Phonograms or of copies;
- c. rental of copies of Phonograms to the public; and
- d. making available, by wire or wireless means, of Phonograms to public access.

(3) The distribution as referred to in section (2) point b is not applicable to copies of performance Fixation that have been sold or whose ownership have been transferred by the Producer of Phonogram to other parties.

(4) Every Person exercising the economic rights of Producer of Phonogram as referred to in section (2) must obtain permission from the Producer of Phonogram.

		<p>ministry of communication and information, Police Department, as well as from e-commerce companies and education institutions.</p> <p>c) No full-time professional manager at LMKN.</p> <p>d) Too many CMOs</p> <p>e) Division of work between LMKN and CMOs not clear.</p> <p>f) Too easy to form a CMO.</p> <p>g) Communications with LMKN.</p>	<p>the copyrighted works receive due economic returns.</p> <p>c) Funds should be sought from both domestic as well as international partners to cover the salary of a full-time LMKN professional manager.</p> <p>d) A full evaluation of the potential of each new CMO must be conducted before issuance of a permit for any new CMO.</p> <p>e) Demarcation of management responsibilities should be further clarified.</p> <p>f) Change regulations on how CMOs should be set-up.</p> <p>g) Change regulations to ensure LMKN Commissioners appointed are qualified professionals in relation to CMOs.</p>
3.	User group specific	<p>a) Many users do not want to pay royalties.</p> <p>b) Students, educators, lecturers, libraries, research institutions, especially those who use copyrighted works by duplicating do not realise that they must pay compensation for such duplication.</p> <p>c) No coordination of different user groups that are to be licensed.</p> <p>d) RRO unable to commence licensing without appropriate regulations in place, and without engagement of government agencies responsible for educational licensing.</p>	<p>a) The government must intervene through the state police and Directorate General of Intellectual Property officers. The Governor and the Mayor must issue regulations so that users are obliged to pay royalties if they use songs and music.</p> <p>b) Relevant authorities on copyright should be aware of the situation and educate users to respect copyright for copying by continuous campaigning on the importance of respecting copyright. Where the user group is a government agency (e.g., Education Ministry), the Director General of IP should work with other government depts in order to ensure that obligations under the various treaties are met. Development of action plans between the respective departments and regular reporting on progress will encourage more effective and efficient collective management systems.</p> <p>c) There should be an agreement on who collects what from which user groups amongst the CMOs.</p>

			<p>d) Where the user group is a government agency (e.g., the education ministry), DGIP should work with other government departments to ensure that obligations under the various treaties are met. Development of action plans between the respective departments and regular reporting on progress will encourage more effective and efficient collective management systems.</p>
4.	CMO member related	<p>a) All CMOs have joined the National Collective Management Organization with a one-gate system.</p> <p>b) Only a few CMO members have an issue with their CMO that their works are duplicated without getting compensation and there are a limited number of prominent individual writers as members for this reprographic CMO.</p> <p>c) Double registration of members in CMOs.</p>	<p>a) This relationship needs to be maintained.</p> <p>b) Such CMO members may unite forces with the relevant CMO for the rights to their duplicated works and more individual members should be encouraged to join the reprographic CMO.</p> <p>c) LMKN needs to have the complete list of members in each CMO to cross-check membership database between 11 CMOs to ensure that there are no double or overlapping membership registrations.</p>
5.	Digital licensing	<p>a) CMO related rights do not get digital royalties.</p> <p>b) Works that are in digital form are very easy to obtain without the copyright owners' permission and without payment of compensation.</p> <p>c) Difficult task to explain to potential users on the difficulty in monitoring and identifying digital use.</p> <p>d) Unregulated and no clear reporting.</p> <p>e) Multi-territory licensing.</p>	<p>a) CMO related Rightholders to unite forces to obtain digital licensing rights in relation to usage by online platforms and LMKN needs to assist with this.</p> <p>b) Users must be made aware that digital works still have their owners, so if a work is to be reproduced there must be a license and payment of compensation.</p> <p>c) There should be more educational events to create awareness.</p> <p>d) There needs to be regulations determining the scope and responsibilities in this area.</p> <p>e) Licensing should be territory based via respective local CMOs.</p>

6.	Regional and/or global (cross-border) licensing	a) Many users do not understand that the work they are duplicating violates the copyright of both local and international creators.	a) All institutions, both private and government, as well as ministries related to copyright in the field of literacy, must not avoid following, understanding, and implementing copyright laws. The copyright law is a country's compliance with global copyrights. By doing so they will ensure students and public users follow the law as well, where for every duplication there is compensation to the rightsholder.
7.	Political	a) Copyright infringement literacy is not a priority issue for the legislature (people's representative council), police department, educational institution, library, ministry of education, compared to the issues of narcotics, corruption, and sexual harassment, for example. b) Royalty matters may be unduly impacted by political considerations.	a) It is important to international meetings for reprographic CMO members so that each country prioritizes the copyright rights of the creators and makes every user of copyrighted works (students, private institutions, and governments) compensate for the reproduction of copyrighted works. There should be greater focus on rights of authors and publishers and the increased threats from piracy generally and unauthorised use, particularly in education. b) Consider appointing people with appropriate qualifications and who demonstrate genuine passion for copyright royalties.
8.	Others	-	-

D. Lao PDR

Nil response.

E. Malaysia

	<u>Cluster</u>	<u>Challenges</u>	<u>Recommendations</u>
1.	Legislative and/or Regulatory	a) Insufficient stakeholder consultation in terms of comprehensiveness. b) Grey area in the Malaysian Copyright Act that doesn't	a) Consult with the stakeholders on any new proposed legislative provision to improve transparency, efficiency, and effectiveness of regulation. Regulatory body

		<p>specifically describe fair dealing categories.</p> <p>-</p> <p>c) 2 years CMO renewal declaration.</p> <p>d) Limited 50 years protection for copyright.</p>	<p>will have to consider the interest of all stakeholders. In doing so, the public consultation conducted must be clear and concise and not merely set the general outline of the proposed legislative exercise.</p> <p>b) Need to include more specific fair dealing provisions in regulations.</p> <p>c) Remove need for CMO renewal declaration.</p> <p>d) Increase copyright protection duration to 70 years.</p>
2.	CMO institutional	<p>a) Emergence of royalty-free music operators that provide subscriptions of pre-loaded background music.</p> <p>b) Awareness raising in educational ministries and institutions.</p>	<p>a) The government should intervene to ensure that such third-party profit-making entities (which offer so-called royalty-free music by charging subscriptions for devices or other items but that are essentially including licences for public performances of music) are subject to the same regulatory supervision and control as for CMOs.</p> <p>b) Increased involvement of CO with other government agencies, particularly education, who are key to effective licensing in the text and image sector.</p>
3.	User group specific	<p>a) A number of user groups has been unable to cooperate in terms of license fee and licence condition. A certain sector of the user group has also been demanding the government to set up a one-stop shop centre for CMOs to be consolidated. This has led to the Government being pulled into the matter resulting in uncertainties on the CMO's upcoming operation.</p> <p>b) Request for one-stop shop.</p> <p>c) RRO unable to commence licensing without engagement of government agencies responsible for educational licensing.</p>	<p>a) User group must use the proper avenues such as the Copyright Tribunal for dispute negotiation on license fee and tariffs.</p> <p>b) CMOs for the different categories of rights within the same industry (music) should not be compelled by legislation to come together for joint licensing. Any joint licensing must be arrived at voluntarily and based on terms and conditions agreeable to all relevant parties after taking into consideration relevant applicable laws.</p> <p>c) Where the user group is a government agency (e.g., the</p>

			education ministry), MyIPO should work with other government departments to ensure that obligations under the various treaties are met. Development of action plans between the respective departments and regular reporting on progress will encourage more effective and efficient collective management systems.
4.	CMO member related	<ul style="list-style-type: none"> a) Assisting members to monetise their musical works effectively on digital platforms. b) Proper membership database that has all information including usage and royalty distributions. c) Introduction of new and different CMOs (i.e., Music Rights Sabah Berhad and Music Right (Sarawak) Berhad) to manage the same category of rights. 	<ul style="list-style-type: none"> a) Collaboration with social media players such as Facebook, Meta, YouTube, etc. b) - c) There should only be 1 CMO to manage the same category of rights throughout Malaysia to avoid confusion. Having multiple CMOs in the same category of rights confuses users who may have to obtain more than one licence for the same category of rights, and also drives up licensing and compliance costs.
5.	Digital licensing	<ul style="list-style-type: none"> a) Rate setting. b) Tracking music use. c) Enforcement. d) Fragmentation. e) Copyright buyouts. 	<ul style="list-style-type: none"> a) – b) – c) – d) – e) –
6.	Regional and/or global (cross-border) licensing	<ul style="list-style-type: none"> a) Digital disruption from B2B to B2C. 	<ul style="list-style-type: none"> a) –
7.	Political	<ul style="list-style-type: none"> a) Possibility of political upheaval or interference. b) Creation of multiple CMOs for same rights. c) - 	<ul style="list-style-type: none"> a) To include special risk clauses for force majeure event to cover such instances. b) Maintain current position of CMOs (i.e., recording companies, songwriters & music publishers, and performers). c) To have greater focus on rights of authors and publishers and the increased threats from piracy generally

