

University Library

Author/Filing Title *MA, YANAN*

Class Mark *T*

Please note that fines are charged on ALL
overdue items.

FOR REFERENCE ONLY

0403178207





**Testing the Feasibility of the Model of An RRO
System for Publishing in China**

by

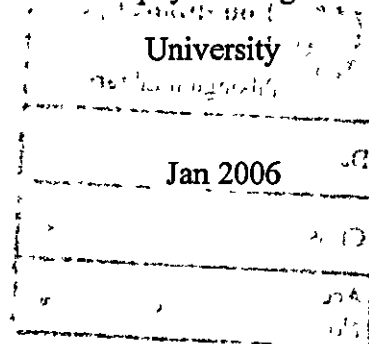
Yanan Ma

Professor Charles Oppenheim, Supervisor


Dr. Fytton, Rowland, Supervisor

Professor John Feather, Director of Research

Submitted in partial fulfilment of the
requirements for the award of Master
of Philosophy of Loughborough



© Yanan Ma 2004

 Loughborough University Pikington Library
Date AUG 2006
Class T .
Acc No. 0403/78207

Acknowledgements

I am eternally grateful for the help, advice, support, and input of the following people...

Charles Oppenheim and Fytton Rowland, my supervisors, mentors and friends. I cannot just use words to describe what they gave me and how much I appreciate it. Their knowledge, experience, understanding, patience, encouragement supported me to go through this very difficult process. They helped me achieve my best what I never thought I could do before. They taught me how to be strong, independent and confident. Without them, I could not be who I am now. I felt so lucky that they are my teachers not only for the research but also for my life.

John Feather, my Director of Research, for his advice and kind understanding. Everyone in the Department of Information Science who made it a nice place to be, and in particular Irene Martindale and my fellow research students, David Gichoya, Narumol Ruenwai and Gemma Towle. I received a lot of help and experience from them to be a research student. And also, Frank Parry, the academic librarian of the department, who helped me collect information from databases in the library and did pilot study for my questionnaire survey.

I am also grateful to my interviewees, Fiona Bennett, Bob Campbell, David Croom, Si Gao, Richard Gedye, Sally Morris, Lynette Owen, Chris Paterson, Olav Stokkmo, Ian Taylor, Anthony Watkinson, Chao Xu, Dillys Yu, Chaoxu Zhu, interviewees from CWA and NCAC. They were very patient and friendly to encourage me to complete the interviews. And I would also like to thank Chinese librarians and my former classmates who responded my questionnaire, especially Qian Geng, Wei Liu and Chao Xu who helped me contact librarians.

All my family, my beloved dad and mum, the best parents in the world, for

encouraging and supporting me to reach my best and for believing that I can do it. Though they are in China, our hearts are together forever. My boyfriend Weijia Liu who gives me all his love and is behind me forever, Jason who always be there whenever I need help, Betty who is with me all the time when I stayed up all nights to write my thesis, Yunkui Song who fully supported me by collecting data in China, Gou Gou my dear pet, Yuan Ren who understands me all the time and all my friends both in China and UK who encouraged me to finish the study.

Abstract

It is widely accepted that copyright collective administration is the indispensable exercise of copyright and related rights by organisations acting in the interest and on behalf of rights holders. Reproduction Rights Organisations (RROs) as one kind of collecting society help rights holders to enforce their reprographic rights mainly as regards photocopying since the 1970s.

With its entrance into the World Trade Organisation (WTO), China became a member of the international copyright community per se in 2001. Although the history of copyright in China is not long, there have been notable efforts from the Chinese Government and rights holders to complete copyright protection system in China. On March 1, 2005, the Regulations on Copyright Collective Administration came into effect, which provides the impetus for the development of copyright collective administration and collecting societies in China. This research focused on RROs, the publishing industry and protection of reprographic rights in China.

The research included interviews that were conducted with UK publishers, an UK publishers' organisation, a Chinese Government department, a Chinese publisher, the Chinese authors' association, the Hong Kong RRO and the International Federation of Reproduction Rights Organisations (IFRRO); and a quantitative questionnaire sent to 155 Chinese libraries.

This thesis discusses the possibility of establishing an RRO in China now or in the future, and the obstacles to prevent its development, and also tests the feasibility of the proposed model of an RRO system in China developed from the author's previous research.

Findings show that the potential market for photocopying Chinese materials is not mature, mainly because of the low book prices and different teaching style in China compared with Western countries. There are also other obstacles from different aspects such as legal, cultural, educational, economic and political factors preventing the establishment of an RRO in China now. Thus, it is not the right time to establish an RRO in China currently. Findings also indicate that besides the possibility of establishing an RRO in the future, there is another more realistic and practical way to protect rights holders' reprographic rights from both traditional photocopying and digital reproduction technologies in China. Finally, the proposed model is re-developed based on the results of the research to be suitable for the Chinese publishing industry and relevant regulations. Based on the results and conclusions of the research, recommendations are made and ideas for further research are identified.

Key words: Copyright, copyright collective administration, reprographic rights, RRO, licensing agency, the establishment of an RRO, Chinese publishing industry, proposed model of an RRO system

Contents

Acknowledgements.....	i
Abstract.....	iii
List of Tables.....	viii
List of Figures.....	ix
List of Acronyms	x
Chapter 1 Introduction.....	1
1.1 Background.....	1
1.2 Hypotheses.....	3
1.3 Aims and Objectives.....	3
1.4 Methodology.....	4
Chapter 2 Literature Review.....	8
2.1 Introduction.....	8
2.2 Background.....	8
2.2.1 Copyright.....	8
2.2.2 Related Rights.....	10
2.2.3 Definition of Reprography and Its Legal Basis	11
2.3 Collective Management of Copyright and Related Rights, and Collective Societies.....	13
2.3.1 What Is Copyright Collective Administration and Why Is It Necessary?	13
2.3.2 History of CMOs	15
2.3.3 How Do CMOs Work?.....	17
2.4 RROs.....	25
2.4.1 What Are RROs and IFRRO?.....	25
2.4.2 Different Models of RROs Operation.....	28
2.4.3 Licensing.....	34
2.4.4 Distribution of Remuneration	37
2.4.5 The Future of RROs.....	42
Chapter 3 Copyright and Publishing in China.....	61
3.1 The History of Copyright of P.R. China and Other Intellectual Property Laws in China.....	61
3.2 Copyright Collective Administration in China.....	65
3.3 Publishing in China.....	69
3.4 Piracy in China.....	73

Chapter 4 Previous Research	85
4.1 Introduction.....	85
4.2 Aims and Objectives	85
4.3 Methods Adopted in the Previous Research	86
4.4 The Model and Its Explanation.....	88
4.4.1 The Structure of the Model for the Chinese Licensing Agency System.....	88
4.4.2 Basic Features of the Proposed Chinese RRO.....	89
4.4.3 Explanation and Discussion of the Model	89
4.5 The Limitation of the Previous Research	94
 Chapter 5 Methods.....	 97
5.1 Introduction.....	97
5.2 The Research Questions.....	97
5.3 Objectives of the Research	99
5.4 Research Design	100
5.4.1 Previous Research Strategy.....	100
5.4.2 Present Research Strategy.....	101
5.4.3 The Literature Review	104
5.5 Interviews.....	105
5.5.1 Selecting Interviewees and Response: UK and China.....	106
5.5.2 Question Design.....	110
5.5.3 The Process of the Interviews	113
5.6 Questionnaire Design.....	114
5.6.1 Sample Selection and Questionnaire Distribution	116
5.6.2 Question Design.....	118
5.6.3 Pilot Study.....	120
5.6.4 Response Rate.....	122
5.7 Data Analysis	123
5.7.1 Interview Transcription and Analysis	123
5.7.2 Questionnaire Results and Analysis.....	125
 Chapter 6 Results of Interviews.....	 128
6.1 Introduction.....	128
6.2 Results of Common Questions	128
6.2.1 The Role of the Chinese Government in the Development of the RRO.....	128
6.2.2 Is It the Right Time to Develop An RRO in China?	131
6.2.3 What Kind of Licensing System Would You Choose for the Proposed RRO?	139
6.2.4 Preparation for the Development of RRO in China.....	141
6.2.5 The Suggestion of the Model.....	143

6.3	Results of Group Questions	145
6.3.1	Group Questions for CWA, Chinese Publisher and NCAC.....	145
6.3.2	Group Questions for UK Publishers and Experts	149
6.4	Summary and Conclusions	153
Chapter 7	Results of Questionnaire	155
7.1	Introduction.....	155
7.2	Location	155
7.3	Category.....	155
7.4	Memberships.....	156
7.5	Photocopiers in the Libraries	157
7.6	Commercial Use of Photocopiers or Just Supplied to Members?	157
7.7	Photocopying Fees for Commercial Use and Member Use.....	158
7.8	Photocopying Income	160
7.9	Trends of Photocopying Income in Recent Five Years.....	161
7.10	The Reasons of Income Declining.....	162
7.11	Three Kinds of Materials Photocopied Most.....	163
7.12	Scanning Service (digitisation) in the Libraries	163
7.13	Photocopying Textbooks among University Students	164
7.14	Should Pay or Not?	164
7.15	So, Who Should Pay for It?	165
7.16	What Annual Fee per Users Is Acceptable to Libraries?	166
7.17	Barriers Preventing the Development of An RRO in China Now	166
7.18	Is An RRO the Best Way to Help Rights Holders to Protect Their Economic Interests in China?	167
7.19	Summary.....	168
Chapter 8	Discussion and Conclusions.....	171
8.1	Introduction.....	171
8.2	Is It the Right Time to Establish an RRO in China now?	171
8.2.1	It Is Not the Right Time to Establish an RRO in China.....	172
8.2.2	An RRO in the Future?	182
8.3	The Suggestions of the Model and the New Model.....	187
8.3.1	The Suggestions of the Model	187
8.3.2	The Structure of the Model for the Chinese Licensing Agency System with Brief Explanations	192
8.4	Conclusions and Recommendations	193
8.4.1	Conclusions.....	193
8.4.2	Limitations of the Research	195
8.4.3	Recommendations and Further Research	197

Bibliography	202
Appendices.....	216
Appendix 1 Interview Questions for UK Publishers.....	216
Appendix 2 Interview Questions for UK Experts	217
Appendix 3 Interview Questions for Chinese Rights Holders	218
Appendix 4 Interview Questions for NCAC	220
Appendix 5 Interview Questions for IFRRO	221
Appendix 6 Interview Questions for HKRRLS	223
Appendix 7 Interview with UK Rights Holders and Experts.....	224
Appendix 8 Interview with Chinese Rights Holders and NCAC.....	272
Appendix 9 Interview with IFRRO	299
Appendix 10 Interview with HKRRLS	303
Appendix 11 Questionnaire (English version)	305
Appendix 12 Questionnaire (Chinese version)	309
Appendix 13 Questionnaire (Internet version).....	312
Appendix 14 Section 4, Limitations on Rights, Copyright Law of PRC 2001	315

List of Tables

Table 2.1	A List of the Rights Administered Collectively around the World	18
Table 2.2	Some Examples of Different Models of RRO in Euramerican Countries	33
Table 2.3	The Division of Remuneration between Norwegian Authors and Publishers	41
Table 3.1	2002 Book Publishing Statistics of China (Titles)	70
Table 3.2	Estimated Trade Losses Due to Piracy and Levels of Piracy	74
Table 5.1	Lists Questions and Issues Which Needed to Be Addressed	98
Table 5.2	Feedback and Action Taken, As A Result of the Pilot Study	121
Table 7.1	Standards of Photocopying Fees in the Libraries Distinguishing Commercial Use and Member Use	159
Table 7.2	Standards of Photocopying Fees for Non-commercial Use and No Distinction between Commercial Use and Member Use in the Libraries	160

List of Figures

Figure 2.1	Reprography Collections Comparison	37
Figure 2.2	Distribution Share of Kopioisto in 2002	40
Figure 4.1	The Structure of the Model for the Chinese Licensing Agency System	88
Figure 5.1	Six Steps of Qualitative Data Analysis	124
Figure 7.1	Memberships of Three Kinds of Libraries	156
Figure 7.2	Commercial Use of Photocopiers in the Libraries	158
Figure 7.3	Photocopying Incomes of Six Chinese University Libraries	161
Figure 7.4	Reasons of Photocopying Income Decline in Recent Five Years	162
Figure 7.5	Materials Photocopied Most	163
Figure 7.6	Percentage of Chinese University Student Photocopying Textbooks	164
Figure 7.7	Who Should Pay for Photocopying	165
Figure 7.8	Barriers to Establishment of An RRO in China Now	167
Figure 7.9	Is An RRO the Best Way to Help Rights Holders to Protect Their Economic Interests in China?	168
Figure 8.1	The Structure of the New Model for the Chinese Licensing Agency System	192

List of Acronyms

ACO	Agency Collective Organisation
ALCS	Authors' Licensing and Collecting Society
ALPSP	Association of Learned and Professional Society publishers
CAL	Copyright Agency Limited
CCALW	China Copyright Association for Literary Works
CCAO	Copyright Collective Administration Organisation
CCC	Copyright Clearance Centre
CCS	Copyright Collecting Society
CISAC	International Confederation of Societies of Authors and Composers
CLA	Copyright Licensing Agency
CLO	Collective Licensing Organisation
CMO	Collective Management Organisation
CPA	China Photographers Association
CPCC	Copyright Protection Centre of China
CSLS	China Society for Library Science
CWA	China Writers' Association
DACS	Design and Artists Copyright Society
DRM	Digital Rights Management
GAPP	General Administration of Press and Publication
HKRRLS	Hong Kong Reproduction Right Licensing Society
IFRRO	International Federation of Reproduction Rights Organisations
IIPA	International Intellectual Property Alliance
IPA	International Publishers Association
IP	Intellectual Property
IIPA	International Intellectual Property Alliance
JISC	Joint Information Systems Committee

MCSC	Music Copyright Society of China
NCAC	National Copyright Administration of China
PA	Publishers Association
PAC	Publishers Association of China
PLS	Publishers Licensing Society
PRC	People's Republic of China
RRO	Reproduction Rights Organisation
SR	Stichting Reprorecht
STM	International Group of Scientific Technical and Medical Publishers
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UCC	Universal Copyright Convention
UNESCO	United Nations Educational, Scientific and Cultural Organisation
WCT	WIPO Copyright Treaty
WIPO	World Intellectual Property Organisation
WPPT	WIPO Performances and Phonograms Treaty

Chapter 1 Introduction

1.1 Background

The first statute of copyright was the Statute of Anne, enacted in England in 1709, and the concept then spread to the whole Europe¹. In the USA, copyright laws were enacted first by 12 of the 13 states during the period of 1783 to 1786, then a copyright clause was included in the Constitution (1789) and the first federal law was passed in 1790². Nowadays, although there is no “international copyright” per se, most countries have enacted copyright laws and developed their copyright protection systems, and have agreed to basic copyright protection terms by signing the international Conventions such as Berne Convention, the Universal Copyright Convention (UCC) and so on. Under these laws in each country and the Conventions, the creators of original works obtain the rights to copy and exploit their own works, or license other people to do so, but can prevent anyone else from doing so without their consent³.

Along with the establishment of the international copyright system and the development of new technologies such as photocopying, video, broadcasting and so on, rights holders found it was more and more difficult to enforce their newly identified rights individually with a large number of users all around the world. Meanwhile, it was impossible for users to identify hundreds of individual rights holders. Based on the needs of both sides, copyright collective administration and Collective Management Organisations (CMOs) were developed to bridge the gap between them and help rights holders to enforce their rights in the global scope. Since the first CMO was established in 1851, CMOs were gradually established in many different fields, such as performance rights, audiovisual rights, dramatic work rights, fine, applied and graphic arts, literary works, performers and phonogram producers' rights, reprographic rights and so on. Moreover, they successfully established global networks of collective management organisations in different fields.

Reproduction Rights Organisations (RROs) started operating in the 1970s in response to the need to license wide-scale photocopying of printed works⁴. They work jointly for the rights holders, licensing institutions such as schools, colleges, universities, government departments, public bodies and businesses to photocopy extracts from books, journals, magazines, and other periodicals. The first RRO to be established was BONUS in Sweden, which began licensing in 1973⁵. Today, the International Federation of Reprographic Rights Organisations (IFRRO) has 44 RRO members, 49 associate members and 10 international associate members all around world at the moment, and many more RROs are in the process of establishing and joining⁶.

The People's Republic of China (PRC) began to develop its copyright protection system soon after it was founded in 1949. After the Cultural Revolution, in 1980 China became a signatory to the Convention establishing the World Intellectual Property Organisation (WIPO)⁷. On 7 September 1990, China passed its Copyright Law⁸ and adopted the Amended Copyright Law in 2001⁹. In July 1992, China agreed to join the Berne Convention and the UCC¹⁰. In 1999, the Chinese Government agreed to the TRIPS agreement as part of its accession to the WTO¹¹. Along with the Regulations on Copyright Collective Administration (the Regulations) enacted in March, 2005, it was a milestone for completing copyright protection system in China. At present, only one collecting society exists in China, the Music Copyright Society of China (MCSC), in 1992. Three other collecting societies respectively dealing with literary works on the Internet, audiovisual products and performance rights are on the agenda to establish in the near future.

Bearing in mind this background, this research explores the possibility of the establishment of an RRO in China now, examines the feasibility of a proposed model developed from previous research¹² and analyses obstacles that might prevent the RRO's development in China.

1.2 Hypotheses

This research is a continuation of the previous research, "A possible model of a licensing agency system for publishing industry in China". In the previous research, the model of an RRO system in China was developed directly based on a literature review and interviews with the UK RRO and related organisations. There was no discussion of the possibility to establish an RRO based on the current Chinese situation. So it could be concluded that hypotheses on which this study is based are:

- The Chinese publishing industry and rights holders need an RRO to help them protect their rights currently.
- It is the right time to establish an RRO now.

1.3 Aims and Objectives

The aim of the project was to test the feasibility of the proposed RRO system for publishing in China with various stakeholders with different points of view. The specific objectives were as follows:

- Analyse the main obstructive factors preventing the development of a RRO system in China today, especially legislation, economic development, the publishing industry's status quo and so on.
- Discuss the feasibility of the original model and find out what parts will work and what the impractical parts are.
- Collect data from the Chinese side to identify the attitudes to the proposed RRO system from relevant parties. Estimate the development of the Chinese environment related to the RRO system to evaluate the likely future of an RRO system in China.
- Carry out interviews with key UK publishers who sell in the Chinese market.
- Carry out interviews with IFRRO and the HK RRO to collect more information about the establishment and operation of an RRO respectively with a global scope and with similar cultural background

- Develop a new model of a possible licensing agency system based on the current conditions and related regulations in China.
- Revise the model with feedback from related organisations in China, such as the Foreign Language Press.

However, when the interviews with UK experts were conducted, it became clear that the hypotheses should be questioned and be tested first. Hence, the aim of the research should also be adjusted to explore more basic questions, such as whether it is the time to establish an RRO now or in the future, and why the Chinese publishing industry needs it or not at this stage. So another two main objectives were added:

- Analyse the reasons why an RRO could be established or not currently in China and the possibility of establishing an RRO in the future.
- Design and distribute questionnaires to potential users to find out the photocopying situation in China now, and the attitude of the establishment of an RRO from potential users' perspective.

1.4 Methodology

In order to meet these aims and objectives, a combination of literature review, interview and questionnaire were used.

- **Literature review**

This supplied the research a comprehensive and detailed background, including general information on copyright, detailed information on copyright collective administration and collective societies, especially RROs, including their history, different models of operation, licensing and distribution, and future development. It was also necessary to investigate the development of publishing in China, such as current regulations, law, associated organisations, and so on. Moreover, the development of copyright collective administration and its relevant regulations in China were used for testing the feasibility of the model.

- **Interviews**

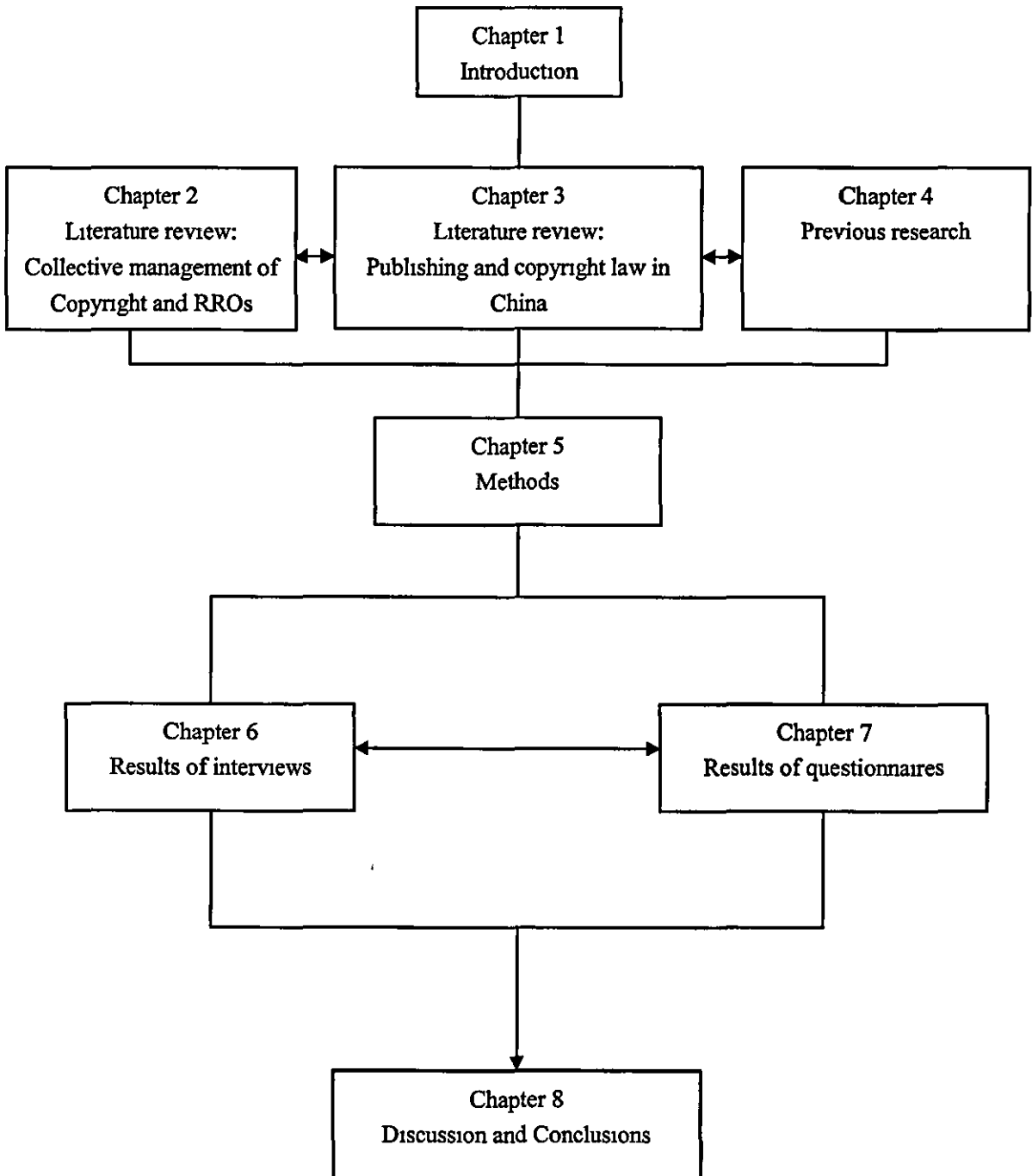
Interviews with large publishers which have business in China, and one with a UK publisher's organisation collected information about the licensing agency system in the UK from the rights holders' perspective, as well as the current conditions and problems of publishing in China from overseas publishers' perspective. There were also some suggestions from the publishers about the theoretical model. Interviews with UK experts who are very familiar with Chinese publishing and political environment in this research were key point to head the research in the right direction.

Interviews with the Hong Kong RRO which has a similar culture with China, collected some information about the licensing agency system under this specific society and culture. The interview with IFRRO supplied a global view of RROs' development with a lot of experience in helping countries to establish RROs. In China, interviews with the National Copyright Administration of China (NCAC) gained information about the attitude of government to the RRO system and an overview of copyright collective administration in China. A Chinese publisher and the authors' association provided background information about the Chinese publishing industry, and their attitude to the establishment of an RRO in China as potential rights holders.

- **Questionnaire**

The main statistical data in this research came from a questionnaire survey with some Chinese libraries as potential users of an RRO in China. The results of the questionnaire survey showed the photocopying situation in China, including scanning services, the attitude towards the establishment of an RRO in China from the potential users' perspective, and obstacles preventing its development.

The following chart shows the structure of the thesis, the order and contents of the chapters, and how each chapter is related to the thesis as a whole.



References

- ¹ **Sinacore-Guinn, D.** *Collective administration of copyrights and neighbouring rights*, 1993, p. 63.
- ² *Ibid.*, p. 70.
- ³ **Jones, H.** *Publishing law*, 1996, p. 12.
- ⁴ **Koskinen-Olsson, T. & Greenwood, P., eds.** *IFRRO general papers III RROs and IFRRO*.
<http://www.ifro.org/papers/rro_ifro.html>, 1997, [accessed 20.01.05].
- ⁵ **Hadley, C. & Barrow, E.** Licensed document supply: the role of IFRRO. *Interlending & Document Supply*, 1997, 25(2), 73-74.
- ⁶ **International Federation of Reproduction Rights Organisations.** *Members*.
<<http://www.ifro.org/show.aspx?pageid=members/lro&culture=en>>, 2005, [accessed 20.01.05].
- ⁷ **Chynoweth, G. J.** Reality bites: how the biting reality of piracy in China is working to strengthen its copyright laws. *Duke Law & Technology Review* [online], 2003.
<<http://www.law.duke.edu/journals/dltr/articles/PDF/2003DLTR0003.pdf>>, [accessed 18.06.04].
- ⁸ *Ibid.*
- ⁹ **Neigel, C.** Piracy in Russia and China: a different U.S. reaction. *Law & Contemporary Problems* [online], autumn 2000, 179.
<<http://www.law.duke.edu/journals/lcp/articles/lcp63dAutumn2000p179.htm#H1N3>>, [accessed 16.06.04].
- ¹⁰ **Chynoweth**, ref. 7.
- ¹¹ *Di san ke-ni zhi dao wo guo ban quan bao hu zhi du de li shi he xian zhuang ma?* [Lesson 3-Do you know the history of copyright protection system and it in current China?].
<<http://www.stcsm.gov.cn/learning/lesson/guanli/20011217/20011217-3.asp>>, [n.d.], [accessed 17.06.04].
- ¹² **Ma, Y.** *A possible model of a licensing agency system for publishing industry in China*. MSc dissertation, Department of Information Science, Loughborough University, 2004.

Chapter 2 Literature Review

2.1 Introduction

This chapter gives a brief overview of copyright, provides definitions and descriptions of copyright collective administration and its related organisations, discusses the operation of, the system of and the effect of RROs as one kind of collecting societies in different countries, and takes a look at the changes electronic publishing and new technologies have brought to the RRO system.

2.2 Background

2.2.1 Copyright

Although the scholars of Ancient Greece and the Roman Empire were the first to be concerned about being recognised as the authors of their works, it was not until the invention of printing in the late fifteenth century that a form of copyright protection was devised¹. An organised system of legal protection for writings in Europe started as a licensing system when commercial copying first became possible at that time². In the Europe from 1500 to 1793, the governments of France, England, and the German states accomplished the dual objectives of censorship and economic regulation through the implementation of systems of privileges and patents³. Although the system of patents and privileges ultimately largely ceased, the arguments of the publishers prevailed and it led to a copyright system. The first statute of copyright was the Statute of Anne, enacted in England in 1709, followed by in Denmark and Norway with the Ordinance of January 7, 1741, then Spain in 1762, and in France by means of five Decrees issued in August 1777 and another one in the following year⁴. In the USA, copyright laws were enacted first by 12 of the 13 states during the period 1783 to 1786, then a copyright clause was included in the Constitution (1789) and the first federal law was passed in 1790⁵.

From the Western view, two basic philosophies of copyright underlie the domestic legislation. Firstly, the Anglo-Saxon or common law concept of copyright treats it as property right which allows the prime owner (normally the author) to freely negotiate

with would-be users of the work as he or she chooses⁶. This system rests on a premise that the granting of exclusive rights stimulates investment in the creation, production, and distribution of creative works, thus benefiting society. This may be referred to as the “public interest” theory⁷. In contrast, the other theory in the legislation of continental Europe, “natural justice”, is heavily weighted towards the rights of the authors as creator in the fruit of his or her creative effort and includes the key concept of the moral rights of the authors⁸. Based on these two theories, the two legal traditions can be distinguished as the copyright (e.g., English/Statute of Anne) and the *droit d’auteur* (e.g. French)⁹.

Today, copyright is the legal right of copyright owners to control the copying and other exploitation of their works¹⁰. In general, as soon as he or she is the owner of that work and is free to decide on its use¹¹. There is no formality to be complied with¹². Copyright gives the owner different, but matching rights:

- An exclusive, positive right to authorise the copying or exploitation of the work or license other people (such as publishers) to do it for them and;
- A negative right to prevent any one else from doing so without their consent, coupled with powerful legal remedies for copyright infringement if they do.¹³

All over the world, the emphasis is very much on the second, negative right - copyright is primarily a right to prevent other people from doing things¹⁴. However, the exercise of rights means that besides prohibiting someone else from using the work, rights holders can give permission to someone else to use the work or can¹⁵. These exclusive rights are limited by the duration of protection of copyright and by certain limitations and exceptions¹⁶.

Copyright therefore comprises two main sets of rights: economic rights and moral rights¹⁷. The creators of original works and their heirs have certain important economic rights. There are three core rights for authors¹⁸:

- Reproduction right: the exclusive right to authorise or prohibit direct or indirect, temporary or permanent reproduction by any means and in any form in whole or in part.
- Right of communication/making available to the public: the exclusive right to authorise or prohibit 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 them from a place

and at a time individually chosen by them.