		and unauthorised use, particularly in education.
8. Others	-	-

F. Myanmar

	<u>Cluster</u>	<u>Challenges</u>	<u>Recommendations</u>
1.	Legislative and/or Regulatory	a) More statutory protection/clearer laws and regulations required. b) No Copyright Office.	a) For regulatory/government action. b) To establish the Copyright Office as soon as possible.
2.	CMO institutional	a) Weak institutions. b) Insufficient budget and support from official authorities. c) Poor acceptance and recognition of the users and people.	a) To build up institutions. b) To govern the CMOs in a more official way. c) To raise awareness about CMO institutions.
3.	User group specific	a) Weak monitoring systems to access user information (e.g., Restaurants, Bars, etc.)	a) To strengthen the CMO institutions to prevent infringements.
4.	CMO member related	a) Knowledge of the members about international practice is insufficient and they need to learn more.	a) To strengthen the CMO executive teams' and members' knowledge about international practices.
5.	Digital licensing	a) Capacity building and infrastructure reform. b) Cannot gain access to some foreign countries' companies who are committing infringements.	a) To build up capacity and reform infrastructure. b) To have support for the host country's CMOs (e.g., from Thailand) against such infringements.
6.	Regional and/or global (cross-border) licensing	a) Culture, practice, and adoption of regional or global practice. b) No regional or global organizations/CMOs that can support and understand the ground condition of the country (specific).	a) To build up. b) To have the support of regional or global organizations/CMOs that can understand the nature and context of the Myanmar music Industry.
7.	Political	a) Political willingness may be required to promote sectoral development. b) Unstable security condition for now.	a) To build up lobbying atmosphere. b) -
8.	Others	-	-

G. Philippines

	<u>Cluster</u>	<u>Challenges</u>	<u>Recommendations</u>
1.	Legislative and/or Regulatory	<p>a) One reprographic CMO proposed Extended Collective License (ECL) as part of the amendment to the IP Code. The proposal was opposed in Congress. We need ECL for the license agreement (LA) with the government through the Department of Education. This will allow the LA to cover for a wider range of Rightholders. And this is the main reason why its license agreements with the government were hampered.</p> <p>b) There remains no clear ruling on the CMO's tax-exempt status notwithstanding the fact that it is a non-profit and only deducts actual expenses and contribution for the socio-cultural fund. Many judges and prosecutors are also still not familiar with certain intellectual property rights, particularly the public performance right. There are instances when judges and prosecutors are even surprised (and not convinced) that a license is necessary for public performance.</p> <p>c) No implementation of legislative acts or rules & regulations for the Beijing Treaty on Audiovisual Performances (BTAP), to which the country has acceded. No clear laws that would help enforce remuneration rights for music performers.</p> <p>d) More than one CMO per rights category.</p> <p>e) Difficult economic and pandemic effects.</p>	<p>a) To engage with legislators under the new administration to re-file the ECL in Congress.</p> <p>b) It is hoped that more training sponsored by WIPO specifically covering the nature of CMOs as non-profit and the matter of licensing for music would be conducted.</p> <p>c) To continue working with the IP Office for the release of the Implementing Rules, and to lobby for the amendment of the IP Code.</p> <p>d) To adopt a one CMO per rights category to avoid confusion and adversity among Rightholders and with users.</p> <p>e) To have more flexible rates and terms.</p>
2.	CMO institutional	<p>a) One CMO has been negotiating with the Department of Education, its main licensee, for the LA since</p>	<p>a) To apply for a grant or soft loan from relevant IF and other international agencies because there is no agency in the</p>

		<p>May 2020 and due to lack of remuneration, it may have to close its operations soon if the negotiations with the Department of Education continue to drag on.</p> <p>b) The existence of several CMOs administering the same neighbouring or related rights and the lack of a one-stop shop appears to be causing confusion or inconvenience in the market. Many foreign CMOs are also directly licensing in the country despite the legal requirement that only accredited CMOs can license the copyright usage in our territory. It should be noted that some Rightholders are opting to go through non-accredited CMOs abroad to avoid paying local taxes and so while digital IP revenue has been exponentially increasing in the country, the local tax collection has not grown as much.</p> <p>c) Severe lack of funds due to the inability of the CMO to collect for audiovisual performers due to absence of implementing regulations for the BTAP.</p> <p>d) Lack of priority from regulators.</p>	<p>country that it can approach to support its operations.</p> <p>b) To amend legislation (R.A. 8293) to impose sanctions on the unaccredited societies/entities as well as the Digital Service Providers (DSPs) which entered into illegal transactions with the non-accredited CMO (for example, by making them pay 100% of what they paid to the non-accredited CMO to the government), or, if accreditation is removed, make the DSPs a withholding agent to ensure local taxes are collected.</p> <p>c) Assistance from the government and from overseas organizations in the form of grants and subsidies.</p> <p>d) To lobby harder in Congress.</p>
3.	User group specific	<p>a) The education sector is the largest reprographic user of copyrighted works. Government directives relating in this sector have had a detrimental effect on the RRO's ability to operate.</p> <p>b) Networks and other users are waiting for the Implementing Rules for the BTAP.</p> <p>c) Recorded music users are confused by the multiple CMOs per right category.</p> <p>d) Economic conditions make it harder for CMOs to collect fees.</p>	<p>a) Where the user group is a government agency (e.g., the education ministry), IPOPHIL should work with other government departments to ensure that obligations under the various treaties are met. Development of action plans between the respective departments and regular reporting on progress will encourage more effective and efficient collective management systems.</p> <p>b)</p> <p>c) IPOPHIL to release the Implementing Rules and amend of the IP Code.</p> <p>d) To adopt a one CMO per rights category to avoid confusion</p>

			and adversity among Rightholders and with users. e) To have more flexible rates and terms.
4.	CMO member related	a) Local audiovisual artists are discouraged by producers and artist managers to sign up with the CMO; Local music artists are being discouraged by sound producers to join a particular performers CMO.	a) For audiovisual remunerations, implement rules or legislation to adopt BTAP provisions.
5.	Digital licensing	<p>a) The RRO manages the digital reproduction rights of its members, but the introduction of an extended collective licensing scheme would significantly simplify and improve the digital licensing framework for text/image-based works in the Philippines.</p> <p>b) Asian countries are facing the challenges of fragmented licensing. The lack of extended collective licensing (or a similar mechanism) compounds the problem as there is ironically now a case where major digital services are not refusing to secure a license but are having difficulty in securing a license. All of them cannot get a 100% license even if they are willing to pay for it already, and so they either opt not to operate here, offer limited content only, or risk playing all their content and just hope all claims will be settled later.</p> <p>c) Sound producers collect from digital use but do not claim they only collect for mechanical rights; the performers' right to remuneration from digital use is not recognized.</p> <p>d) Difficult to monitor music usage for the purpose of royalty distribution to CMO members.</p>	<p>a) To pass through ECL legislation in Congress for implementation.</p> <p>b) There should be a mechanism that would readily allow a DSP to secure a 100% license. The solution can be extended collective licensing but subject to the following conditions: (1) there is an opt-out option for any Rightholder who does not want to be covered but they need to provide their complete list of works to the ECL licensor (in which case the DSP can now deal with that person or entity for the licensing of those works), (2) the society doing the ECL must be obligated to exert effort to find and pay the Rightholders of the residual works by at least maintaining a public database where the unmatched or unidentified works can be accessed and claimed by the public (in which case the claimant can make the claim and either apply to be a member or exercise his/her option to opt out from ECL), and (3) if after 3 years the royalties for a non-member is not claimed, the corresponding royalty will be turned over to the government (to preferably fund copyright related projects or events).</p> <p>c) –</p> <p>d) To introduce mandatory cue sheets submissions from users.</p>

6.	Regional and/or global (cross-border) licensing	<p>a) Unaccredited foreign societies and rights management entities are directly licensing in the territory and avoiding taxation.</p> <p>b) Not all countries in Asia have laws on neighbouring rights or enforce such rights, only a handful do.</p> <p>c) Lack of uniformity.</p>	<p>a) To amend the law (R.A. 8293) to impose sanctions on the unaccredited societies/entities as well as the Digital Service Providers (DSPs) which entered into illegal transactions with the non-accredited CMO (for example, by making them pay 100% of what they paid to the non-accredited CMO to the government), or, if accreditation is removed, make the DSPs a withholding agent to ensure local taxes are collected.</p> <p>b) A regional campaign by recognized IP groups to persuade other nations to recognize neighbouring rights.</p> <p>c) To have uniform rate cards.</p>
7.	Political	a) CMO business affected by media closure.	a) IP Office to intervene.
8.	Others	a) The political climate in the country is not particularly stable. The approval of proposed bills is very much dependent on who is in power and the CMO's connections to law makers.	a) International support in the proposal and passage of laws that would help the local CMOs and Rightholders in general.