- Distribution: the exclusive right to authorise or prohibit any form of distribution to the public by sale or otherwise

Mere ideas do not qualify for copyright protection¹⁹. Copyright is concerned with original works and any forms in which they may be published or released or performed for others²⁰. Copyright in the UK subsists in the following²¹:

- Original literary, dramatic, musical or artistic works
- Sound recordings, films and broadcasts
- The typographical arrangement of a “published edition”

Creators of original works also often have moral rights in their works. The aim of moral rights is to strike a balance between the interests of the commercial exploitation of a protected work and the interests of creator of the protected work²². The moral right include the author’s right to object to any distortion, mutilation or other modification of his work that might be prejudicial to his honour or reputation²³.

At the international level, the economic and moral rights are conferred by the Bern Convention for the Protection of Literary and Artistic Works, commonly know as the “Berne Convention” which is the one of the two most prominent international agreement in the field of copyright²⁴. The Berne Convention was adopted in 1886 and is administered by WIPO²⁵. In June 28, 2004, there were totally 155 states signatories joining it²⁶. The Berne Convention generally gives copyright owners a minimum term of protection of fifty years after the right owner’s death and this general term of protection has been replicated in the laws of most member States of the Berne Convention²⁷. The UCC is another principal international Convention protecting copyright, adopted at Geneva in 1952²⁸. It was developed by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) as an alternative to the Berne Convention for those states which disagreed with aspects of the Berne Convention, but still wish to participate in some form of multilateral copyright protection²⁹. The UCC required lower standards of copyright protection than the Berne Covention³⁰ and it established the use of the copyright symbol-©³¹. This was one of the most evident results of this Convention.

2.2.2 Related Rights

While copyright protects the rights of authors, another set of similar rights, known as

“related rights” or “neighbouring rights”, protects the rights of other owners of rights, namely, performers, producers of phonograms and broadcasting organisations³² because of the advance of new technologies such as photography, phonograph, radio and television etc. The definition of related right from WIPO is that related rights are the rights that belong to the performers, the producers of phonograms and broadcasting organisations in relation to their performances, phonograms and broadcasts respectively³³. The link of related rights with copyright is due to the fact that the three categories of related rights owners are auxiliaries in the intellectual creation process since they lend their assistance to authors in the communication of the latter’s works to the public³⁴.

The main international agreement in the field of related rights is the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, better known as the “Rome Convention” which was adopted in 1961 and is jointly administered by UNESCO, the International Labour Organisation (ILO) and WIPO³⁵. The Convention for the Protection of Producers and Phonograms in 1971 is known as the Phonogram Convention and the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite in 1975 is known as the Satellite Convention.

2.2.3 Definition of Reprography and Its Legal Basis

Originally the term reprography was developed to describe a form of copying using xerographic or electrophotographic reproduction, commonly known as photocopying; however, other types of direct copying often involving the same groups of users and rights owners that appear related to this type of reproduction, such as optical recording in the form of microfilm or microfiche and electronic copying in the form of computer databases³⁶. Consequently, IFRRO (see Section 2.4) and many CMO (see Section 2.3) managing these types of rights have opted to use the term reproduction, which is a more expansive definition of the term reprography to label themselves. The problem with the term reproduction is that whereas the traditional reprographic label may have been too narrow, the term reproduction is too expansive, in that it is a general copyright right embracing all forms of reproduction³⁷. In defining reprography, it is stressed that term embodies three distinct components or types of reproduction: (1) transgraphic copying - direct copying from one source to a paper copy of that material

by means of xerography or related methods; (2) transoptic copying - the transfer of a work to a film medium; and (3) electroncopying - the reproduction of a work in an electronic medium³⁸.

Reprography was the first major technological development after the 1971 Paris revision of the Berne Convention which raised serious copyright problems and in respect of which it was found that copyright collective administration was the best possible solution³⁹. According to Article 9 of the Berne Convention, the author of a literary and/or artistic work has the exclusive right of authorising the reproduction of his work "in any manner or form", such as⁴⁰:

- Printing
- Photocopying
- Scanning
- Digital copying (for instance on CDs and DVDs)
- Electronic storage in databases

As regards the possibility of imposing limitations on this exclusive right, Article 9(2) of the Berne Convention provides that "It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with the normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author"⁴¹.

The report of the 1967 Stockholm Diplomatic Conference which adopted Article 9 stresses that the two conditions indicated in Article 9(2) should be considered separately, step by step⁴²:

If reproduction would conflict with a normal exploitation of the works concerned, reproduction is not permitted at all (that is the case, e.g., in respect of photocopying certain material, such as sheet music). Even if a relatively large number of photocopying are made - for internal purpose-in industrial undertakings, it may not conflict with the normal exploitation of the work but it may unreasonably prejudice the legitimate interests of authors. Such a prejudice, as the report makes clear, may be - and if it may be, it should be - eliminated or, at least, mitigated by means of an equitable remuneration⁴³.

In the next section, a description is given of what is copyright collective administration and a CMO, and what kind of role it plays in various national systems. Section 2.4 explains how the copyright problems of reprography have been tackled at the national level and gives more details of RRO as a kind of copyright collective administration

operating in the field of reprographic and related reproduction rights.

2.3 Collective Management of Copyright and Related Rights, and Collective Societies

2.3.1 What Is Copyright Collective Administration and Why Is It Necessary?

Copyright collective administration, also called collective management or collective administration of copyright and related rights, is the exercise of copyright and related rights by organisations acting in the interest and on behalf of the owners of rights⁴⁴. These organisations or societies which are called CMO, Copyright Collecting Society (CCS) or Copyright Collective Administration Organisations (CCAO) are usually referred to in national copyright laws as licensing bodies to act as representatives of rights holders, on whose behalf they manage the various types of rights. In his seminal work on the topic, Ficsor, a former Assistant Director General of WIPO, defines collective management as follows⁴⁵:

In the framework of a collective administration system, owners of rights authorise collective administration organisations to administer their rights, that is, to monitor the use of the works concerned, negotiate with prospective users, give them licences against appropriate fees and, under appropriate conditions, collect such fees and distribute them among the owners of rights. This can be considered as the definition of collective administration.

In Contrast, Sinacore-Guinn stated⁴⁶:

A collective administration organisation is a legally cognisable entity whose objectives are to represent the economic and moral interests of creative rights owners and whose function is to administer, using transactional techniques of a greater or lesser degree of collectivisation, the economic and moral rights of a significant proportion of a nation's creative rights owners in their works.

It goes without saying that copyright as an exclusive right can be enjoyed, to the fullest extent, if it may be exercised individually by the owner of the right himself or herself, and he or she may more or less closely monitor whether his or her rights are duly respected⁴⁷. However, other cases show that individual management of rights is virtually impossible with regard to certain types of use for practical reasons⁴⁸. There are two main reasons leading this problem: first, when the international copyright system was being established, the individual exercise of certain rights - first of all the right of public performance of non-dramatic musical work - seemed very difficult to

protect in a global scope⁴⁹; second, the newer technologies such as photocopying, video, broadcasting and so on lead to areas in which individual exercise of right is impossible or at least, impractical.⁵⁰ In a number of cases, the point is that because these two developments, the works concerned are used by a great number of users. As a result, identifying the use of copyright works and collective payments for the use is beyond the capacity of most individual rights holders because they lack the expertise, and the ratio of administration costs to revenue may be extremely unfavourable on an item by item basis⁵¹. On the other hand, from users' perspective, identification and getting sustainable permissions are difficult, or impossible. According to WIPO, an average of 60,000 musical works are broadcast on television every year, so thousands of owners of rights would have to be approached for authorisation⁵².

On the whole, the very impracticability of managing these activities individually, both for the rights holders and for the user, creates a need for CMOs, whose role is to bridge the gap between them in these key areas among others, because they ensure that rights holders could enforce their rights and receive payment for the use of their works⁵³. At the same time, it is much easier for users to obtain the rights to use one or more works through a collective management system and they have access to a large repertoire of works, which eliminates the need to find individual rights holders⁵⁴. WIPO stated in their guide to the collective administration of authors' rights, that collective administration is the only means of ensuring that the legitimate interests of the author are respected when the latter is dealing with a multiplicity of users and also the most effective means of facilitating the public dissemination of works when the user draws upon a multiplicity of works⁵⁵.

Besides their core functions, CMOs are also involved in other activities in three areas: social programmes like health insurance, pension and retirement programmes, legal and professional advice, etc.; cultural programmes such as grants to creators, scholarships, award programmes, etc.; finally, educational programmes like public relations and information activities, creation of anti-piracy centres, cultural education, workshops and training, and so on⁵⁶.

WIPO believes that collective management and CMOs have an important role⁵⁷:

Collective management does a valuable service to the world of music and other creative arts. By managing their rights, the system is rewarding creators for their work, and the creators in turn are more inclined to develop and apply their talents[...]Such a situation encourages creators to contribute to the development of the cultural sector, attracts foreign investment and generally enables the public to make the most of a broad array of works. Together, these factors have an undeniably favorable impact on national economies; cultural industries contribute up to 6% of the gross national product of some major countries, income from the collective management of copyright and related rights accounts for a substantial part of that percentage.

2.3.2 History of CMOs

The first authors' society that was more than a mere professional association of authors and which fought for the recognition of authors' rights in their works was established in France in 1777 by the French playwright Beaumarchais, and was called the General Statutes of Drama⁵⁸. It was later transformed into the *Societe des auteurs et Compositeurs dramatiques* (SACD), the first society dealing with the collective management of authors' rights⁵⁹. In 1838, Honore de Balzac, Alexandre Dumas, Victor Hugo and other French writers established the *Societe des gens de letters* (SGDL) that was charged with collecting royalties from print publishers⁶⁰.

The events leading to fully developed collective management started only in 1847 when two composers, Paul Henrion and Victor Parizot, and a writer, Ernest Bourget, supported by their publisher brought a lawsuit against "Ambassadeurs", a cafe-concert in Paris⁶¹. They argued that the cafe benefited by playing their scores every day, without payment and without acknowledgement⁶². The authors won and the owner of the cafe was obliged to pay substantial fees⁶³. Until that time, rights holders realised that they would not be able to control and enforce their "newly" identified rights individually⁶⁴. That realisation led to the foundation of a collecting agency, *Centrale pour la perception droits Auteurs et Compositeurs de Musique* in 1850⁶⁵, which was soon replaced by the still functioning *Societe des auteurs, compositeurs et editeurs de musique* (SACEM) in 1851⁶⁶. The idea behind SACEM was to create a mechanism through which a large number of composers, authors, and publishers could pool their resources and share the expenses of an organisation that would police and protect their rights, license those rights to the many possible users, and then collect and account for all of those uses⁶⁷. It served as a model for other societies such as the UK Performing Rights Society (PRS), the German *Gesellschaft fur Musikalisch Auffuhrungs* (GEMA) and Australian Performing Right Association (APRA)⁶⁸.

At the end of the nineteenth century and during the first decades of the last century, similar authors' organisations (so-called performing rights societies) were formed in nearly all European countries and in some other continents as well⁶⁹. Cooperation developed rapidly among these organisations and they felt a need for an international body to coordinate their activities and contribution to a more efficient protection of authors' rights through the world. It was in June 1926 that the delegates from 18 societies set up the International Confederation of Societies of Authors and Composers (CISAC)⁷⁰ and there are currently 201 performing right organisations in 108 countries⁷¹. Musical performing rights societies are so successful and pervasive as a type of CMO throughout the world that, in most discussions of collective management, the organisation being discussed is either overtly or tacitly modelled upon a musical performing rights society, and the type of licensing being addressed is the type of collectivised licensing used by them⁷².

Along with the success of CMOs operating in the field of music, CMOs have grown in other fields and spread through out the world because advances in technology, such as radio and television broadcasting, and reprographics (photocopying, xerography, etc.), have created an ever-expanding market for creative works⁷³. In some cases, the nature of the rights to be recognised demands collective management if it is to be of any value⁷⁴. This is especially true for rights holders in developing countries who are not as affluent as their counterparts in the more developed countries⁷⁵. Accordingly, CMOs were gradually established in many other different fields such as audiovisual rights, dramatic work rights, fine, applied and graphic arts, literary works, performers and phonogram producers' rights, reprographic rights and so on.

At international level, there is now a well-established global network of collective management organisations, and they are strongly represented by non-governmental organisations such as CISAC for musical performance rights mentioned before, the IFRRO for reproduction rights of texts, illustrates and music sheet(see Section 2.4)⁷⁶, International Bureau of Societies Administering the Recording and Mechanical Reproduction Rights (BIEM) and International Federation of Producers of the Phonographic Industry (IFPI), Association of Audio-visual Writers and Directors (AIDAA), Audiovisual Works Collective International Administration Association (AGICOA) and other bodies⁷⁷ in different fields. Meanwhile at the European level, the

Association of European Performers Organisations (AEPO) and so on are active ⁷⁸.

2.3.3 How Do CMOs Work?

2.3.3.1 Tasks, Membership, Rights Management and Licensing

There are five activities involved in the management of creative rights: representing the creative rights holders; licensing those creative rights; monitoring the uses of licensed works to the rights holders; collecting for licensed uses and accounting for that income to the rights owner; and enforcing the rights of owners with respect to unlicensed uses of their works⁷⁹.

In the major industrial nations, most CMOs are private entities owned and controlled by their affiliated rights owners having regard to general law such as company and competition law⁸⁰. Normally, they are non-profit making private bodies⁸¹ and typically spend 10% to 30% of the royalties collected to cover their administrative costs⁸², while it is unusual but possible that the CMO operates for profit in some countries⁸³. In contrast, public CMOs can be found in the majority in planned-economy countries, and socialist countries and are common in developing countries (particularly in Africa)⁸⁴. They are commonly described as "public, non-profit making bodies of professional character, having legal personality and financial autonomy", which are also referred to as "state societies"⁸⁵. The description of membership of collective management is given by the WIPO as follow:

Membership of collective management organisations is open to all owners of copyright and related rights, whether authors, composers, publishers, writers, photographers, musicians, or performers. Broadcasting organisations are not included in the list, as they are considered users, even though they have certain rights in their broadcasts. On joining the collective management organisation, members provide some personal particulars and declare the works that they have created. The information provided forms part of the documentation of the collective management organisation that allows the link between the use of works and payment for the use of works to be made to the correct owner of the rights. The works declared by the organisation's members constitute what is known as the "national" or "local" repertoire (as opposed to the international repertoire which is made up of the foreign works managed by collective management organisations in the world)⁸⁶.

CMOs most commonly take care of the following rights⁸⁷:

- The right of public performance (music played or performed in

discotheques, restaurants, and other public places);

- The right of broadcasting (live and recorded performances on radio and television);
- The mechanical reproduction rights in musical works (the reproduction of works in CDs, tapes, vinyl records, cassettes, mini-discs, or other forms of recordings);
- The performing rights in dramatic works (theatre plays);
- The right of reprographic reproduction of literary and musical works (photocopying);
- Related rights (the rights of performers and producers of phonograms to obtain remuneration for broadcasting or the communication to the public of phonograms).

A more complete list of the rights administered collectively around the world is contained in the Table 2.1⁸⁸ (when the name of a country is in bold, collective management is mandatory for the right concerned).

RIGHT ADMINISTERED	EXAMPLES OF COUNTRIES
Droit de suite	Denmark, France, Germany, Spain
Private Copying	Denmark, Germany, Italy, Netherlands, Spain
Reprography	32 countries worldwide. Mandatory in France, Germany, Netherlands (libraries and education).
Rental right	Denmark, Spain
Cable retransmission	Denmark, Germany, Italy, Netherlands, Spain, U.K.
Secondary use of radio or television broadcasts	Denmark
Music performing rights (authors)	Almost 100 countries world-wide
Music mechanical rights	More than 70 countries world-wide
Copies of television programs for the benefit of handicapped persons	Denmark
Public lending right	Germany, Netherlands, Spain (not fully applicable yet)
Public performance of performers' performances	Netherlands, Spain
Public communication of audiovisual works	Spain
Public performance of phonograms (producers)	Spain
Transformation (adaptation) right	Spain
Grand rights (theatrical)	France
Visual Artists' Reproduction Right	France, Germany, UK, USA
Photographers' Reproduction Right	Nordic countries, UK, USA
Use of videocassettes in public places	USA

Table 2.1 A List of the Rights Administered Collectively around the World

To meet the objective of collective management of the rights, two types of licences are generally negotiated: blanket licences and specific licences (or called individual licences)⁸⁹. Blanket licences authorise copyright users to use, for a specific period of

time, all works for which the licensing body is responsible⁹⁰. The most popular form of blanket license is that the CMO will enter into a written agreement with an individual user under the terms of which that user will agree to pay a certain royalty in exchange for the right to use any of the works contained in that CMO's repertoire for a generally unlimited number of times within a prescribed period of time⁹¹. Such a licence might, for example, provide a broadcaster with a single annual authorisation encompassing many thousands of songs owned by thousands of composers, lyricists and publishers. It can reduce the cost to consumers, with users paying a single fee for access to the whole of a society's repertoire, thereby eliminating high transaction costs that would be incurred through clearing rights with every individual rights holder⁹². Moreover, the blanket licence also encourages the efficient use of the existing repertoire, where the marginal cost of such use is zero⁹³. There is another type of blanket licence called statutory blanket licences which the copyright laws of a number of countries have created certain rights of remuneration such as public lending rights, private copying rights and so on have delegated the right to collect the remuneration set by those laws to a CMO with a duty to account to its members for the uses being compensated by those laws⁹⁴.

There are three types of specific licences that are most commonly used by CMOs as follows, customised, minimum basic agreement, and master agreements⁹⁵:

A customised licence is one that is specifically negotiated, drafted, and executed for the purpose of licensing a specific work of a specific creator/owner to a specific user; minimum basic agreement licence is one where CMOs enters into a minimum basic agreement which grants the minimum conditions or terms to users with industry associations such as theatres and theatre producers; in a master agreement, a CMO and a users' association will negotiate the terms by which the CMO will license any one of its works to a user belonging to that association for the uses contemplated by that agreement.

Collective licensing applies to a single territory but reciprocal agreements between societies mean that it allows rights holders to gain remuneration for uses across the globe⁹⁶. According to the national treatment principle enshrined in both the Berne Convention and the Rome Convention, foreign rights holders are treated in the same way as nationals in most respects⁹⁷. This principle is upheld by collective management organisations which, under reciprocal representation agreements, administer foreign

repertoires on their national territory, exchange information and pay royalties to foreign rights holders⁹⁸.

2.3.3.2 Different Patterns of Collective Societies

There are various kinds of CMOs or groups of such organisations, depending on the category of works involved that will collectively manage different kinds of rights:

"Traditional" collective management organisations use a fully fledged collective management system. The rights holders authorise the collective management organisations to monitor the use of their works, to negotiate with prospective users, to grant them licences under certain conditions and a tariff system, to collect the remuneration, and to distribute it among the owners of rights⁹⁹. The individual owner of rights does not become directly involved in any of these steps¹⁰⁰.

Rights clearance centres grant licences to users that reflect the conditions for the use of works and the remuneration terms set by each individual holder of rights who is a member of the centre¹⁰¹. Here the centre acts as an agent for the owner of the rights who remains directly involved in setting the terms of use and tariff for his works¹⁰².

"One-stop-shops" are a sort of coalition of separate collective management organisations which offer users a centralised source¹⁰³ when this is needed for pursuing of common interests or for the joint exercise or enforcement of certain rights¹⁰⁴. There is a growing tendency to set up such organisations on account of growing popularity of "multimedia" productions, which require a wide variety of authorisations¹⁰⁵.

According to the degree of control retained by the individual creative rights owner while exercised by the CMO (levels of collectivisation), those types or categories of CMOs can be defined as follows:

"Agency Collective Organisation (ACO)" is one in which the creator/owner retains the maximum level of control over his or her work that is possible within a collective framework. In such a case, the ACO's representational function would be primarily that of conduit between possible users and creators¹⁰⁶.

"Collective Licensing Organisation (CLO)" is one in which the creator surrenders the control of the licensing function of particular rights in his or her work to the collective. Whether licensed according to a blanket license or pursuant to a system of tariffs or standardised general agreements, the work is licensed and administered not according to its individual merits, but simple as part of the repertoire of the CLO¹⁰⁷.

“Collective Right Organisation (CRO)” controls overall rights to its member creators works, not just particular rights. The forms of licensing, monitoring use, collecting and accounting are generally in accord with the administration activities of a CLO¹⁰⁸.

“Collective Distribution Organisation (CDO)” has turned over its licensing functions to the state through the imposition of statutory licensing. In these instances, the only function remaining to be performed is the collection and distribution of royalties to affected creators¹⁰⁹.

“Social Collective (SC)” is the most extreme form of collective management. In these organisations the fundamentals of creative rights as private rights are ignored. Money is collected pursuant to some form of statutory licence or as a “tax”, and the proceeds are used for general cultural purposes or for collective benefit¹¹⁰.

CMOs are not created in a vacuum; they exist within the political, social, cultural and economic climate of their home country. That climate will have a vital impact upon the structure and organisation of a CMO and will even determine its very capacity to exist¹¹¹. Sociological and political conditions which are preconditions for the formation for a CMO mainly include effective creative rights legislation, international rights recognition, effective enforcement and judicial support and educational tools¹¹². The factors affecting the operations of CMO are: the CMO’s legal form; the education level of the populace; and the cultural acceptance or hostility toward creative rights. These factors will have a positive or negative impact upon a CMO’s operations. Other factors include the economy of the country (i.e., whether it can fund the establishment and operations of a CMO); and the types of rights users found in that country (i.e., whether they are public or very large corporate users)¹¹³.

2 3.3.3 Legal Regulation of Copyright Collective Administration and Monopoly Status

It is generally agreed that modern copyright law cannot be really understood in all its dimensions without specific laws or provisions regulating copyright collective administration or CMOs. Between droit d’auteur countries, e.g. continental European countries, and common law countries, i.e. Anglo-Saxon countries, there are two patterns of legal regulations of copyright collective administration resulted from differences of attitudes to regulation or non-regulation of the activities of collecting societies¹¹⁴. They are deeply rooted in the difference of general copyright philosophy between a predominant pragmatic economic approach and a more human rights based

approach. Typically, common law countries have no systematic regulation of the activities of collecting societies. Some provisions or whole chapters in the UK¹ and USA Copyright Acts² are relevant to copyright licensing and collecting societies, but they are mainly based on the “control aspect” or even “antitrust rules” to guarantee that licensing bodies cannot abuse their position¹¹⁵. On the other hand, it is complemented in the countries like Germany, Portugal, and France by other aspects of regulations which are dictated by the interests of rights holders¹¹⁶. Consequently, special chapters of the copyright law or special laws of copyright collective administration contain provisions clearly favouring the activities of collecting societies as against the user side, and also regulated special authorisations and permanent supervision from government bodies, control of tariffs, relation to work users and obligation to contract, relations to rights holders and obligation to administer distribution rules¹¹⁷. The laws often declare that the activities of CMOs also have cultural and social aspects¹¹⁸.

CMOs may be in a monopoly position for some users of copyright material¹¹⁹. Most CMOs operate as *de facto* monopolies with their territory of primary administration¹²⁰. There are strong arguments in favour of allowing or even encouraging this situation which include the fact that market exclusivity facilitates and supports the functions and operations of collective management¹²¹. Some regulations in some countries even positively prescribe that generally or in certain fields only one collecting society will be allowed¹²². At the same time, there is substantial social and political suspicion of any organisation holding a monopoly position and of the power that such a position accords that organisation, i.e., the “control aspect” and antitrust rules¹²³.

Consequently, besides copyright law and other specific regulations, there is some supervision of CMOs from governments in a number of ways. Governments can monitor CMOs by regulating internal operations like records and accounting rules, creating and maintaining records, and auditing and verification¹²⁴. For example, in Germany, the establishment of a CMO requires to be jointly authorised by the German Patent Office and the Kartellamt, and the Patent Office plays a role of arbitrator when a CMO and its users are in conflict, and also can require the CMOs to replace their

¹ See, chapter VII on copyright licensing and licensing bodies and chapter VIII on the copyright tribunal in Copyright, Designs and Patents Act 1988

² Apart from very limited recognition of the role of CMOs, there is no systematic regulation of collecting societies at all in USA Copyright Law

manager or even forbid them to carry out their activity¹²⁵. The French system consists mainly in heavy control of establishment and a moderate control of activity of an RRO¹²⁶. In Japan, the Agency for Cultural Affairs maintains an oversight authority over all CMOs under the Law on Intermediary Business concerning Copyright¹²⁷. By contrast, in the UK the state only intervenes regarding the prices set by CMOs. Proceedings are undertaken only at the request of users when they complain to the Copyright Tribunal. The USA system of regulation of CMOs imposes a significant degree of control over its CMOs¹²⁸.

2.3.3.4 *Arguments and Future*

Collective Administration is not perfect, nor is it a panacea, as noted by Berdt Hugenholtz's 2000 paper *Rights allocation in a digital environment*¹²⁹:

The rights holders had to pay a price for the spectacular successes of the societies. Efficiency demanded that the authors unconditionally surrender their pecuniary rights, thereby enabling the societies to offer blanket licenses to their clients. Thus, the exclusive right degenerated into a right to remuneration. For the same reasons, the societies discouraged the individual exercise of moral rights. For ever striving for higher gross income, and increasingly in competition with foreign societies, the rights organisations gradually began to resemble their traditional foes, the producers.

Meanwhile, the monopoly mentioned above could lead to abuse of a dominant position¹³⁰. CMOs often benefit from a double monopolistic position vis-à-vis intermediary users as well as their members which can harm the interests of both of them¹³¹. This explains why legal supervision plays a key role. Another frequently made criticism of copyright collective administration is on the subject of pricing. Since a licence is usually agreed in exchange for a lump sum payment, rights holders can be denied the right to individually set the price for the use of their rights while users may feel concerned about their ability to control the pricing in a commercial negotiation¹³². Collective administration could also result in argument on distribution between different groups of rights holders and imprecise distribution of royalties, usually because insufficient information exists to precisely identify whose rights have been exploited and to what extent¹³³.

Because of the development of new digital technology, there is an opportunity for

CMOs, in that rights holders have increasing difficulties in controlling the uses made of their works in the digital environment, especially on the Internet, and content users have difficulties whenever they have to identify and authenticate the real copyright owners¹³⁴. On the one hand, it might be a problem for CMOs that rights holders have new opportunities to manage their copyright themselves¹³⁵.

In 1996, two treaties were concluded under the auspices of WIPO to respond to the challenges of protecting and managing copyright and related rights in the digital age, known as "the Internet Treaties" - the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (WCT and WPPT respectively)¹³⁶. The WIPO Diplomatic Conference led to the adoption of WCT and WPPT by representatives of 157 nations¹³⁷. These two deal among other things with obligations concerning technological protection measures and rights management information in the digital environment; they ensure that the rights holders are protected when their works are disseminated on the Internet; they also contain provisions requiring national legislators to provide efficient protection for technological measures, by prohibiting the importation, manufacture and distribution of illicit circumvention tools or material and also outlawing acts detrimental to rights management information systems¹³⁸. Both the WCT and the WPPT, agreed that the production right as set out in Article 9 of the Berne Convention, and the exceptions permitted thereunder, full apply in the digital environment, in particular to the use of works in digital form¹³⁹. WIPO believes that to implement the WCT and WPPT, current efforts at building copying protection structures for digital technologies have demonstrated the need for three-pronged approach: the first prong involves the development of technical protection measures and the making available of such measures on reasonable terms; the second prong consists of laws that support protection technologies and prohibit the circumvention of such technologies; and the third prong involves cross-industry negotiations and licences of technical protection measures¹⁴⁰.

Under these circumstances, many CMOs have developed systems for licensing online delivery of information, the monitoring of uses and the collection and distribution of remuneration for various categories of works within the digital environment¹⁴¹. These digital information systems, which depend on the development and use of unique numbering systems and codes that are embedded in digital carriers such as CDs, and

films, allow works, the rights holders, the digital carriers themselves to be properly identified and provide other relevant information¹⁴². Since 1994, CISAC has supported a project called Common Information System (CIS) to define and implement standards to effectively allow uniform data exchange and access between affiliated CMOs and help them handle the high volumes of complex transactions with digital delivery¹⁴³. In the UK, the possibility of establishing a single electronic information copyright clearing house is being considered to co-ordinate functions presently performed by bodies such as the Copyright Licensing Agency (CLA) and the Performing Rights Society¹⁴⁴. If introduced, information product creators could obtain all necessary permissions and make any payment undertakings in a single automated transaction. A right clearing house sponsored by some Canadian CMOs and the Canadian Government is an web portal, which allows users who are interested in publicly performing live or recorded music, creating and distributing CDs containing songs of other artists or using music in the presentation of a video, to obtain the necessary permissions from the relevant CMOs who administer those rights in Canada¹⁴⁵. Voluntary licensing of digital uses by CMOs is already in place in the USA. ASCAP and BMI, the two USA performing rights collectives, have tariffs relating to the public performance of music on the Internet¹⁴⁶. Digital Rights Management system (DRM) is the technology adopted for the copyright collective administration in the field of music and literary work. It has been implemented by all of the new services that allow legal downloading of music¹⁴⁷. These technologies or their combination might alter the way creative works will be distributed and might introduce new and efficient methods for managing copyright. By implementing DRM technologies, a publisher of digital content can determine the conditions of its use and make sure that the content is available to users only after payment has been secured¹⁴⁸.