H. Singapore

	<u>Cluster</u>	<u>Challenges</u>	<u>Recommendations</u>
1.	Legislative and/or Regulatory	<p>a) Section 197 of the Singapore Copyright Act allows for copying of up to 5% of works within 14 days. Users may take advantage of this and make separate 5% copies every 14 days.</p> <p>b) Overly restrictive law on the standing to sue for foreign musical works. Standard template of reciprocal agreements not recognised in Singapore as law distinguishes between infringing the right to licence and infringing the right to perform/ communicate/ reproduce the work. Leads to</p>	<p>a) To remove Section 197.</p> <p>b) Give CMOs the right to sue in their own name.</p> <p>c) To give decisions of the Copyright Tribunal similar enforceability as Court Orders.</p>

		difficulty in copyright infringement actions. c) Difficulty in enforcing tariff rates set by Copyright Tribunal without Court intervention.	
2.	CMO institutional	–	–
3.	User group specific	–	–
4.	CMO member related	–	–
5.	Digital licensing	a) Fragmentation of rights. Diminishing value of musical works in digital services.	a) Singapore is a small country that consumes more foreign music than local music. There is little the CMO can do on this front.
6.	Regional and/or global (cross-border) licensing	a) Fragmentation of rights. Diminishing value of musical works in digital services.	a) Singapore is a small country that consumes more foreign music than local music. There is little the CMO can do on this front.
7.	Political	–	–
8.	Others	–	–

I. Thailand

	<u>Cluster</u>	<u>Challenges</u>	<u>Recommendations</u>
1.	Legislative and/or Regulatory	a) Absence of Voluntary Code of Conduct.	a) Need to support the good CMOs and seriously take legal action against CMOs committing fraud, discrimination, unfair treatment, and incorrect distribution.
2.	CMO institutional	–	–
3.	User group specific	–	–
4.	CMO member related	–	–
5.	Digital licensing	–	–
6.	Regional and/or global (cross-border) licensing	–	–
7.	Political	–	–
8.	Others	–	–

J. Viet Nam

	<u>Cluster</u>	<u>Challenges</u>	<u>Recommendations</u>
1.	Legislative and/or Regulatory	<p>a) –</p> <p>b) Faced with many difficulties by some regulations on rights limitation but there is no mechanism to ensure adequate remuneration for the authors; users abuse regulations on rights limitation and "use first, pay later" agreement mechanism to delay and make licensing difficult.</p> <p>c) -</p>	<p>a) The Law on Related Rights needs to be passed in detail.</p> <p>b) It is necessary to issue strict regulations to ensure the legitimate benefits that the authors deserve, and to prevent infringing acts of users.</p> <p>c) The information required to be provided to authorise the fees charged by a CMO should be clearly set out under regulations.</p>
2.	CMO institutional	<p>a) Lack of human resources with intensive training in the field of copyright. Lack of technological support to process work use data.</p>	<p>a) –</p>
3.	User group specific	<p>a) Need for clearer, more coherent public understanding of related rights.</p> <p>b) Users use the work for live performance: taking advantage of the non-mandatory administrative regulations on copyright when applying for a performance license, to avoid asking for permission & paying for copyright. A group of broadcasters abuses the "no permission just pay" rule to delay payments and pay low fees. Groups performing background music at hotels, restaurants and cafes take advantage of the related rights regulations to not ask permission before using it, causing serious damage to the rights and interests of the authors.</p> <p>c) -</p>	<p>a) To increase awareness.</p> <p>b) There should be a document directing the local authorities to strengthen the enforcement, supervision, inspection, and sanction, requesting the user units to fully fulfil their obligations and responsibilities regarding copyright when show permission. There should be a provision that requires users to stop using if an agreement on the payment of license fees is not reached.</p> <p>c) Where the user group is a government agency (e.g., education ministry) the Director General of IP should work with other government depts in order to ensure that obligations under the various treaties are met. Development of action plans between the respective departments and regular reporting on progress will encourage more effective and efficient collective management systems.</p>
4.	CMO member related	<p>a) Members arbitrarily license, transfer rights, sell out (buy-</p>	<p>a) There should be more propaganda activities,</p>

		out) leading to legal conflicts and difficulty controlling rights, making licensing difficult.	disseminating copyright knowledge to Rightholders.
5.	Digital licensing	a) The digital field is growing rapidly, with high usage volume, posing challenges to data processing, pressure on CMOs to increase data processing capacity by investing in technology to keep up with the speed of development.	a) –
6.	Regional and/or global (cross-border) licensing	a) The digital rights database is gradually shrinking (because many CMO members withdraw their digital rights to self-manage) leading to the CMO's licensing capacity in cross-border platforms is also limited. The fact that international Rightholders grant cross-border permits to the territory will cause a loss of tax revenue for the state, since transactions are made directly between Rightholders residing in the country. Foreigners and users residing abroad but exploiting services in the country.	a) The state should have regulations restricting or preventing international Rightholders who do not reside in the territory from having the right to license and collect money directly in the territory. Licensing and collection of money in the territory must be carried out by a unit based in the territory to avoid loss of tax revenue for the state.
7.	Political	a) –	a) To have greater focus on rights of authors and publishers and the increased threats from piracy generally and unauthorised use, particularly in education.
8.	Others	–	–

Part 2 – Recurring Themes in CMO Responses

1.	Legislative and/or Regulatory	<ul style="list-style-type: none"> - Clearer laws and regulations required. - More relevant support and enforcement from policy makers and regulators needed. - Where the user group is a government agency, the CO needs to work with the relevant governments to ensure that policies are effectively supported. - Government intervention required to effect change to address piracy issues.
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2.	CMO institutional	- Need for capacity development/building.
3.	User group specific	- Need to increase public awareness to support compliance.
4.	CMO member related	- Need to improve knowledge of members about international practices and ensure avoidance of overlapping grant of rights.
5.	Digital licensing	- Fragmentation of rights and lack of uniformity. - Difficulties in monitoring and enforcement.
6.	Regional and/or global (cross-border) licensing	- Lack of clarity and cohesion/uniformity. - Difficulties in monitoring and enforcement.
7.	Political	- Need for political will to support sectoral development.
8.	Others	- Nil.

Part 3 – Brief Analysis

The recurring themes above provide a useful summary of areas which could be focused on for the development of programmes to improve the ASEAN CMO framework.

It is however important to take into account the following when reviewing the individual CMO responses above (in respect of challenges that they face and their recommendations thereto):

A. The developmental context of each country, and different industries and sectors

The AMS exist on separate points along a spectrum of economic development and some challenges that are faced in one country would not be an issue in another.

B. Possible limited viewpoints

Some responses appear to come from viewpoints which may have been caused by a degree of limited exposure to global rights management practices.

It can be further be observed that CMOs in the reprographic or text/image-based sector for literary and artistic works (with the exception of CLASS) in the region are largely less developed than CMOs from the music sector. Some of the key differences between these 2 categories of CMOs include:

- (a) music CMOs license primarily in the commercial sector and generally receive CO/government support with enforcement and other matters whilst reprographic CMOs license primarily in the educational sector which are predominantly government enterprises where the level of awareness raising and enforcement may not be the same.
- (b) this 'government as user' relationship tend to result in reprographic CMOs being more affected by changes to government policy including where governments determine whether to provide fees for educational use at both legislative (i.e. inclusion of suitable provisions) and practical levels (i.e. departmental budgets).

11. General Conclusions

The information and documentation obtained as a result of this Study exercise (the CMO questionnaire comprising 250 base questions and the CO questionnaire comprising 61 base questions with follow-up and support from all involved parties over the period of March 2022 to March 2023) and as collated and summarised herein indicate that there are significant differences in regulatory and CMO development levels amongst the ASEAN countries.

This Study and its accompanying documentation is intended to serve as a reference point for all relevant stakeholders and a Copyright and Related Rights Collective Management Resource Document for the ASEAN region, both to be read as publications complementary to the Toolkit.

12. Annexures

1. Standard questionnaire issued to AMS COs
2. Standard questionnaire issued to AMS CMOs
3. AMS legislation, regulations and codes of conduct directly related to CMOs
4. AMS CMO related case law

ANNEXURE 1

Standard Questionnaire issued to Copyright Offices of ASEAN Member States

ASEAN Copyright and Related Rights Collective Management Study 2022
Questionnaire for Copyright Offices/Intellectual Property Offices (“COs”)

A. GENERAL INFORMATION

1.	Country of CO	
2.	Official name of CO	
3.	Name(s) and designation(s) of person(s) completing this questionnaire	

B. GENERAL FRAMEWORK OF COLLECTIVE MANAGEMENT SYSTEMS

1.	<p>What is the regulatory framework that establishes Collective Management Organizations (“CMOs”) for copyright and related rights in your country?</p>	<p><input type="checkbox"/> a. International, regional and/or free trade agreements; Please identify:</p> <p><input type="checkbox"/> b. Legislation, regulations and/or administrative orders Please identify:</p> <p><input type="checkbox"/> c. Landmark case-law Please identify:</p> <p><i>IMPORTANT: For items b. and c. above, please provide a digital copy of the prevailing version, wherever available, in the English language and if not available, please share the same in your country’s official language in Microsoft Word document format (if possible) for translation application purposes.</i></p>
2.	What type of organizations are the CMOs in your country?	<input type="checkbox"/> Government bodies