2.4 RROs

2.4.1 What Are RROs and IFRRO?

RROs started operating in the 1970s in response to the need to license wide-scale photocopying of printed works¹⁴⁹. According to a study in England, between 1987 and 1988, a total of 1.7 billion pages were copied in trade and industry alone, and the volume has surely increased since then¹⁵⁰. Moreover, the report estimated that at least 300 billion pages were reprographically reproduced world wide each year from books,

newspapers, journals, sheet music, etc., mostly in violation of the reproduction rights as laid down in copyright laws as well as international Conventions¹⁵¹. It also estimated that, assuming rights holders throughout the world were entitled to five US cents per page copied, there would be USD 15 billion lost to rights holders throughout photocopying each year¹⁵². There are indications that in the advanced national economies of Western Europe approximately 200 copy pages per head of population would be a reasonable estimate of annual use of copyright works and in the UK, as CLA recorded, the state schools system used over 400 million copy pages of copyright works per year in 1993¹⁵³. It is obvious that there need to be RROs working on the monitoring of photocopying and collection of royalties for rights holders in the whole society whenever it is impractical for rights holders to act individually.

Accordingly, RROs' licences typically grant authorisations to copy a portion of a publication, in limited numbers of copies, for the internal use of institutional users¹⁵⁴. They operate under national legislation and/or contract to license the reproduction of copyright material and pass on the licence fees, minus costs, to rights holders¹⁵⁵. Besides literary works, works of visual art and photography as well as musical works can be copied. Rights holders can be listed as follows¹⁵⁶:

- Non-fiction authors including authors of teaching material
- Fiction and drama writers
- Journalists, editors, critics
- Translators
- Visual artists (painters, sculptors, graphic designers, illustrators)
- Photographers
- Composers and lyricists
- Publishers of books, newspapers, magazines, periodicals and sheet music

Generally speaking, RROs are non-profit making organisations, but they are businesses nonetheless and the successful ones are run in a very business-like manner¹⁵⁷. In order to get off the ground, an RRO needs start-up capital just like any other business. Every existing RRO has borrowed seed-corn money and/or necessary manpower from the people who will eventually benefit most from its creation, i.e., the authors and publishers¹⁵⁸. If an RRO is established properly, the loans required are relatively small and short-term, while the benefits are considerable and long-lasting¹⁵⁹. Once an RRO begins to issue licences and starts collecting fees, it is well on the way to becoming self-financing.

The first RRO to be established was BONUS in Sweden, which began licensing in 1973¹⁶⁰. In April 1982, the Copyright Licensing Agency was established in the UK and its incorporation in January 1983 as a non-profit making company limited by guarantee¹⁶¹. The Agency which is primarily concerned with licensing "heavy user" groups issued its first licence in May 1984¹⁶². In Asia, Japan established the Japan Reprographic Right Centre (JRRC) in 1991; the Hong Kong Reprographic Rights Licensing Society (HKRRLS) and the Copyright Licensing and Administration Society of Singapore (CLASS) were established respectively in 1995 and 2000¹⁶³.

IFRRO, the International Federation of Reprographic Right Organisations, began life in 1980 as a joint working group of the International Publishers Association (IPA) and the International Group of Scientific Technical and Medical Publishers (STM)¹⁶⁴. Its purpose is to facilitate, on an international basis, the collective management of reproduction and other rights relevant to copyrighted works through the cooperation of national RROs. It was at the May 1984 meeting in Oslo that the working group became an informal consortium known as the International Forum for Reproduction Rights Organisations¹⁶⁵. It was also at this meeting that the term "RRO" was adopted to designate collecting societies whose central concern is reprographic reproduction rights¹⁶⁶. In April 1988 in Copenhagen, IFRRO became a formal federation eligible to speak on behalf of its constituents before various international bodies such as WIPO, UNESCO, the European Community and the Council of Europe¹⁶⁷. In Barcelona in 1996, the IPA, at its centenary meeting passed a resolution calling for the setting up an independent RRO in every country of the world and urging governments to support that initiative¹⁶⁸. Today, IFRRO has 44 RRO members, 49 associate members and 10 international associate members all around the world at the moment, and many more RROs are in the process of establishing and joining¹⁶⁹. During the year 2003 the total domestic collection for reprography and certain digital uses by RROs around the world was EURO 380 million¹⁷⁰.

Since its foundation in 1980, one of the main aims of IFRRO has been to foster the establishment and development of RROs. The IFRRO Board formed an Asia-Pacific committee to focus on the region and to establish contacts, nurture relationships, offer advice and run seminars in the Far East¹⁷¹. This has been followed by the creation of similar committees in Africa and the Middle East, in Latin America and the Caribbean

and in Europe¹⁷². The Federation's Asia-Pacific committee is chaired by Michael Fraser, the chief executive of Copyright Agency Limited (CAL) in Australia¹⁷³. IFRRO delegations visited Seoul, Hong Kong and New Delhi in 1992 and Singapore, Hong Kong and Vietnam in 1996¹⁷⁴. After the establishment of the CLASS and based on the experience in other Asian countries, IFRRO realised that the encouragement of the formation of an RRO in China is a longer-term objective for IFRRO¹⁷⁵ but IFRRO has been active in assisting Chinese rights holders to lobby the Chinese Government to establish a legal framework conducive to the operation of collective licensing in China. In 2004, the president of IFRRO's Asia-Pacific Committee visited China and meetings have already taken place between the Federation and the NCAC¹⁷⁶.

2.4.2 Different Models of RROs Operation

2.4.2.1 *Non-voluntary Licensing*

Non-voluntary licensing systems can be stipulated in national legislation whenever this is permitted by the international Conventions. The implications of Article 9 (2) of the Berne Convention and Article 13 of the TRIPS Agreement have to be duly taken into account. Because the Berne Convention exhaustively details, and thus limits, the conditions that may be imposed upon the rights of creators, it would seem that mandatory collective affiliation may only be prescribed in those same cases as the Convention allows conditions such as non-voluntary licensing schemes or under the rules of collectivisation necessity where the "legitimate interests of authors" cannot otherwise be protected¹⁷⁷. The Berne Convention does allow non-voluntary licensing schemes in a limited number of situations, including certain limited reprographic rights, broadcasting rights, mechanical reproduction of musical works, droit de suite rights, and under Berne's "small exceptions" allowance¹⁷⁸.

In non-voluntary systems, permission to copy is granted by law without requiring authorisation from the rights holders, hence the name "legal licence"¹⁷⁹. In other words, in non-voluntary systems, the consent of rights holders is not required, but they have a right to remuneration¹⁸⁰. There are two kinds of licences under the broader term of legal licences: if the royalty rate is also determined in the legislation, the system can be called "a statutory licence"; if rights holders can negotiate the royalty rate with the

users, it is called "a compulsory licence"¹⁸¹. In some countries, a legal licence is only introduced for education and for government copying. In others, a legal licence covers all copying.

The Dutch *Stichting Reprerecht* (SR) operates under a statutory licensing system principally in the government and educational area in which the royalty fee is established by government regulation¹⁸². It required specific provisions authorising collection and distribution of royalties, with some allowance for free copying in the public interest¹⁸³. Meanwhile, SR is acquiring mandates from rights holders for the licensing of businesses and corporations under voluntary licensing systems¹⁸⁴, which shows that the different systems can be administered side by side. In Australia, there is also a statutory licence covering educational institutions, State and Federal Governments and other organisations, including corporations and media monitoring services, choose to take out a voluntary licence¹⁸⁵.

Reproduction for private and personal use is a special case. In many legislations, copying for private use is permitted¹⁸⁶. However, in a non-voluntary system, reproduction for private and personal use can be compensated indirectly and rights holders still receive "equitable remuneration" through levies on equipment or on the underlying material, i.e. paper¹⁸⁷. The equipment levy approach is based on the notion that remuneration is payable for all uses of copyright material, but that much photocopying takes place by private individuals and single copies for private and personal use are difficult to track¹⁸⁸. The size of the levy is determined by regulation and varies according to the type, capacity and performance capability of the equipment and also it varies according to location and use¹⁸⁹. Countries have imposed levies following mainly either one of three ways: equipment levy on the sale of reproduction equipment, such as photocopy machines and facsimile machines; operator levy, payable in proportion to the number of copies realised in a year or in proportion to the number of students or employees; or a combination of equipment levy and operator levy, which has been adopted by the most countries among the three¹⁹⁰. The mode of calculation of levies imposed on reproduction equipment also differs from one country to another. In some countries, the remuneration on equipment is calculated in proportion to the sales price of such equipment, while in other countries, the remuneration on equipment is paid in the form of a lump sum¹⁹¹. In most EU Member

States, the remuneration due for reproductions made by means of reprography is calculated in proportion to the number of copies made in a year¹⁹². The price per copy may vary according to the type of work reproduced, i.e., scientific or educational book, novels, magazines, or newspapers, and according to the type of equipment used or to the quality of the reproductions. When determining the price per copy, most countries and collecting societies also make a distinction according to the sector of activity, i.e. the private sector, the public sector, and the educational sector¹⁹³.

However, there are arguments about how much the levies should be, which devices it should apply to, or indeed whether there should be levies at all¹⁹⁴. From the users' perspective, there are also criticisms that each country adopting a levy system makes its own decisions with little regard to the interests of consumers¹⁹⁵. As a rule, the obligation to pay the remuneration imposed on reprographic equipment does not lie on the consumer, but rather on the manufacturers or importers of such devices¹⁹⁶. In the majority of cases, manufacturers and importers of reproduction equipment pass the charge on to the consumers by means of the sales price of such equipment. Moreover, the amount of the levies, and the products which they are applied to, seem to be more often than not decided by the negotiating power of the collecting societies rather than by a fairer assessment of the actual cost to rights holders of authorised copying¹⁹⁷. In the future, it is supposed that customers might face the problem that different collecting societies for different types of works which can result in multiple levies being paid to different collecting societies for the same equipment or media¹⁹⁸. For the collecting societies operating levy systems, it is doubtful whether all collecting societies would deploy the same level of energy and resources in monitoring the amount of copies made annually by every entity subject to the payment of remuneration or in the collection of the sums due¹⁹⁹. Of course, all types of RROs around the world have to face the doubts and argument of their efficiency and fairness like other kinds of CMOs since they were established, or even before their establishment.

The first country to introduce this kind of levy system on equipment was Germany, in 1985²⁰⁰. The levy is paid on copying and fax machines, reader printers and scanners by the manufacturer or importer of such equipment²⁰¹. In addition to this, operator levy is paid by heavy photocopiers, such as schools, universities, research institutes and copy shops²⁰². The tariffs for both the equipment levy and the operator levy are determined

in the legislation²⁰³. In Spain, the law contains a double system of licences: a legal licence based on a machine levy for private copying and voluntary licences for subsequent copying, but unlike in Germany, the Spanish courts have not extended the legal boundaries of the levy to cover, for example, corporate copying; nor does the legal licence cover educational copying²⁰⁴. Twelve EU member have put in place such a levy system, i.e., Germany (1965), Sweden (1973), Netherlands (1977), Finland (1978), Denmark (1980/educational and 1987/business), France (1988), Spain (1988), Italy (1993), Belgium (1994), Austria (1996), Greece (1996), and Portugal (1998)²⁰⁵. The UK has considered the idea on a number of occasions, but so far has always rejected it.

2.4.2.2 *Voluntary Licensing with Back-up Legislation*

In theory, a collective administration organisation can only administer the rights of those who mandate it to do so²⁰⁶. However, it is impossible for an organisation to obtain mandates from all national and international rights holders whose works are reproduced in its territory of operation. Voluntary licensing with back-up legislation can make it possible that the licences issued by the RRO also cover the rights of non-represented rights holders.

There are two types of voluntary licensing with back-up systems in legislation: Extended Collective Licence and Obligatory Collective Management. With an Extended Collective Licence, agreements between users and organisations representing a substantial proportion of rights holders in a particular category of works will be extended to include all rights holders in that category, both domestic and foreign²⁰⁷. Because RROs were established in each Nordic country to implement this system, it is also called the "Nordic model." RROs will only enter into agreements with organisations representing a substantial proportion of rights holders²⁰⁸. Because individual rights holders are unable to enter into agreement directly, rights holders of each class have to form an association to represent all rights holders of that class²⁰⁹. It leads that this model presupposes a well organised society where most rights holders are represented in trade associations and unions. In Norway, the RRO is registered as a monopoly²¹⁰.

The characteristics of an extended collective licence are:

- The copyright organisation and the user conclude an agreement on the basis of free negotiations.
- The copyright organisation must be nationally representative.
- By law, the agreement is made binding on non-represented rights holders.
- The user may legally use all materials, without needing to meet individual claims by outsiders or having to face criminal sanctions
- non-represented rights holders have a right to individual remuneration
- in most cases, non-represented rights holders have a right to prohibit the use of their works²¹¹

In the case of Obligatory Collective Management, even though the administration of rights is voluntary, rights holders are legally obliged to make claims only through an RRO²¹². This safeguards the position of users because an outsider cannot make direct claims against them²¹³. In 1995, legislation in France introduced for the first time the concept of Obligatory Collective Management into the administration of reprographic reproduction rights²¹⁴.

2.4.2.3 *Voluntary Licensing Systems*

In voluntary collective licensing, the RRO issues licenses to copy protected material on behalf of those rights holders who have given it a mandate to act on their behalf based on voluntary contracts²¹⁵. Voluntary licensing systems require a great deal of marketing, and negotiating, as well as comprehensive computer systems, on one hand, but their flexibility makes them attractive to individual rights holders, on the other hand²¹⁶. In some countries, for example the UK, Canada and New Zealand, there are statutory provisions that encourage users and rights holders to enter into such voluntary agreements, while in other common law countries such as the USA, there is no particular statutory involvement and management of licensing is governed by contracts and voluntary cooperation²¹⁷. It corresponds the traditions of legal regulation on copyright collective administration in Anglo-Saxon countries.

In the UK and USA, there is no “private use” derogation, but more limited exceptions such as “fair dealing” and “library privilege” in the UK, and “fair use” in the USA²¹⁸. For example, in the UK, it has become recognised that material cited or distributed to a class does not constitute the purpose of “private study”, and thus “systematic copying” is not considered fair dealing in regulations under the Copyright Act²¹⁹. The Act also

gave detailed provisions for education and public administration use of copyright in different casesⁱⁱⁱ. In the USA, although multiple copies for classroom use are considered fair use when they meet the tests of brevity, spontaneity and cumulative effect, under some conditions making multiple copies for classroom use still requires copyright permission and users are required to pay the fee²²⁰. Therefore, compared with their counterparts in Germany and Spain, the British and American RROs^{iv} administer photocopying which is neither fair use nor fair dealing, but which can still most appropriately be handled collectively based on licences²²¹.

2.4.2.4 Concluding Remarks

Type of legislation	Countries
Voluntary Licensing	
A) Voluntary Licensing schemes, without any form of back-up in Copyright Laws	Ireland, Italy, Luxembourg, USA
B) Voluntary Licensing schemes, with potential back-up in Copyright Laws	United Kingdom
Voluntary Licensing with legal back up	
A) Extended Collective Licence	Denmark, Finland, Sweden, Norway, Iceland
B) Obligatory Collective Management	France
Non Voluntary Licence-legal licence	
A 1) Equipment levy only	Greece, Spain
A 2) Equipment levy and Operator's fee	Austria, Belgium, Germany, Portugal
B 1) Legal Licence	The Netherlands, Switzerland

Table 2.2²²² Some Examples of Different Models of RRO in Euramerican Countries

Based on different ranges of rights managed by RROs, IFRRO classified RROs into three groups: Some RROs, such as CLA in the UK, are specialist organisations which only deal with reprographic and related reproduction rights; Others are part of literary rights societies, such as *VG WORT* in Germany and *Literar-Mechana* in Austria, which

ⁱⁱⁱ Please see Copyright, Designs and Patents Act 1988, Section 32 to 36A for education and Section 45 to 50 for public administration

^{iv} CLA in the UK and Copyright Clearance Centre (CCC) in the USA

deal with literary rights in general²²³. A third type of RRO, such as KOPIOSTO in Finland, are "coalitions" which administer a variety of rights on behalf of different groups of rights holders. It not only administers licenses for photocopying in all print works but also licenses retransmission of foreign television and radio broadcasts²²⁴.

Which of the above models should a new RRO choose to follow? As noted in Section 2.3, the decision must be taken at the local level after careful consideration of the current situation, the needs and desires of both rights holders and users, and the financial and technical resources available for building the RROs²²⁵. Each RRO has been established within a particular legal, cultural and economic context²²⁶. It is an extraordinary complex procession of choice seeking the unitary balance among all related parties. The adoption of a given arrangement often results not only from conflict of interests between authors, producers and users, but also the institution's reporting and supervising structure²²⁷. The feature of an RRO, which would be non-profit company or mass organisation, also depends on its host country's legal system (i.e. Common Law or Civil Law) and legal preparation (i.e. following the domestic company law or copyright law) before establishment²²⁸.

2.4.3 Licensing

When deciding which category of user to target, consideration should be given to existing legislation and its interpretation in the country concerned²²⁹. Different regulations usually apply to the different categories of user and different categories of use. Categories of users can be listed as follows²³⁰:

- Education at all levels
- Government, regional and local public administration
- Trade and industry
- Publicly-funded bodies
- Religious bodies
- Professions
- Public and research libraries
- Cultural institutions
- Research bodies
- Copyshops and other places with photocopying machines open to the public

Experience shows that each market should be thoroughly researched in order to decide which sectors will bring the maximum return in the shortest time²³¹. The actual choice of the first sectors to license will depend on the conditions in the country concerned

and on the provisions of the copyright legislation²³². Normally a sector-by-sector approach is the wisest one to adopt. Most RROs started by licensing the education sector because schools and universities are heavy copiers of copyright materials, and because education is normally controlled either by the State or by the church so that it is easier to locate the decision-taker with whom to negotiate about large sections of the system²³³.

In the business and commerce sector, IFRRO listed some areas to begin with²³⁴:

When starting to license manufacturing industry, it is normally feasible to begin with the research and development - driven sectors: pharmaceuticals, chemicals, electronics, engineering, energy and defence. In commerce, banking, financial services and insurance are logically the first to be approached. In trade, document suppliers, press-cutting agencies and copyshops are the first targets. In the professions, lawyers, accountants and surveyors are heavy users of copyright material.

As noted earlier, RROs issue two types of user licences: "Blanket" licences and "Transactional" licences. The former permits the user to make unlimited numbers of copies of parts of all works in the licensed repertoire for payment of a single annual fee; the latter allows that copy-by-copy tracking of all copies takes place and each individual rights holder sets the fees for copying of individual works, therefore rights holders can set different fees for different works and for different uses²³⁵. For transactional users, they are required to keep records of all their copying where fees are paid on a straight cost per page copied basis²³⁶. For example, the CLA in the UK provides "the transactional document delivery licence", which serves the needs of membership organisations with a document delivery service provided to users for a commercial purpose, while it also developed a blanket licence for low-volume document delivery for organisations lacking the infrastructure and volume to operate a transactional licence²³⁷. However, there are examples of non-exclusivity associated with transactional licensing, such as CAL in Australia²³⁸.

Regardless of the system of operation chosen, the following should be considered when setting tariffs²³⁹:

- Basic rates: these differ according to the type of material being copied, i.e., books, journals, newspapers and sheet music.
- Categories of user: different users, i.e., education, government, trade and

industry, usually pay different rates.

A rate per page is commonly used²⁴⁰. Rates naturally vary greatly between countries and reflect national circumstances. Fees are collected on the basis of information relating to the extent of actual, estimated or possible copying²⁴¹. General agreements negotiated between collecting societies and users or associations of users are preferable²⁴². For example, in the Netherlands, SR launched a statistical survey to determine the quantities of copyright-protected works being copied by category of work²⁴³. In the UK, the cost of the core business licence is calculated according to the type of business sector and the number of “professional employees”²⁴⁴. The three bands of charges, which are determined according to the main business activity of the organisation as defined by the Standard Industrial Classification (SIC) code, are currently GBP 7.25, 14.50 or 23 per professional employee per annum²⁴⁵. In Germany, the amount of the levy imposed on photocopying equipment has been revised in 2003 and was determined according to its reproduction capacity following a gradual scale of prices, ranging from EUR 38.35 for photocopiers capable of producing less than 12 copies per minute to EUR 306.78 for photocopiers capable of producing more than 70 copies per minute and the fees are doubled for colour photocopiers²⁴⁶. The Multi-Function Device (MFD)²⁴⁷ falls under the photocopier levies tariff which is based on the capability of the device as well^v.

Higher or lower tariffs are one of the key factors which affect the collection of RROs. There are striking contrasts among the RROs. Using 1999 data which was shown in Figure 2.1, the RRO in the USA collected USD 79 million, while Germany collected USD 28 million; and the UK RRO collected USD 36 million. The Nordic countries have the largest per capita collections: Denmark USD 3.00 per capita; Finland USD 0.92; Norway USD 5.00 and Sweden USD 1.00

^v For products up to 12 page per minute (ppm)- EUR 76.70, for 13-35 ppm units -EUR 102.26, for 36-70 ppm units – EUR 153.40 and for 70+ ppm units - EUR 613.56. (Tariffs for black & white MFDs are half of the previously mentioned tariffs)

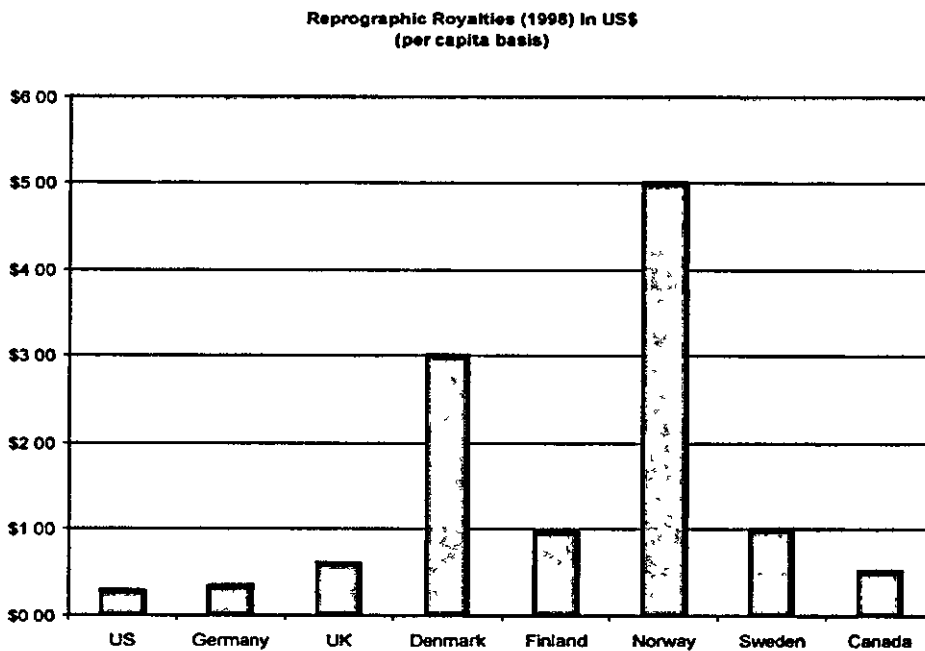


Figure 2.1²⁴⁸ Reprography Collections Comparison

2.4.4 Distribution of Remuneration

2.4.4.1 *Different Methods of Distribution*

A basic principle of collective administration is that remuneration should be distributed to rights holders according to the actual use of the works²⁴⁹. Ideally, each rights holder would receive individual remuneration according to the actual photocopying of the individual work; however, for practical and administrative reasons, in many cases this is impossible. Therefore, other solutions have been found. RROs often base the collection and distribution of remuneration for photocopying on some form of statistically obtained data. IFRRO summarised four main methods of distribution which IFRRO members are currently using: title specific distribution based on full reporting, sampling, objective availability, and non title specific distribution on the basis of survey²⁵⁰.

Full reporting means that users record details of every copyright work that is copied. The advantage of full reporting is that the collected data provides an accurate basis for the distribution of revenue to rights holders²⁵¹. However, a full reporting system can also be perceived of as burdensome to the user who has to record every instance of copying, and for the RRO, the processing of the records obtained can also result in

increased administrative costs²⁵². For example, in the Netherlands, the International Publishing Right Organisation (IPRO) was trying to work out every single transaction of copying, so it can pay publishers based on the total of all the small transactions²⁵³. It was so expensive to do it that no money came to publishers in the end. However, some RROs still adopt full reporting in some areas: in so-called "full transactional reporting" using by CCC, a licensee maintains the record of each instance of copying and CCC then invoices according to each use, and revenue is distributed to rights holders accordingly²⁵⁴; in Brazil, the *Associação Brasileira de Direitos Reprográficos* (ABDR) also collects and distributes remuneration on the basis of a full reporting system. Because of the cost of a full reporting system, countries which adopt the full reporting system typically combine it with other methods.

When distribution is based on sampling, samples are designed to capture a cross section of the copying with a defined number of users covered by the agreement, normally some 2%-5% who are selected statistically, and report their actual use at agreed intervals²⁵⁵. When distributing remuneration, rights holders are paid according to the statistically calculated use of the works. This technique is often used in the schools sector²⁵⁶. Even though not as exact as full reporting, data obtained from samples is regarded as being sufficiently accurate to enable the distribution of revenue to individual authors and publishers²⁵⁷.

In Denmark, for instance, 5% of all schools covered by the school licence have to report all of copies of copyright material to COPY-DAN for a period of 12 month²⁵⁸. In New Zealand, Copyright Licensing Ltd (CLL) carries out eight-week period of sampling surveys every year. This sample is structured by a statistician to be representative of the copying conducted over the term of each licence and to account for variations such as location, size and enrolment among licensee²⁵⁹. In the UK, sampling surveys represent the main method of data collection for distribution purposes by CLA²⁶⁰. In 2003-2003, over 150,000 survey returns were processed and a further 350,000 returns were also processed for CLA's transactional licences²⁶¹.

In some countries or licensing schemes, rights holders have decided that it would be impossible to collect data on photocopying directly from users. A distribution method has therefore been developed based on the availability of the material in the market,

thus avoiding collecting data from users²⁶². This distribution method is most often used by those RROs under the compulsory licences system²⁶³. The rationale behind this distribution method is that, since all material existing on the market can be copied, it can be assumed that at some stage it probably will²⁶⁴. The principle of objective availability can therefore form a basis for individual distribution, as is the practice in Germany²⁶⁵. Authors and publishers report their publications to the local RRO and receive their share of the distribution accordingly. The main benefit of this method is that it is a cost efficient way of obtaining distribution data because the rights holders themselves report the publication of new works to the collective society²⁶⁶. Obviously, there is no direct correlation between the actual copying of the work and the remuneration that is received by the individual author or publisher. *VG Wort* in Germany and *Pro Litteris* in Switzerland use this method²⁶⁷. Each work is treated individually and processed according to factors such as the type of publication, its price and the number of pages. On this basis, each work ends up with a certain number of "points" and distribution to individual publishers and authors is made based on this²⁶⁸.

In some countries, rights holders have opted for non-title specific distribution of remuneration, where surveys are designed to collect generic, non-title-specific information regarding the volume of copying of the type of material and categories of publications, rather than identifying the specific publication, author and publisher that have been photocopied²⁶⁹. This distribution method applies only to the rights holders represented by the organisation in the country concerned²⁷⁰. As a result, the RRO distributes the vast majority of the remuneration to the rights holders' organisations on the basis of what is copied, which in turn pay individual members and non-members²⁷¹. It is generally left to the rights holders' associations to decide on the criteria for distribution²⁷². Under this distribution method, parts of the royalties are for the common good²⁷³. This could, for instance, take the form of copyright enforcement activities or the promotion of a certain category of works or rights holders. In certain countries where the domestic licensing system is title-specific, non-title specific fees collected in foreign countries are distributed to individual authors and publishers on the basis of a statistical proxy²⁷⁴.

This distribution method has been adopted in the Nordic countries. In Norway, a survey is normally conducted every three to five years in each area covered by a centrally negotiated agreement with a period (generally three or four) weeks, during which some 5% of the units covered by an agreement have to make extra copies of all the material that is copied, except those of a confidential nature, and the extra copies are then sent to an independent statistical bureau to be coded and analysed²⁷⁵. Then rights holders' organisations basically try to decide how to distribute remuneration through negotiations²⁷⁶. In Finland, using information from statistical surveys, Kopiosto divided the remuneration into five groups: non-fiction including teaching material, fiction and drama, press, sheet music and illustration including photographs. The share of each group is shown as follow:

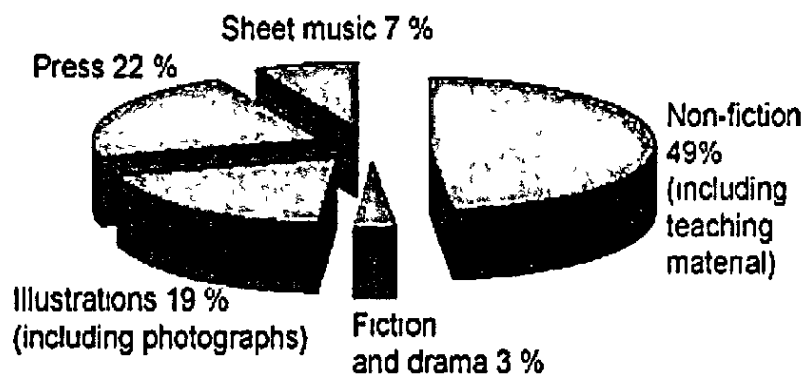


Figure 2.2²⁷⁷ Distribution Share of Kopiosto in 2002

2.4.4.2 *Distribution between Rights Holders - Author/publisher Share*

The participation of authors and publishers is fundamental to the collective administration of reprographic reproduction rights. There are three approaches to splitting their income: national legislation, the statutes of the RRO and agreement between authors and publishers²⁷⁸.