		<input type="checkbox"/> Public-private organisations <input type="checkbox"/> Private entities <input type="checkbox"/> Others, please describe:
3.	Describe the main characteristics for all or the majority of such CMOs.	a. Level of autonomy: <input type="checkbox"/> High <input type="checkbox"/> Low b. Profit motive: <input type="checkbox"/> Not for profit <input type="checkbox"/> For profit c. Official authorisation: <input type="checkbox"/> Required <input type="checkbox"/> Not required d. Others, please describe (<i>if any</i>):
4.	If not all these CMOs share the same main characteristics as described in the answers to Question B.3 above, please describe the variations.	a. Level of autonomy: <input type="checkbox"/> High <input type="checkbox"/> Low b. Official authorisation: <input type="checkbox"/> Required <input type="checkbox"/> Not required Others, please explain reasons for variations (<i>if any</i>):
5.	Are there any forms of collective management in your country that are prohibited by law or not authorized to operate by the competent authority	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
6.	Does the regulatory framework for CMOs in your country exclude the possibility of individual management of rights?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
7.	Is there a monopoly of one CMO to manage the same rights?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, is it <i>de facto</i> (a situation in fact, but that is not officially sanctioned) or <i>de jure</i> (in accordance with law)? <input type="checkbox"/> <i>De Facto</i> <input type="checkbox"/> <i>De Jure</i> If yes, please provide details:

8.	Does more than one CMO managing the same types of rights exist in your country?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, is it <i>de facto</i> or <i>de jure</i> ? <input type="checkbox"/> <i>De Facto</i> <input type="checkbox"/> <i>De Jure</i> If yes, please provide details:
9.	If there is competition among CMOs, is the entry of a competitor under the same rules or under special requirements?	<input type="checkbox"/> Same rules <input type="checkbox"/> Special requirements If special requirements, please provide details:
10.	What system is collective rights management based on in your country?	<input type="checkbox"/> Voluntary <input type="checkbox"/> Compulsory (<i>where the law prescribes that a given right can only be exercised through collective management</i>) <input type="checkbox"/> Extended (<i>where the law provides that a license granted by a CMO for the use of works or other objects of rights holders who have voluntarily joined the organization is valid also for the use of works and other objects of other rights holders</i>) <input type="checkbox"/> Mixed systems, please describe:
11.	Are CMOs in your country subject to general antitrust regulations?	<input type="checkbox"/> Yes <input type="checkbox"/> No
12.	Are there any special rules governing CMOs in this regard?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:

C. ORGANISATION OF CMOS

1.	Are copyright and related rights managed by the same CMO or by different entities?	<input type="checkbox"/> Same CMO <input type="checkbox"/> Different Entities
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2.	In your country, are there different CMOs for different types of works or other objects of protection (e.g., literary, musical, music, visual arts, audiovisual)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.	Is there any type of work that is not managed by a CMO?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
4.	Is there a centralized (one-stop) system?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe how it operates:
5.	Do any of the CMOs have different purposes and objectives in addition to copyright management?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please indicate such additional purposes and objectives below: <input type="checkbox"/> Collaboration with tax and/or customs authorities If yes, please name the CMO(s): <input type="checkbox"/> Streaming or internet service providers If yes, please name the CMO(s): <input type="checkbox"/> Social and cultural purposes If yes, please name the CMO(s): <input type="checkbox"/> Others, please describe: If yes, please name the CMO(s):
6.	How are the aims and objectives of CMOs established?	<input type="checkbox"/> By private sector rules <input type="checkbox"/> By statute If not all CMOs share the above answer, please describe what the variations are and the reasons for such variations:
7.	Can the CMO's governing body set new objectives?	<input type="checkbox"/> Yes <input type="checkbox"/> No

		If not all CMOs share the above answer, please describe what the variations are and the reasons for such variations:
8.	In your legal system, are the activities of the CMO restricted by regulations or statutes?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details: If not all CMOs share the above answers, please describe what the variations are and the reasons for such variations:

D. GOVERNANCE OF CMOS

	<u>Regulatory</u>	
1.	Are there any legal provision that grants a CMO the authorization to carry out its functions?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
2.	Is there an agency of government charged with the responsibility to issue such authorization?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the name:
3.	What is the duration of the authorization issued to the CMO by the competent authority (if any)?	
4.	Is the authorization renewable?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what is the duration of the renewal:
5.	Does the regulator have the power to deny any application for authorization to operate as a CMO?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:
6.	What would make the regulator deny a company an operating license or refuse a CMO a renewal?	

7.	Are there existing procedures that a company or a CMO can explore if dissatisfied by the regulator's decision to withdraw an approval or refuse a renewal?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:
8.	Does applicable local law provide for mandatory collective management or extended collective licensing?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain for which types of works and rights:
Corporate		
9.	In your country, are there regulatory or statutory criteria for defining the participation of CMO members in the election process for CMO board members?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details (<i>e.g. criteria/weightage of contribution to the CMO's represented works, etc.</i>):
10.	In your country, are there regulatory or statutory criteria for the roles and qualifications of the CMO authorities/board members?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details (<i>including term/duration of elected office</i>):
11.	Does your national legislation provide for special rules on transparency in the governance and administration of CMOs?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
12.	Do the CMOs in your country have public, transparent and auditable procedures for the core aspects of CMOs' operations?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please confirm whether with respect to: <input type="checkbox"/> User identification <input type="checkbox"/> Financial statements <input type="checkbox"/> Documentation of represented works/rights <input type="checkbox"/> Licensing and collection <input type="checkbox"/> Distribution of royalties <input type="checkbox"/> Others, please describe:

13.	Do CMOs include internal or external technical advisory systems for the adoption/implementation of their decisions?	<input type="checkbox"/> Yes <input type="checkbox"/> No
14.	If the CMOs are private, are there any internal or external evaluation and auditing (“oversight”) mechanisms?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please confirm whether: a. <input type="checkbox"/> Statute based <input type="checkbox"/> Private sector standard based b. <input type="checkbox"/> Internal <input type="checkbox"/> External c. <input type="checkbox"/> Independent <input type="checkbox"/> Non-independent
15.	Are there communication channels for a CMO to know the opinion of its members?	<input type="checkbox"/> Yes <input type="checkbox"/> No
16.	What types of expenses are allowed as deductions from the CMO's income?	<input type="checkbox"/> Social <input type="checkbox"/> Cultural <input type="checkbox"/> Educational <input type="checkbox"/> Others, please describe:
17.	Is there any legal or statutory limitation on the percentage of administrative expenses to income collected?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details (<i>including on whether there are any mechanisms in place to normalize the situation if the CMO's administrative expenses exceed the legal or statutory percentage</i>):
18.	Are there any regulatory or statutory mechanisms governing the management of undistributed funds and/or the deduction of social, education and/or cultural contributions from CMO revenue??	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:

E. RELATIONSHIPS WITH RIGHT HOLDERS

1.	How are the relationships between right holders (<i>of copyright and related rights</i>) and CMOs regulated (<i>e.g. membership requirements, type of rights entrusted, obligations of rights holders, systems that enable CMO members to exercise their rights by participating in CMO decision-making</i>)?	<input type="checkbox"/> By contract <input type="checkbox"/> By law <input type="checkbox"/> By a combination of both If by law or a combination, please provide details:
2.	Are there any regulations governing the relationship of CMOs with their members including on any of the areas below? a. membership requirements b. obligations of rights holders c. kind of rights are entrusted, assigned, or transferred to the CMO d. systems that enable CMO members to exercise their rights by participating in CMO decision-making e. information that CMOs must provide to rights holders on the management of their rights f. scheme for the distribution of CMO royalties to rights holders g. distribution according to a parameter of effective use h. public procedure for the distribution of royalties (e.g., including deadlines, payment modalities)	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details (select from the list of a - h, or describe if you cannot find your option in the list):
3.	Are there regulatory or statutory provisions allowing CMOs to grant loans or advances to members?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details (<i>including on the procedure and who may be beneficiaries</i>):
4.	Is a CMO member free to resign from one CMO and join another?	<input type="checkbox"/> Yes <input type="checkbox"/> No If the answer is Yes, do applicable laws or regulations provide for a reasonable notice period? <input type="checkbox"/> Yes <input type="checkbox"/> No

5.	Do any legal, regulatory, or other mechanisms exist in your country to address conflicts between CMO members and CMOs?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
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F. RELATIONS WITH USERS

1.	How do users interact with - the CMO? For example, through their trade associations in negotiation processes, through mandatory legal negotiation procedures, through license negotiations.	<input type="checkbox"/> Via user trade associations in negotiation processes <input type="checkbox"/> Via mandatory legal negotiation procedures <input type="checkbox"/> Via contractual licence negotiations <input type="checkbox"/> Others, please describe:
2.	Are there any legal provisions (specific or antitrust) that regulate the determination of CMO tariffs?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
3.	Are there any dispute resolution systems and/or arbitration/mediation mechanisms in relation to CMO tariffs?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
4.	Is there any information or data available to your country's regulators regarding the methodology for CMO tariff construction?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
5.	Is there any legal (statutory or regulatory) obligation for CMOs to contract with users?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6.	If such an obligation to contract exists, is there an exception or limit to this obligation?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
7.	Is there any legal obligation on users to provide information to CMOs?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:

G. RELATIONS WITH OTHER CMOs, INCLUDING FOREIGN CMOs

1.	Is there any interaction between different national CMOs (<i>e.g. strategic alliances</i>)?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
2.	Are foreign CMOs allowed to operate legally in your country?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
3.	Are there any legal, regulatory, or statutory provisions which allow the local CMO to collect for unrepresented rights holders and further regulate the destination of such revenues?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
4.	Are there dispute resolution mechanisms in case of disagreement on payment amounts between CMOs?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
5.	Are there any entities including independent management entities (which are operating rights management businesses, but different from CMOs, they are for-profit and controlled by shareholders, not by rights holders) which operate in competition with the CMOs, without regulatory or other government oversight?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:

H. LEGAL REMUNERATION FOR PERMITTED USES OF COPYRIGHT

1.	Does your national legislation provide for the right to remuneration for permitted copying with compensation?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details (<i>including on how the amount of remuneration for permitted copying with compensation is set and how are these recipients determined</i>):
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I. GENERAL ISSUES

1.	Has your country faced any issues with digital rights management challenges faced by CMOs?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
2.	Are there any areas and/or issues involving CMOs in which your country may wish to have international and/or regional best practice guidance and reference?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:

ANNEXURE 2

Standard Questionnaire issued to CMOs in ASEAN Member States

ASEAN Copyright and Related Rights Collective Management Study 2022

Questionnaire for Collective Management Organisations (“CMOs”)

* Please indicate “NA” where answers are not applicable e.g. historical data for new CMOs.

J. GENERAL INFORMATION

4.	Country of CMO	
5.	Name of CMO	
6.	Name(s) and designation(s) of person(s) completing this questionnaire	
7.	Nature of CMO	<input type="checkbox"/> Government body <input type="checkbox"/> Not-for-profit <input type="checkbox"/> Public-private organisation <input type="checkbox"/> For-profit <input type="checkbox"/> Private entity <input type="checkbox"/> Other nature, please describe:
8.	Legal Form of CMO	<input type="checkbox"/> Private Limited Company <input type="checkbox"/> Public Company Limited by Guarantee <input type="checkbox"/> Association <input type="checkbox"/> Foundation <input type="checkbox"/> Other legal form, please describe:
9.	Year of Incorporation	

10.	Year of Regulatory Approval/Licence/Declaration						
11.	Number of CMO members						
12.	Works Managed by CMO	<input type="checkbox"/> Music	<input type="checkbox"/> Recordings	<input type="checkbox"/> Literary works	<input type="checkbox"/> Visual arts	<input type="checkbox"/> Dramatic/theatre works	<input type="checkbox"/> Audiovisual works
		If others, please specify:					
13.	Categories of Rights Managed by CMO						
14.	Number of Reciprocal Agreements Signed by CMO						
15.	Name and Contacts of CEO/GM of CMO						
16.	Total Number of CMO Staff						
17.	CMO Physical Address						
18.	CMO's contact details (telephone, email and website)						
19.	CMO Revenue (in local currency and USD as at May 2022)	<u>2019</u>		<u>2020</u>		<u>2021</u>	
		<u>Local Currency</u>	<u>USD</u>	<u>Local Currency</u>	<u>USD</u>	<u>Local Currency</u>	<u>USD</u>
	a. Broadcast/Communication to the Public Licensing						
	b. Public Performance Licensing						
	c. Digital Licensing (please provide details on type of licences issued and corresponding breakdown of revenue, if this portion is applicable)						
	d. Educational, Commercial and Government Reprographic Licensing (please provide details on type						

	of licences issued and corresponding breakdown of revenue, if this portion is applicable) d. Other Revenue (please provide details) Total					
20.	CMO cost of operations as percentage of annual revenue	<u>2019</u> (%)	<u>2020</u> (%)	<u>2021</u> (%)		
21.	CMO deductions (for social, cultural, educational, or other purposes) as percentage of annual revenue	<u>2019</u> (%)	<u>2020</u> (%)	<u>2021</u> (%)		

K. CMO DOCUMENTATION AND JURISPRUDENCE

	<p><i>IMPORTANT: Please provide a digital copy of the prevailing version(s) of the following documents in the English language (wherever available), and if not available, please share the same in your country's official language.</i></p> <p><i>For documents which are not in the English language and for translation application purposes, please share a copy in <u>Microsoft Word document format wherever possible.</u></i></p>	
15.	Constitution/Memorandum and Articles of Association * Please note that it is a minimum requirement to provide this document.	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:
16.	Board Charter/Governance Policies/Code of Conduct	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:
17.	Licensing Operations Manual	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:
18.	Membership Policy	<input type="checkbox"/> Available <input type="checkbox"/> Not Available

		Name of Approving/Adopting Body:
19.	Right Holder Data Management Policy	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:
20.	Royalty Distribution Policy	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:
21.	Member/Right Holder Dispute Resolution Procedures	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:
22.	Tariff Setting Policy	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:
23.	Tariffs	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:
24.	User Dispute Resolution Procedures	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:
25.	Market Study/Survey Reports (from the past five years)	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:
26.	Landmark Caselaw	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:
27.	Policy regarding representation arrangements with foreign CMOs	<input type="checkbox"/> Available <input type="checkbox"/> Not Available Name of Approving/Adopting Body:

L. CORPORATE GOVERNANCE

9.	Does national law or the statute of the CMO provide for a dual board system?	<input type="checkbox"/> Yes <input type="checkbox"/> No
10.	Which body exercises supervisory functions?	<input type="checkbox"/> The General Assembly/Meeting <input type="checkbox"/> Others, please state:
	<u>Board</u>	
11.	What is the composition (in terms of numbers) of the CMO's Board?	
12.	How is the Board constituted (in terms of rights representation membership categories)?	
13.	Is the CMO (and its Board) controlled by the members it represents?	<input type="checkbox"/> Yes <input type="checkbox"/> No If no, please elaborate :
14.	What is the nature of Board membership?	<input type="checkbox"/> Non-executive <input type="checkbox"/> Executive <input type="checkbox"/> A combination of both
15.	Who qualifies to become a Board member?	
16.	Are the conditions to become a Board member set in the CMO's constitution/memorandum and articles of association and made available to the public?	<input type="checkbox"/> Yes <input type="checkbox"/> No
17.	How many times does the CMO Board meet in a year?	
18.	How many days' notice must be given for the CMO to call a Board meeting?	

19.	What is the tenure of the CMO Board members?	
20.	Is there a provision for a representative of the regulator or competent authority to be represented on the Board of your CMO?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please state in what capacity: If yes, please state whether: <input type="checkbox"/> By law <input type="checkbox"/> Via the statutes of the CMO
21.	Is the CEO/GM a member of the CMO Board?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please state whether: <input type="checkbox"/> With voting rights <input type="checkbox"/> Without voting rights
22.	Is the Head of Finance a member of the CMO Board?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please state whether: <input type="checkbox"/> With voting rights <input type="checkbox"/> Without voting rights
23.	Does the CMO Board have committees that are assigned specific tasks?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please name the committees:
24.	Does the CMO Board have a secretary?	<input type="checkbox"/> Yes <input type="checkbox"/> No
25.	Does the CMO Board have minutes register for documenting its deliberations and resolutions?	<input type="checkbox"/> Yes <input type="checkbox"/> No
26.	Does the CMO have independent directors on its Board?	<input type="checkbox"/> Yes <input type="checkbox"/> No
27.	Does the CMO have observers on its Board?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe:
28.	Is there a mechanism that allows the CMO Board to report its activities to the regulator?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, how state how often:

29.	Is there a mechanism that allows the regulator to audit the activities of the CMO?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please state how often:
30.	Does the CMO Board have a Code of Conduct or Board Charter that governs and regulates their conducts and their relationship with management?	<input type="checkbox"/> Yes <input type="checkbox"/> No
31.	Do the CMO Board members have to report annually on whether they have any conflict of interests?	<input type="checkbox"/> Yes <input type="checkbox"/> No
32.	Do the CMO Board members receive any remuneration for their role?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe the conditions for remuneration:
<u>Annual General Meetings ("AGM")</u>		
33.	What are the conditions to become a member of your CMO?	
34.	What are the functions of the AGM for your CMO?	<input type="checkbox"/> Approval of the general policies on distributions, deductions, and/or the use of non-distributable monies. <input type="checkbox"/> Approval of the annual financial report. <input type="checkbox"/> Appointments and dismissals of members of the board, and/or approval of their remuneration and other benefits. <input type="checkbox"/> Decision on the general investment policies. <input type="checkbox"/> Appointment of independent external auditors. <input type="checkbox"/> Approval of rules governing the functioning and proceedings of General Meetings. <input type="checkbox"/> Approval of the suspension of membership of Members, when appropriate. <input type="checkbox"/> Others (describe):
35.	How many times per year does the CMO hold its general meetings?	
36.	Has there been any year that the CMO failed to hold its AGM?	<input type="checkbox"/> Yes <input type="checkbox"/> No