In some countries, the division of remuneration between authors and publishers is regulated by legislation. A 50/50 division is the most common²⁷⁹. Belgium, Romania and Denmark all have legislation regarding a 50/50 split. In most countries, however, the revenue split is fixed by the RRO on the basis of agreements between rights holders or rights holders groups concerned. Although a 50/50 split is common, the

author/publisher split varies from one country to another according to the factors such as the type of publication, type of material, copyright ownership and so on²⁸⁰. For example, for books in the UK, the split is 50/50 between authors and publishers while in serials the split is 100/0 between publishers and authors if the publisher has made a serials declaration that it owns and controls more than 90% of the rights in a particular journal or magazine, otherwise, the share is 75/25 between publishers and authors²⁸¹. In Germany, the sharing of remuneration between authors and publishers similarly varies: 50/50 for non-fiction and 70/30 for fiction, and in Spain, it is 55/45 between authors and publishers²⁸². Nordic countries have a more detailed scheme for the split between authors and publishers, depending on the category of publication that has been photocopied and where the copying takes place:

Source (Publication)		Authors	Publishers
Textbooks	Universities	60%	40%
	All other areas	50%	50%
Non fiction books	Schools	75%	25%
	Universities	60%	40%
	All other areas	70%	30%
Song books	Music	60%	40%
	Song texts	50%	50%
Sheet music		50%	50%
Novels, poetry books, drama		75%	25%
Fiction anthologies, journals		60%	40%
Newspapers, trade press, weeklies, cartoons		70%	30%
Encyclopaedias, other published material		50%	50%

Table 2.3²⁸³ The Division of Remuneration between Norwegian Authors and Publishers

Fees can be distributed to rights holders directly and/or through the rights holders' associations or via an intermediary, which is much more dependent on the upper structure of the RRO. On one hand, in the USA, because CCC works on behalf of individual rights holders, it transfers the fees to them directly; on the other hand, in

Nordic countries, the RROs only have authors' and publishers' associations as members to distribute the revenue²⁸⁴. In the UK, there are two owners of the CLA, the Authors' Licensing and Collecting Society (ALCS) and the Publishers Licensing Society (PLS)²⁸⁵. CANCOPY in Canada makes payments directly to authors and publishers if both are members of CANCOPY, while if the author is not a member, the author share is paid to the publisher who, as a condition of receiving the money, undertakes to pay the author if so required by contract²⁸⁶.

2.4.4.3 *Foreign Rights Holders*

As mentioned in Section 2.3.3.1, CMOs distribute revenue to foreign rights holders using reciprocal agreements. There are two types of reciprocal agreements, Type A and Type B. The Type A agreement involves an exchange of two repertoires between the RROs involved, which include authors and publishers of the same categories of rights, works and publications represented by each signatory and an agreement on transfer of fees collected²⁸⁷. However, some RROs, especially at the initial stage of their work, have preferred to sign a reciprocal agreement Type B. As with Type A agreement, the Type B agreement involves an exchange of repertoire, but there is no actual transfer of fees²⁸⁸. However, in principle, this type of agreement also involves an exchange of remuneration²⁸⁹.

In Norway, there are two other kinds of agreement, Type C and Type D. Type C is an authorisation regarding the transfer of the rights portfolio and the right to issue licences and claim remuneration in the other country is granted by Kopinor to a foreign organisation, which is based on the assumption that a reciprocal agreement will be signed later; Type D agreement is an agreement on transfer of remuneration with some RROs which represent only some of the categories of works for which Kopinor is entitled to claim remuneration, or the RRO has a distribution system that does not accommodate collective remuneration²⁹⁰.

2.4.5 The Future of RROs

The RRO system is facing the challenge of electronic publishing and copying currently. Some countries are already licensing copying by electronic means, and everywhere it is high on the agenda²⁹¹. IFRRO has taken action to become involved in collective

management of digital rights since the 1990s. It advocated the option of using RROs in collectively managing digital rights, having due regard for²⁹²:

The desire of rights holders to control their primary markets, their right to license use of their works individually, the challenge to copyright posed by emerging technologies and the importance of providing solutions to rapidly changing user needs. While national copyright laws will define the relationships between rights holders and users and determine the jurisdiction of RROs, it is IFRRO's position that many of the principles underlying collective management are technology neutral and are applicable to digital as well as to reprographic uses.

In 1992, IFRRO signed a joint statement on the electronic storage of scientific, technical, and medical material with the STM, the International Association of Scientific, Technical and Medical Publishers²⁹³. This has been widely welcomed as a major advance in determining the role of RROs in the digital field. In 1994, a second joint statement was agreed between IFRRO and an international coalition of writers' groups (Authors Coalition) concerning digital uses²⁹⁴. In 1996, the IFRRO AGM adopted a position paper on "Collective Management of Digital Rights"²⁹⁵. In 1998 and 2000, IFRRO signed two joint statements respectively with STM on the digitisation on printed STM materials and with Authors Coalition on the digitisation of printed materials and then adopted them at the IFRRO AGM in 2004²⁹⁶.

In the USA, the CCC is developing an electronic course contents service and has announced an end-to-end licensing and reprint solution that enables publishers and other content providers to offer their copyrighted material online, delivering instant permissions and the content itself directly to customers²⁹⁷. It was also selected by a publisher as the exclusive provider of "digitalrights" - management services for its online edition publications. In Canada, following an initiative from the "Table des créateurs québécois" and CMOs, COPIBEC and five creators' and publishers' associations administering rights in literary works jointly set up Damic (Droit d'auteur, multimedia, internet, copyright), a virtual information centre on multimedia rights, which provides information on rights and rights clearance in order to minimise the number of steps needed to use works in different categories²⁹⁸. CAL, Royal Melbourne Institute of Technology Publishing and the National Library in Australia cooperated from 2000 to develop Australian Public Affairs Full Text, an on-line collection of

scanned documents from journals. CAL clears rights and coordinates royalty payments and RMIT offers licences for full content and database services²⁹⁹.

In the UK, CLA launched its Licensing Scheme for Digitisation in 1999. This allows the creation, storage and exploitation of digital versions of existing print holdings. The first licences have been offered to the Higher Education community and the Pharmaceuticals industry³⁰⁰. It also has been working with ABPI (the UK pharmaceutical industry trade body) on the next generation of scanning licences³⁰¹ and launched its first licence permitting UK businesses to scan and email extracts from books, journals and magazines in 2002³⁰². It also administers an electronic licensing scheme, which will cater for the special needs of the visually impaired, in association with the Royal National Institute for the Blind³⁰³.

In 2000, Kopinor decided to enter into blanket digital copying agreements for works used on Intranets and other in-house information and archival systems including transfers by email, and a draft document containing proposed amendments to the Copyright Act, etc. was submitted in 2003³⁰⁴. LAURIN is an EU financed project aimed at developing a generic model for digitisation and electronic distribution of newspaper clippings in libraries³⁰⁵. The LAURIN system is a software package for digital clipping archives consisting of four major parts: the LAURIN database, the LAURIN interface suite, the LAURIN thesaurus and libClip³⁰⁶. In Sweden, a survey carried out in 2000 at the request of Bonus Presskopia shows that only 12% of school teachers expect use of photocopies in schools to diminish with increased use of computers; 42% think it will stay the same and 26% that photocopying will increase³⁰⁷. The survey also shows that 80% uses PCs to compile teaching material, 40% use Internet and intranets at least once a week, mainly to search for non-fiction literature and newspaper articles to be used for teaching purposes.

However, it remains unclear whether RROs should play a role in licensing electronic copying. First, currently, RROs are mainly working in photocopying. It is inevitable that although photocopying is still ubiquitous and RROs have achieved great success with it, photocopying levels are falling over time. There is an argument that the role of the RRO might be minimised with the extinguishment of photocopying³⁰⁸. Second, because new technologies such as Technical Protection Measures (TPM) and Digital

Rights Management (DRM) might be seen as a much fairer and more efficient approach, and ensures the protection rights holders seek³⁰⁹. It means that these new technologies offer possibilities to rights holders to manage their rights directly and conveniently, and it might be unnecessary to manage their rights through the intermediary organisations in the future. There is some evidence that some publishers, especially large publishers, are keen to exercise individual control over licensing users for electronic uses in some or all instances while small publishers do not have the capability to develop methods of collective licensing for the electronic environment individually³¹⁰. It is generally agreed that more and more, there will be bilateral agreements between publishers and customers like libraries for online access on the terms of agreement. Moreover authors, especially journalists, claim rights in electronic version, arguing in some case, that they have not transferred their electronic rights in their works to the publisher³¹¹. *Tasini et al. v. The New York Times et al.* is the landmark lawsuit where authors alleged that their copyrights were infringed when, as permitted and facilitated by the print publishers, online services in the articles were placed in databases and CD-ROM and the authors won the case³¹².

Stephen King, the famous best-selling author, offered up the first two installments of his new serial novel online in the summer, 2000, asking readers to “pony up a buck” for each copy they downloaded from his Web site and if this honours system worked, the episodes would continue³¹³. Although he did not collect sufficient money, he announced the series would continue. What he did was an experiment in direct publishing³¹⁴. It would appear that even publishers might be eliminated from the publishing process in cyberspace in the future. There could be a tendency in the far future that in theory, when the copyright management technology and electronic publishing are advanced enough, that all the middlemen might be cut out from the publishing process.

At this stage, besides CMOs, other organisations also began to develop copyright management software or tried to design the industry standard of copyright management in digital environment, and have become potential competitors of RROs. For example, the Joint Information Systems Committee (JISC) is an organisation which increasingly takes on the role of an RRO, helping users to get permission in digital environment³¹⁵.

JISC funded a pricing project called PELICAN and helped launch HERON, now a commercial service providing clearance for digitised texts³¹⁶.

However, RROs or other organisations have to solve plenty of controversial issues. For example, legal issues that need to be addressed in electronic copyright management systems are ownership, rights to be conveyed, and whose laws take precedence in case of a conflict³¹⁷. Until now, there is no industry standard for electronic copyright management system and a single global identification system, which would allow electronic copyright management systems to operate in a multi-code environment.

On the whole, until now, most RROs do not yet have rights from rights holders to license digital uses of their works³¹⁸. On the other hand, there are arguments over who should administer rights holders' rights in electronic environment: RROs, governments, other organisations or themselves³¹⁹. At this stage, an RRO has some advantages from the printing age. As IFRRO advocated, document delivery and copyright collective administration are areas which IFRRO and its members are used to exploit for rights holders, and they have a lot of practical experience³²⁰. It is both a challenge and an opportunity for RROs. First, although there are lots of competing systems of copyright management, there is no dominant one in the publishing industry. As a consequence, there is an opportunity for RROs to get together and design DRM technology or systems for the publishing industry. Second, from the rights holders' perspective, especially publishers, even large ones, want the third party to do things for them where the amount of the work is quite a lot but the revenue is quite small. Meanwhile, users are unwilling to deal with a large number of rights holders one by one.

References

-
- ¹ *A history of copyright.*
<<http://www.intellectual-property.gov.uk/std/resources/copyright/history.htm>>, 2005, [accessed 09.06.04].
 - ² Jones, H. *Publishing Law*, 1996, p. 12.
 - ³ Sinacore-Guinn, D. *Collective administration of copyrights and neighbouring rights*, 1993, p. 63.
 - ⁴ *Ibid.*, p. 70.
 - ⁵ *Ibid.*
 - ⁶ Owen, L. *Buying and selling rights in literary works: a practical guide for publishers in the PR China*, 2003, p. 131.
 - ⁷ Sinacore-Guinn, ref. 3, p. 71.
 - ⁸ Owen, ref. 6, p. 132.
 - ⁹ Sinacore-Guinn, ref. 3, p. 71.
 - ¹⁰ Davenport, N. *United Kingdom copyright & design protection*, 1993, p. 19.
 - ¹¹ *Collective management of copyright and related rights.*
<http://www.wipo.int/about-ip/en/about_collective_mngt.html>, [n.d.], [accessed 12.11.04].
 - ¹² *Ibid.*
 - ¹³ Jones, ref. 2, p. 12.
 - ¹⁴ *Ibid.*
 - ¹⁵ *Introduction to collective management of copyright and related rights.*
<http://www.wipo.org/academy/en/publications/Coll_of_documents_on_IP/pdf_img/10_INTROTOCOLLMANAG.pdf>, [n.d.], [accessed 12.11.04].
 - ¹⁶ Jones, ref. 2, p. 13.
 - ¹⁷ *Collective management of copyright and related rights.* ref. 11.
 - ¹⁸ Jones, ref. 2, p. 15.
 - ¹⁹ *Collective management of copyright and related rights.* ref. 11.
 - ²⁰ Wall, R. *Copyright made easier*, 1998, p. 23.
 - ²¹ Jones, ref. 2, p. 18.
 - ²² *Ibid.*
 - ²³ *Collective management of copyright and related rights.* ref. 11.

-
- ²⁴ *Ibid.*
- ²⁵ **Davenport**, ref. 10, p. 24.
- ²⁶ *Berne Convention for the Protection of Literary and Artistic Works.*
<[http://www.wipo.int/treaties/en/documents/word/e-berne doc](http://www.wipo.int/treaties/en/documents/word/e-berne%20doc)>, 2004, [accessed 11.06.04].
- ²⁷ *Berne Convention for the protection of literary and artistic works.*
<http://www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html>, [n.d.], [accessed 14.11.04].
- ²⁸ **Dworkin, G. & Taylor, R. D.** *Copyright, designs and patents act 1988*, 1989, p.5.
- ²⁹ *Universal Copyright Convention.*
<http://www.unesco.org/culture/laws/copyright/html_eng/page1.shtml
http://en.wikipedia.org/wiki/Universal_Copyright_Convention>, 2005, [accessed 10.01.06].
- ³⁰ **Davenport**, ref. 10, p. 35.
- ³¹ **Dworkin, & Taylor**, ref. 28, p. 5.
- ³² *Collective management of copyright and related rights.* ref. 11.
- ³³ *Ibid.*
- ³⁴ *Ibid.*
- ³⁵ *International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations.*
<http://www.wipo.int/treaties/en/ip/rome/trtdocs_wo024.html>, [n.d.], [accessed 14.11.04].
- ³⁶ **Sinacore-Guinn**, ref. 3, p. 802.
- ³⁷ *Ibid.*
- ³⁸ *Ibid.*, p.803.
- ³⁹ *Introduction to collective management of copyright and related rights.* ref. 15.
- ⁴⁰ *Introduction to reprography in copyright legislation.*
<<http://www.ifpro.org/show.aspx?pageid=copyright/intro&culture=en>>, 2005, [accessed 09.01.06].
- ⁴¹ *Legislation.*
<<http://law-ref.org/BERN/kw-legislation.html>>, [n.d.], [accessed 14.11.04].
- ⁴² *Introduction to collective management of copyright and related rights.* ref. 15.
- ⁴³ *Ibid.*
- ⁴⁴ *Collective management of copyright and related rights.* ref. 11.