		If yes, please give the reasons:
37.	Is there a provision in the CMO's constitution that allows for emergency general meetings (EGM)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
38.	How often does the CMO hold election or re-election of the Board members?	
39.	When was the last election for the Board members held?	
40.	Does every member have the right to vote, and do all members have the same voting power?	<input type="checkbox"/> Yes <input type="checkbox"/> No
41.	What are the criteria on which voting powers are determined (how are voting rights set or calculated)?	
42.	Is there a provision in the CMO's constitution for a member to be represented at the AGM by a proxy?	<input type="checkbox"/> Yes <input type="checkbox"/> No
43.	Is there a system or mechanism for the Board accountability to members? If so, provide brief details.	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide brief details:
44.	Has the CMO experienced governance issues with previous or incumbent Board?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what was (were) the issue(s) and how was(were) it(they) resolved?:
	Financial Reports	
45.	Which elements do your financial reports contain?	<input type="checkbox"/> A financial statement (e.g. a balance-sheet or a statement of assets and liabilities as well as an income and expenditure account for the financial year). <input type="checkbox"/> A report of the CMO's activities in that financial year; <input type="checkbox"/> A statement of rights revenue broken down per category of rights managed and per type of use (e.g. the total amount of rights revenue collected, but not yet attributed to right holders, and the total amount of rights revenue attributed but not yet distributed to right holders)

		<input type="checkbox"/> A breakdown of the cost of operation; <input type="checkbox"/> A breakdown of the deductions for the purposes of social, cultural and educational services in the financial year and an explanation of the use of those amounts, with a breakdown. <input type="checkbox"/> Information on the total amount of remuneration paid, and other benefits granted to, the persons who manage the business of the CMO and the Board members in the financial year; <input type="checkbox"/> A general statement in respect of the transactions between a CMO and each partner CMO with which it has a representation agreement (e.g. name of such partner CMOs, and the dates of the relevant contracts, total amount paid in the financial year to the partner CMOs, total amount received from the partner CMOs). <input type="checkbox"/> Others (describe):
46.	Does the CMO have an external auditor that audits its accounts?	<input type="checkbox"/> Yes <input type="checkbox"/> No
47.	How often does the CMO publish its audited financial reports?	
48.	Are the financial reports sent to every member of the CMO?	<input type="checkbox"/> Yes <input type="checkbox"/> No
49.	Do the CMO members get the financial reports before every AGM?	<input type="checkbox"/> Yes <input type="checkbox"/> No
50.	Apart from members, which other organisations or agencies does the CMO forward its audited financial reports to?	
	<u>Management</u>	
51.	Is the position of the CEO/GM a fixed-term? If yes, is this provided for in the CMO's Constitution, CMO Regulations, or decided upon by the Board or AGM?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, is this provided for: <input type="checkbox"/> in the CMO's constitution <input type="checkbox"/> via CMO Regulations <input type="checkbox"/> decided upon by the CMO Board or AGM

		<input type="checkbox"/> Others, please describe:
52.	Who appoints the CEO/GM?	
53.	What is the staff strength of the CMO? <ul style="list-style-type: none"> • Full-time • Part-time 	
54.	How many members of staff are employed in the licensing department?	
55.	Does the CMO have a centralised or decentralised licensing operations?	
56.	Does the CMO have any commission-based arrangements for licensing officers or agents?	
57.	Does the CMO regularly conduct audit of its licensing operations?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, when was the last audit done:
58.	Does the CMO have set policies, procedures, practices, manuals, or decisions approved by the Board that guides the CMO licensing operations?	<input type="checkbox"/> Yes <input type="checkbox"/> No
59.	Do you feel the management enjoys the required independence in managing the operations of the CMO?	<input type="checkbox"/> Yes <input type="checkbox"/> No If no, please explain:
	Transparency	
60.	Which documents does your CMO regularly publish to the general public (e.g. on its website)?	<input type="checkbox"/> Its Statute, membership terms and conditions. <input type="checkbox"/> Tariff information. <input type="checkbox"/> Its general distribution policy. <input type="checkbox"/> Its policy on deductions (such as any costs of operations, social, cultural or educational deductions) and the deducted amounts. <input type="checkbox"/> Its policy on the use of non-distributable rights revenue.

		<input type="checkbox"/> Its annual financial report (or, its annual accounts, including the total amount received and total amount distributed). <input type="checkbox"/> Its complaint and dispute resolution procedures; <input type="checkbox"/> A list of the persons who manage its business and who sit on its Board; <input type="checkbox"/> The total amount of remuneration paid, and other benefits provided to the persons who manage the business of the CMO <input type="checkbox"/> The rights revenue attributed, the amounts paid by the collective management organization per category of rights managed, and per type of use, for the rights it manages under the representation agreement, and any rights revenue attributed which is outstanding for any period. <input type="checkbox"/> Others (describe):
61.	Which documents does your CMO have an obligation to publish?	<input type="checkbox"/> Its Statute, membership terms and conditions. <input type="checkbox"/> Tariff information. <input type="checkbox"/> Its general distribution policy. <input type="checkbox"/> Its policy on deductions (such as any costs of operations, social, cultural or educational deductions) and the deducted amounts. <input type="checkbox"/> Its policy on the use of non-distributable rights revenue. <input type="checkbox"/> Its annual financial report (or, its annual accounts, including the total amount received and total amount distributed). <input type="checkbox"/> Its complaint and dispute resolution procedures; <input type="checkbox"/> A list of the persons who manage its business and who sit on its Board; <input type="checkbox"/> The total amount of remuneration paid, and other benefits provided to the persons who manage the business of the CMO <input type="checkbox"/> The rights revenue attributed, the amounts paid by the collective management organization per category of rights managed, and per type of use, for the rights it manages under the representation agreement, and any rights revenue attributed which is outstanding for any period.

		<input type="checkbox"/> Others (describe):
62.	By what body must the documents mentioned in question C.52 and C 53 have been adopted/approved?	<input type="checkbox"/> By the General Assembly/Meeting <input type="checkbox"/> By others, please state:

M. RELATIONS WITH MEMBERS AND RIGHT HOLDERS

19.	Does the CMO charge a registration fee for membership?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please state the amount in USD:.....
20.	Is the CMO allowed to collect for non-members (i.e. for rights that have not been assigned or mandated to it by right holders) ?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please confirm whether under: <input type="checkbox"/> Extended collective management <input type="checkbox"/> Mandatory collective management <input type="checkbox"/> Others, please describe: If under extended or mandatory collective management , please describe the legal provisions regulating the destination of revenue collected for non-members:
21.	How are the relationships between right holders and the CMO regulated?	<input type="checkbox"/> By contract <input type="checkbox"/> By law <input type="checkbox"/> By a combination of both
22.	Are there any rules available to members governing their relationship with the CMOs including on any of the areas below? i. membership requirements j. obligations of rights holders k. systems that enable CMO members to exercise their rights by participating in CMO decision-making	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe (select from the list a - g, or describe if you cannot find your option from the list):

	<p>l. information that CMOs must provide to rights holders on the management of their rights</p> <p>m. scheme for the distribution of CMO royalties to rights holders</p> <p>n. distribution according to a parameter of effective use</p> <p>o. public procedure for the distribution of royalties (e.g., including deadlines, payment modalities)</p>	
23.	Are there legal or contractual rules that determine what kind of rights are entrusted, assigned, or transferred to the CMO?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe:
24.	What are the rights the CMO is approved to manage on behalf of its members?	
25.	What are the methods implemented by the CMO to process distribution of royalties to members?	<input type="checkbox"/> Actual use <input type="checkbox"/> Sampling <input type="checkbox"/> Surveys <input type="checkbox"/> Split according to agreed shares (for a CMO that is a central collector for other CMOs in charge to distribute to their own members) <input type="checkbox"/> Others, please describe:
26.	Please describe particularly successful distribution methodologies (if any) which have been accepted by most if not all CMO members (<i>e.g. sampling methods to determine types of users and obtain log sheets based on scientifically designed 'users' demographics</i>).	
27.	Has the CMO distributed royalties since its inception?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, how was the distribution made? <input type="checkbox"/> Domestic <input type="checkbox"/> International <input type="checkbox"/> A combination of both

28.	What is the frequency of distribution?	
29.	Does the CMO communicate to individual right holder distributable amounts prior to distribution (e.g. by email or by other types of written communication)?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, which elements are communicated? <input type="checkbox"/> A statement of monies attributed to such right holder, including information on cost of operation and deductions and the amounts subsequently paid to the latter. <input type="checkbox"/> A breakdown of rights revenue per main category of rights managed and per type of use. <input type="checkbox"/> A distinction between rights revenue earned nationally and rights revenue received on the basis of representation agreements. <input type="checkbox"/> Information regarding any amounts attributed to the right holder which are outstanding for the period concerned. <input type="checkbox"/> Others (describe):
30.	Does the CMO have a fixed distribution schedule?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what is the distribution schedule set under?: <input type="checkbox"/> Law <input type="checkbox"/> Statute of the CMO <input type="checkbox"/> Others, please describe:
31.	What are the modes of payments?	
32.	Are there cases of unclaimed royalties?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain what the CMO does in such cases:
33.	Does the CMO have a holding account for undistributed royalties?	<input type="checkbox"/> Yes <input type="checkbox"/> No
34.	What does the CMO do with undistributed royalties for which entitled rights holders could not be identified?	

35.	Does the CMO have a process of locating members who have yet to collect their royalties?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
36.	Does the CMO have a process used in cases where it does not have information regarding the right holders of the works or other protected objects whose use appear in the repertoire usage reports?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
37.	What does the CMO do with the royalties of non-members?		
38.	Does the CMO have any funds in form of member benefits, including for social and cultural purposes?	<input type="checkbox"/> Yes	<input type="checkbox"/> No If yes, please describe:
39.	Is the CMO allowed to grant loans or advances to members?	<input type="checkbox"/> Yes	<input type="checkbox"/> No If yes, please detail the procedure and who may be eligible beneficiaries:
40.	If a member of the CMO transfers its rights to the work to a third party, does it continue to receive any income from the CMO?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
41.	Is a CMO member free to resign from one CMO and join another?	<input type="checkbox"/> Yes	<input type="checkbox"/> No If yes, what is the applicable notice period?
42.	What mechanisms exist within the CMO to resolve conflicts arising between CMO members?		
43.	Has there been a case in which a member took legal action against the CMO?	<input type="checkbox"/> Yes	<input type="checkbox"/> No If yes, how many cases and what was the nature/ outcome of the suit(s)?:
44.	Are there any legal, regulatory, or other mechanisms to address conflicts between the CMO and its members?	<input type="checkbox"/> Yes	<input type="checkbox"/> No If yes, please provide details:

N. RELATIONS WITH USERS

	<u>Tariff Setting</u>	
6.	Does the CMO have a structured tariff model?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.	If yes to E.1 above, is the tariff gazetted?	<input type="checkbox"/> Yes <input type="checkbox"/> No
8.	Are there any legal or contractual provisions (specific or antitrust) that regulate the determination of tariffs?	<input type="checkbox"/> Yes <input type="checkbox"/> No
9.	Are the tariffs of all categories of rights set by a specific body?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, is that specific body provided for by: <input type="checkbox"/> Law <input type="checkbox"/> Contractual arrangements between CMOs <input type="checkbox"/> Others (describe): If yes, do the users participate in that specific body? <input type="checkbox"/> Yes <input type="checkbox"/> No
10.	Are users involved in the CMO tariff making process?	<input type="checkbox"/> Yes <input type="checkbox"/> No
11.	Which criteria/factors of tariff-setting does your CMO usually use?	<input type="checkbox"/> International good practices Specify: <input type="checkbox"/> Benchmark of tariffs in other CMOs Which countries? Which CMO?: <input type="checkbox"/> Market studies (i.e. licensing market penetration and/or market valuation in respect of tariff categories). When was the last market study?:..... <input type="checkbox"/> Cross-sectoral tariff comparisons <input type="checkbox"/> The commercial value of the rights in use, and/or the benefits to Licensees, or other relevant criteria. <input type="checkbox"/> Others (describe):

12.	What are the splits (if any) for each of the rights the CMO manages?	
13.	Do you think the current tariffs represent the true value of works managed by the CMO?	<input type="checkbox"/> Yes <input type="checkbox"/> No
14.	Do you think the tariffs serve the best interests of the members?	<input type="checkbox"/> Yes <input type="checkbox"/> No
15.	Are the tariffs subject to negotiations?	<input type="checkbox"/> Yes <input type="checkbox"/> No
16.	Are the CMO tariffs shared amongst sister CMOs and affiliates?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<u>User Negotiations</u>	
17.	How do users interact with the CMO?	<input type="checkbox"/> Via user trade associations in negotiation processes <input type="checkbox"/> Via mandatory legal negotiation procedures <input type="checkbox"/> Via contractual licence negotiations <input type="checkbox"/> Others, please describe:
18.	Are there any arbitration/mediation mechanisms in relation to CMO tariffs?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
19.	Can individual and differentiated tariffs be negotiated?	<input type="checkbox"/> Yes <input type="checkbox"/> No
20.	Is it possible to establish differentiation criteria according to user category (<i>e.g., by market, industry, user size, non-profit purpose</i>)?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe the criteria?
21.	Is there any legal (statutory or regulatory) obligation for CMOs to contract with users?	<input type="checkbox"/> Yes <input type="checkbox"/> No
22.	Are there any means other than legal (statutory or regulatory) obligation, with which a CMO may collect from the user?	

23.	Is such an obligation to contract exists, is there an exception or limit to this obligation?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
24.	Is there any legal obligation on users to provide information to CMOs (e.g. usage reports)?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:

O. RELATIONS WITH OTHER CMOS, INCLUDING FOREIGN CMOS

8.	Is your CMO a one-stop shop?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please elaborate on the role of this one-stop shop: If no, is there any interaction between your CMO and other national CMOs representing other categories of right holders (e.g. via strategic alliances or a central body to set up tariffs)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe:
9.	Has the CMO entered into bilateral or reciprocal (representation) agreements with any local or foreign organization or CMO? If yes, state the agreement and organization or CMO	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please state the type of agreement, and the names of the organisations/CMOs and territory(ies):
10.	Do the representation agreements between the CMOs include provisions regarding prices and fees for licensed works?	<input type="checkbox"/> Yes <input type="checkbox"/> No
11.	What method does the CMO employ for distribution to domestic and foreign right holders?	<input type="checkbox"/> Single procedure <input type="checkbox"/> Separate procedures for domestic and foreign right holders

		<input type="checkbox"/> Others, please describe:
12.	Do representation agreements with foreign right holders/CMOs allow for social expenses?	<input type="checkbox"/> Yes <input type="checkbox"/> No
13.	Are there any formal policies regarding representation arrangements with foreign CMOs and representation of foreign right holders?	<input type="checkbox"/> Yes <input type="checkbox"/> No
14.	Is your CMO a member or affiliate of any international CMO federation?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please indicate: <input type="checkbox"/> AGICOA <input type="checkbox"/> CISAC <input type="checkbox"/> IFRRO <input type="checkbox"/> IFPI <input type="checkbox"/> SCAPR <input type="checkbox"/> Other, please describe:
15.	Are there any entities including independent management entities (which are operating rights management business, but different from CMOs, they are for-profit and controlled by shareholders, not by rights holders) which operate in competition with your CMO, without regulatory or other government oversight?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:

P. RELATIONS WITH REGULATORS, GOVERNMENT AUTHORITIES AND THE LAW

	<u>Enforcement</u>	
6.	Does the law provide for enforcement mechanisms against recalcitrant users?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:

7.	Does the CMO have an internal enforcement mechanism?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:
8.	Does the CMO have a documented procedure that would help it decide when it is time to commence enforcement against a defaulting user?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:
9.	Has the CMO carried out any enforcement action against a defaulting user?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain:
10.	If yes to G.4 above, was the outcome of the enforcement successful or unsuccessful?	<input type="checkbox"/> Yes <input type="checkbox"/> No Please explain why:
11.	Are there any enforcement instruments under the law available to the CMO?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
12.	Is there an alternative dispute resolution mechanism available to the CMO and the users?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
13.	Has the alternative dispute resolution mechanism been used by the CMO or the user? Was the outcome successful or unsuccessful for the CMO?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, was the outcome successful or unsuccessful for the CMO? <input type="checkbox"/> Yes <input type="checkbox"/> No
14.	Has the CMO taken any infringement action in court against a user?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please list the number of cases and the organisations, and whether the outcome was successful or unsuccessful for the CMO:
15.	Has the CMO embarked on a protest or picketing against any recalcitrant user? If yes, was it successful for the CMO?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, was the outcome successful or unsuccessful for the CMO? <input type="checkbox"/> Yes <input type="checkbox"/> No

Q. IT INFRASTRUCTURE, HUMAN RESOURCE DEVELOPMENT AND MARKET STUDIES

<u>Systems</u>		
2.	Does the CMO have a system for management of users' information in an accurate and systematic manner?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the name of the software and service provider:
3.	Is the CMO licensing procedure automated to allow easy invoicing and sales?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.	Does the CMO have an online licensing facility for users to secure a licence for the use of its represented works?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.	Does the CMO have a documentation and distribution software that allows the scientific distribution of royalties to its members?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the name of the software and service provider:
6.	Does the CMO have an automated membership database system?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the name of the software and service provider:
7.	Does the CMO have a monitoring and tracking software for usage of works owned by its members?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the name of the software and service provider:
8.	Is the CMO connected to any international or regional system (network)?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:

<u>Staff Training and Development</u>		
9.	Does the CMO have a staff induction programme for all new members of staff?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, briefly describe its contents & duration:
10.	Does the CMO have employee training and development opportunities and/or programmes for key departments including licensing, membership, documentation, and distribution?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide brief details:
11.	Are licensing staff taken through licensing training upon recruitment with periodic refreshers?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, briefly describe how the trainings are conducted and who conducts them:
12.	Are there any training programmes for non-licensing staff?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide brief details:.....
13.	Are there organisations to which the CMO is affiliated, local or international that have supported the CMO training needs before?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please list the organisations:

R. IDENTIFY CHALLENGES (AS CLUSTERED) THAT AFFECT THE CMO FROM FULFILLING ITS LICENSING MANDATE

	<u>Cluster</u>	<u>Challenges</u>	<u>Recommendations</u>
9.	Legislative and/or Regulatory		
10.	CMO institutional		
11.	User group specific		

12.	CMO member related		
13.	Digital licensing		
14.	Regional and/or global (cross-border) licensing		
15.	Political		
16.	Others, please specify		

ANNEXURE 3

ASEAN Member States legislation, regulations and codes of conduct related to CMOs

1. Brunei Darussalam

- a) Emergency Copyright Order 1999 (<https://www.wipo.int/wipolex/en/text/187417>)
- b) Copyright Amendment Order 2013 (<https://www.wipo.int/wipolex/en/text/584864>)

2. Cambodia

- a) Law on Copyrights and Related Rights 2003 (<https://www.wipo.int/wipolex/en/text/567454>)
- b) Proclamation on Collective Management Organisation 2016 (<https://www.wipo.int/wipolex/zh/text/544320>)

3. Indonesia

- a) Law on Copyrights 2014 (<https://www.wipo.int/wipolex/en/text/578071>)
- a) Ministry of Law and Human Rights Decree Number- HKI.2.OT.03.01-02 Year 2016 - LMKN Tariffs (<https://www.wipo.int/wipolex/en/legislation/details/22191>)
- b) Regulation on Royalty Management of Copyrights of Songs and or Music No. 56 of 2021(https://jdih.dgip.go.id/produk_hukum/view/id/99/t/peraturan+pemerintah+nomor+56+tahun+2021+tentang+pengelolaan+royalti+hak+cipta+lagu+danatau+musik#:~:text=Peraturan%20Pemerintah%20Nomor%2056%20Tahun,Cipta%20Lagu%20dan%20Fatau%20Musik). Official translation in English unavailable as at the time of writing
- c) Regulation on Royalty Management of Copyrights of Songs and/or Music No. 9 of 2022 (https://jdih.dgip.go.id/produk_hukum/view/id/108/t/permenkumham+no+9+tahun+2022+tentang+pelaksanaan+pp+nomor+56+tahun+2021+tentang+pengelolaan+royalti+hak+cipta+lagu+danatau+musik). Official translation in English unavailable as at the time of writing

4. Lao PDR

- a) Copyright Law 2018 (<https://www.wipo.int/wipolex/en/text/583994>)
- b) Regulations on the establishment of CMOs 2019 (<https://www.wipo.int/wipolex/en/legislation/details/22190>). Regulations issued pursuant to the Decision of the Ministry of Science and Technology on Copyright and Related Rights No. 2824, dated 17 December 2019 (<https://www.wipo.int/wipolex/en/legislation/details/20371>)).

5. Malaysia

- a) Copyright Law 1987 amended up to 2012 (<https://www.wipo.int/wipolex/en/text/583950>)
- b) Copyright (Amendment) Act 2020 (<https://www.wipo.int/wipolex/en/text/583951>)
- c) Copyright (Amendment) Act 2022 (<https://www.myipo.gov.my/wp-content/uploads/2022/02/Copyright-Amendment-Act-2022-Act-A1645.pdf>)
- d) Copyright Tribunal Regulations 2012 (<https://www.wipo.int/wipolex/en/text/347661>)
- e) Copyright (Copyright Tribunal)(Amendment) Regulations - Amendment 2020 (https://www.myipo.gov.my/wp-content/uploads/2022/02/11-PERATURAN-HAK-CIPTA-TRIBUNAL-HAK-CIPTA-PINDAAN-2020-pua_20200619_PUA185.pdf)
- f) Copyright Collective Management Organisation Regulations 2022 (<https://www.wipo.int/wipolex/en/legislation/details/22183>)

- g) Copyright (Compounding of Offences) Regulations 2023 (<https://www.wipo.int/wipolex/en/legislation/details/22184>)
6. Myanmar
- a) Copyright Law 2019 (<https://www.wipo.int/wipolex/en/text/587121>)
7. Philippines
- a) Intellectual Property Code 2015 edition (<https://www.wipo.int/wipolex/en/text/488674>)
- b) Revised Rules & Regulations on Accreditation of CMOs & Similar Entities 2020 (https://drive.google.com/file/d/1PWYJDV3yOGDveJXVcuczT9LVyhARj9_H/view)
8. Singapore
- a) Copyright Act 2021(<https://www.wipo.int/wipolex/en/text/584138>)
- b) Copyright Regulations amended up to 2021 (<https://sso.agc.gov.sg/SL/CA2021-S882-2021>)
- c) Copyright Tribunals (Procedure) Regulations 2021 (<https://sso.agc.gov.sg/SL/CA2021-S883-2021>)
- d) Copyright (Collective Management Organisations) Regulations 2023 (draft) ([https://www.mlaw.gov.sg/files/Annex%20A_Copyright_\(Collective_Management_Organisations\)_Regulations_2023.pdf](https://www.mlaw.gov.sg/files/Annex%20A_Copyright_(Collective_Management_Organisations)_Regulations_2023.pdf)) - expected gazette date in late 2023
9. Thailand
- a) Copyright Law 1994 as amended up to 2018 (<https://www.wipo.int/wipolex/en/text/585444>)
- b) Copyright Amendment Act 2022
- c) The Act on Prices of Goods and Services 1999 (http://www.asianlii.org/th/legis/consol_act/pogasa1992249/)
- d) Notification of the Central Committee on the Price of Goods and Services 2020 (official translation in English unavailable as at the time of writing)
- e) Code of Conduct 2022 for Collective Management Organisations (CMOs) (official translation in English unavailable as at the time of writing)
10. Viet Nam
- c) Law on Intellectual Property 2005 (<https://www.wipo.int/wipolex/en/text/274445>)
- d) Intellectual Property Law Amendment Order 2009 (<https://www.wipo.int/wipolex/en/text/182541>)
- e) Intellectual Property Law Amendment Order 2019 (<https://www.wipo.int/wipolex/en/text/582363>)
- f) Intellectual Property Law Amendment Order 2022 (<https://www.wipo.int/wipolex/en/legislation/details/21740>)
- g) Intellectual Property Law Decree 2023 ((official translation in English unavailable as at the time of writing)

ANNEXURE 4

ASEAN Member States CMO related case law

1. Brunei Darussalam

- a) Public Prosecutor vs Yong Teck Sang [2010] Intermediate Court Criminal Trial No. 9 of 2010

2. Indonesia

- a) KCI Supreme Court decision 2017 (news link - <https://urbannews.co/ma-menangkan-pk-ki-atas-pelanggaran-hak-cipta-oleh-inul-daratista/>)

3. Malaysia

- a) PRISM Bhd v Measat Broadcast Network System Sdn Bhd [2017] 9 MLJ 557
- b) Rock Records & Tapes Co Ltd v Season Karaoke Sdn Bhd & 3 Ors [1998] 2 MYIPC 292
- c) Rock Records (M) Sdn Bhd v Audio One Entertainment Sdn Bhd [2005] 3 MLJ 552

4. Philippines

- a) FILSCAP v Anrey Inc. [2022] Supreme Court G.R. No. 233918 (<https://sc.judiciary.gov.ph/233918-filipino-society-of-composers-authors-and-publishers-inc-vs-andrey-inc/>)
- b) FILSCAP v Benjamin Tan [1987] Court of Appeal G.R. No. L-36402

5. Singapore

- a) PRS & COMPASS v United Artist SG Theatre 2001 SGHC 54 (https://www.elitigation.sg/gd/s/2001_SGHC_54)
- b) Singnet v COMPASS 2021 SGCRT 1 ([https://www.ipos.gov.sg/docs/default-source/resources-library/copyright/singnet-pte-ltd-v-composers-and-authors-society-of-singapore-ltd-2021-sgcr-1-\(002\).pdf](https://www.ipos.gov.sg/docs/default-source/resources-library/copyright/singnet-pte-ltd-v-composers-and-authors-society-of-singapore-ltd-2021-sgcr-1-(002).pdf))
- c) COMPASS v SingNet [2020] SGHC 220 (https://www.elitigation.sg/gd/s/2020_SGHC_220)
- d) COMPASS v Fox Networks [2021] SGHC 241 (https://www.elitigation.sg/gd/s/2021_SGHC_241)
- e) COMPASS v Golden Village Multiplex (https://www.elitigation.sg/gd/s/2021_SGHC_2)
- f) Singapore Broadcasting Corporation (SBC) v The Performing Right Society Ltd (COMPASS third party) [1991]
- g) Sunvic Production Pte Ltd v COMPASS [1993] SGCRT 1

6. Thailand (case summaries) available at

(https://www.wipo.int/edocs/pubdocs/en/copyright/1025/wipo_pub_1025.pdf)

- a) PP v Aumnad Agepet 2005
- b) PP v Nad Jangprai 2004

Case summaries available:

(https://www.wipo.int/edocs/pubdocs/en/copyright/1025/wipo_pub_1025.pdf)

Some of the above cases are also available from the ASEAN Case Law database (<https://www.aseanip.org/Resources/ASEAN-Case-Law-Database>)