-
- ⁴⁵ *The role of collective management*
<http://www.pch.gc.ca/progs/ac-ca/progs/pda-cpb/pubs/regime/02_e.cfm#6>, 2003,
[access 17.11.04].
- ⁴⁶ **Sinacore-Guinn**, ref. 3, p. 10.
- ⁴⁷ **Ficsor, M.** *Doctrine- collective management of copyright and related rights at the triple crossroads: should it remain voluntary or may it be "extended" or made mandatory?*
<http://portal.unesco.org/culture/en/file_download.php/4393e8012f163bf14b045706188c7533Ficsor+Eng.pdf>, 2003, [accessed 17.11.04].
- ⁴⁸ *Collective management of copyright and related rights.* ref. 11.
- ⁴⁹ **Ficsor**, ref. 47.
- ⁵⁰ *Introduction to collective management of copyright and related rights.* ref. 15.
- ⁵¹ *Caslon analytics profile: copyright collecting societies.*
< <http://www.caslon.com.au/colsocietiesprofile.htm> >, 2002, [accessed 17.11.04].
- ⁵² *Collective management of copyright and related rights.* ref. 11.
- ⁵³ *Ibid.*
- ⁵⁴ *The role of collective management.* ref. 45.
- ⁵⁵ **Schepens, P.** *Guide to the collective administration of authors' rights.*
<<http://unesdoc.unesco.org/images/0012/001206/120677e.pdf>>, 2000, [accessed 10.01.06].
- ⁵⁶ **Sinacore-Guinn**, ref. 3, pp. 480-488.
- ⁵⁷ *Collective management of copyright and related rights.* ref. 11.
- ⁵⁸ *Introduction to collective management of copyright and related rights.* ref. 15.
- ⁵⁹ *Ibid.*
- ⁶⁰ **Sheat, K.** *Copyright licensing – the benefits of collective licensing organisation for owners and users of printed copyright works.*
<<http://www.copyright.co.nz/cllarticle.htm>>, [n.d.], [accessed 17.11.04].
- ⁶¹ *Introduction to collective management of copyright and related rights.* ref. 15.
- ⁶² *Caslon analytics profile: copyright collecting societies.* ref. 51.
- ⁶³ *Introduction to collective management of copyright and related rights.* ref. 15.
- ⁶⁴ *Ibid.*
- ⁶⁵ *Caslon analytics profile: copyright collecting societies.* ref. 51.
- ⁶⁶ *Introduction to collective management of copyright and related rights.* ref. 15.

-
- ⁶⁷ **Sinacore-Guinn**, ref. 3, p. 5.
- ⁶⁸ *Caslon analytics profile: copyright collecting societies*. ref. 51.
- ⁶⁹ *Introduction to collective management of copyright and related rights*. ref. 15.
- ⁷⁰ *Ibid.*
- ⁷¹ **Katz, A.** *The potential demise of another natural monopoly: new technologies and the future of collective administration of copyrights*.
<http://papers.ssrn.com/sol3/papers.cfm?abstract_id=547802>, 2005, [accessed 20.11.05].
- ⁷² **Sinacore-Guinn**, ref. 3, p.383.
- ⁷³ *Ibid.*, p.6.
- ⁷⁴ *Ibid.*
- ⁷⁵ *The role of collective management*. ref. 45.
- ⁷⁶ *Introduction to collective management of copyright and related rights*. ref. 15.
- ⁷⁷ **Schepens, P.** ref. 55.
- ⁷⁸ *Collective management of copyright and related rights*. ref. 11.
- ⁷⁹ **Sinacore-Guinn**, ref. 3, p. 10.
- ⁸⁰ *Ibid.*, p. 16.
- ⁸¹ *What is collective licensing of copyright material?*
<<http://www.intellectual-property.gov.uk/faq/copyright/collective.htm>>, 2004, [accessed 17.11.04].
- ⁸² **Tejan-Cole, A.** *Collective management of copyright and related rights*.
<http://www.belipo.bz/e_library/articles/collectivemanagementofcopyright.pdf>, [n.d.], [access 20.11.04].
- ⁸³ **Sinacore-Guinn**, ref. 3, p. 236.
- ⁸⁴ *Ibid.*, p. 244.
- ⁸⁵ *Ibid.*
- ⁸⁶ *What is collective licensing of copyright material?* ref. 81.
- ⁸⁷ *Ibid*
- ⁸⁸ **Gervais, D. J.** *Collective management of copyright and neighbouring rights in Canada: an international perspective*.
<http://cjlt.dal.ca/vol1_no2/pdfarticles/gervais.pdf>, [n.d.], [accessed 20.11.04].
- ⁸⁹ *The role of collective management*. ref. 45.
- ⁹⁰ *Caslon analytics profile: copyright collecting societies*. ref. 51.

-
- ⁹¹ **Sinacore-Guinn**, ref. 3, p. 387.
- ⁹² *Ibid.*
- ⁹³ *Collecting societies: efficiency, monopoly, competition and regulation.*
<<http://www.necg.com.au/pappub/papers-walker-collecting-mar01.pdf>>, 2001,
[accessed 20.11.04].
- ⁹⁴ **Sinacore-Guinn**, ref. 3, p. 390.
- ⁹⁵ **Sinacore-Guinn**, ref. 3, pp. 380-383.
- ⁹⁶ *Caslon analytics profile: copyright collecting societies.* ref. 51.
- ⁹⁷ *Collective management of copyright and related rights.* ref. 11.
- ⁹⁸ *Ibid.*
- ⁹⁹ **Ficsor**, ref. 47.
- ¹⁰⁰ *Collective management of copyright and related rights.* ref. 11.
- ¹⁰¹ *Ibid.*
- ¹⁰² *Ibid.*
- ¹⁰³ *Ibid.*
- ¹⁰⁴ **Ficsor**, ref. 47.
- ¹⁰⁵ *Collective management of copyright and related rights.* ref. 11.
- ¹⁰⁶ **Sinacore-Guinn**, ref. 3, p. 194.
- ¹⁰⁷ *Ibid.*, p. 195
- ¹⁰⁸ *Ibid.*
- ¹⁰⁹ *Ibid.*, p. 196.
- ¹¹⁰ *Ibid.*
- ¹¹¹ *Ibid.*, p. 213.
- ¹¹² *Ibid.*, p. 214.
- ¹¹³ *Ibid.*, p. 14.
- ¹¹⁴ **Dietz, A.** Legal regulation of collective management of copyright (collective societies law) in Western and Eastern Europe. *Journal, Copyright Society of the U.S.A.*, 2002, 49(4), 897-916.
- ¹¹⁵ *Ibid.*
- ¹¹⁶ *Ibid.*
- ¹¹⁷ *Ibid.*
- ¹¹⁸ *Ibid.*
- ¹¹⁹ *What is collective licensing of copyright material?* ref. 81.

-
- ¹²⁰ **Sinacore-Guinn**, ref. 3, p. 16.
- ¹²¹ *Ibid.*
- ¹²² **Dietz, A.** ref. 114.
- ¹²³ **Sinacore-Guinn**, ref. 3, p. 227.
- ¹²⁴ *Ibid.*, pp. 565-568.
- ¹²⁵ **Rochelandet, F.** *Are copyright collecting societies efficient?*
<<http://www.serci.org/2002/rochelandet.pdf>>, 2002, [accessed 20.11.04].
- ¹²⁶ *Ibid.*
- ¹²⁷ *Ibid.*
- ¹²⁸ **Gervais**, ref. 88.
- ¹²⁹ *Caslon analytics profile: copyright collecting societies.* ref. 51.
- ¹³⁰ **Rochelandet**, ref. 125.
- ¹³¹ *Ibid.*
- ¹³² *Submission to the public consultation on implementation of Directive 2001/84/EC on the resale right for the benefit of the authors of an original work of art.*
<http://sun.serving-host.com/dacs/pdfs/dacs_submission.pdf>, 2005, [accessed 10.01.06].
- ¹³³ *Ibid.*
- ¹³⁴ **Rochelandet**, ref. 125.
- ¹³⁵ **Sinacore-Guinn**, ref. 3, p. 198.
- ¹³⁶ *Collective management of copyright and related rights.* ref. 11.
- ¹³⁷ **Giavarra, E.** *Preliminary analysis of legal aspects in current business models*
<<http://egd.sub.uni-goettingen.de/tecup/d4-2a4fv.pdf>>, 2000, [accessed 21.11.04].
- ¹³⁸ *Collective management of copyright and related rights.* ref. 11.
- ¹³⁹ **Giavarra**, ref. 137
- ¹⁴⁰ **Marks, D. S. & Turnbull, B. H.** *Workshop on implementation issues of the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT)*
<www.wipo.org/documents/en/meetings/1999/wct_wppt/pdf/imp99_3.pdf>, 1999, [accessed 25.11.04].
- ¹⁴¹ *Collective management of copyright and related rights.* ref. 11.
- ¹⁴² *Ibid.*
- ¹⁴³ **Hill, K.** CIS-a collective solution for copyright management in the digital age.

Copyright World, 1998, PT76, 18-25.

¹⁴⁴ *Intellectual property rights policy and the Internet.*

<<http://europa.eu.int/ISPO/legal/en/access/saxby/ch4/doc2.html>>, 1999, [accessed 27.03.05].

¹⁴⁵ **Katz**, ref. 71.

¹⁴⁶ **Gervais**, ref. 88.

¹⁴⁷ *Ibid.*

¹⁴⁸ *Ibid.*

¹⁴⁹ **Koskinen-Olsson, T. & Greenwood, P.**, eds. *IFRRO general paper III RROs and IFRRO.*

<<http://www.ifrro.org/upload/documents/RROs-and-IFRRO-1997.pdf>>, 1997, [accessed 19.01.05].

¹⁵⁰ *Ibid.*

¹⁵¹ **Lie, E.** *Unauthorised Reprographic reproduction copyright works – a global overview of statistical surveys etc.* National Seminar on Reprographic Rights, 12 January 1996, Blantyre Malawi.

¹⁵² *Ibid.*

¹⁵³ **Clark, C.** *Collective administration of reprographic reproduction rights principles & practice: the British experience*, 1993, p.1.

¹⁵⁴ **Rudolph, J.** *The administration of reprographic rights and the establishment and role of RROs.* WIPO national seminar on copyright and collective management of copyright and neighboring rights, 29-30 October 2003, Addis Ababa.

<http://www.kopinor.org/opphavsrett/artikler_og_foredrag/the_administration_of_reprographic_rights_and_the_establishment_and_role_of_rros>, [accessed 20.01.05].

¹⁵⁵ *Managing copyright internationally.*

<http://www.copyright.com.au/info%20sheets/CR23_managing%20copyright%20internationally.pdf>, [n.d.], [accessed 10.08.04].

¹⁵⁶ **Koskinen-Olsson, T. & Greenwood, P.**, eds. *IFRRO general papers II reprographic reproduction.*

<<http://www.ifrro.org/upload/documents/Reprographic-Reproduction-1997.pdf>>, 1997, [accessed 19.01.05].

¹⁵⁷ **Koskinen-Olsson, T. & Greenwood, P.**, eds. *IFRRO general papers IV emergent*

RROs.

<<http://www.ifrro.org/upload/documents/Emergent-RROs-1997.pdf>>, 1997,
[accessed 19.01.05].

158 *Ibid.*

159 *Ibid.*

160 **Koskinen-Olsson, & Greenwood, eds.** ref. 149.

161 **Barrow, E.** New directions for CLA. *Serials*, 1998, 11(3), 242-245.

162 *Ibid.*

163 **Davison, P.** Reprographic rights in Singapore: the story of CLASS. *Learned Publishing*, 2003, 16 (4), 243-247.

164 **Hadley, C. & Barrow, E.** Licensed document supply: the role of IFRRO. *Interlending & Document Supply*, 1997, 25(2), 73-74.

165 **Koskinen-Olsson, & Greenwood, eds.** ref. 149.

166 *Ibid.*

167 *Ibid.*

168 **Hadley, & Barrow,** ref. 164

169 **Koskinen-Olsson, & Greenwood, eds.** ref. 149.

170 *Introduction to reprography in copyright legislation.* ref. 40.

171 **Hadley, & Barrow,** ref. 164.

172 **Koskinen-Olsson, & Greenwood, eds.** ref. 157.

173 **Hadley, & Barrow,** ref. 164.

174 *Ibid.*

175 *Ibid.*

176 **Fraser, M.** *Proposed Australia – China free trade agreement.*

<<http://www.copyright.com.au/reports%20&%20papers/China%20and%20Australia%20FTA.pdf>>, 2005, [accessed 10.01.06].

177 **Sinacore-Guinn,** ref. 3, p. 301.

178 *Ibid.*, p. 627.

179 **Koskinen-Olsson, & Greenwood, eds.** ref. 149.

180 *Ibid.*

181 *Ibid.*

182 **Hadley, & Barrow,** ref. 164.

183 **Sivam, K. P.** Thoughts for collective administration of rights through the formation

of a Reproduction Rights Organisation (RRO) in Singapore. *Proceedings of IPA international conference*, 1998, 4TH, 184-186.

¹⁸⁴ **Koskinen-Olsson, T. & Greenwood, P., eds.** *IFRRO detailed paper I different models of RRO operation in practice*

< <http://intranet.ifrro.org/papers/operat.html> >, 1997, [accessed 19.01.05].

¹⁸⁵ *How does CAL collect and distribute funds.*

<http://www.copyright.com.au/info%20sheets/CR07_collect%20&%20distribute.pdf>, [n.d.], [accessed 20.01.05].

¹⁸⁶ *Ibid.*

¹⁸⁷ **Koskinen-Olsson, & Greenwood, eds.** ref. 184.

¹⁸⁸ *Ibid.*

¹⁸⁹ **Hadley, & Barrow,** ref. 164.

¹⁹⁰ **Guibault, L.** *The reprography levies across the European Union.*

<http://www.ivir.nl/publications/guibault/reprography_levies.doc>, 2003, [accessed 23.01.05].

¹⁹¹ *Ibid.*

¹⁹² *Ibid.*

¹⁹³ *Review of the EC legal framework in the field of copyright and related rights commission staff working paper.*

<<http://www.eicta.org/files/Simplification%20paper-144757A.pdf>>, 2004, [accessed 03.04.05].

¹⁹⁴ **Guibault,** ref. 190.

¹⁹⁵ *Ibid.*

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

¹⁹⁸ *Review of the EC legal...* ref. 193.

¹⁹⁹ **Guibault,** ref. 190.

²⁰⁰ **Koskinen-Olsson, & Greenwood, eds.** ref. 184.

²⁰¹ *Ibid.*

²⁰² *Ibid.*

²⁰³ *Ibid.*

²⁰⁴ *Ibid.*

²⁰⁵ **Guibault,** ref. 190.

-
- 206 **Koskinen-Olsson, & Greenwood, eds.** ref. 156.
- 207 **Koskinen-Olsson, & Greenwood, eds.** ref. 184.
- 208 **Hadley, & Barrow,** ref. 164.
- 209 **Sivam,** ref. 183.
- 210 **Hadley, & Barrow,** ref. 164.
- 211 **Koskinen-Olsson, & Greenwood, eds.** ref. 184.
- 212 *Ibid.*
- 213 *Ibid.*
- 214 *Ibid.*
- 215 *Introduction to reprography in copyright legislation.* ref. 40.
- 216 *Ibid.*
- 217 **Koskinen-Olsson, & Greenwood, eds.** ref. 156.
- 218 **Hadley, & Barrow,** ref. 164.
- 219 **Wall,** ref. 29, p. 232.
- 220 *Copyright guidelines.*
<<http://www.smith.edu/deanoffaculty/copyright.html>>, 1999, [accessed 20.11.05].
- 221 *Ibid.*
- 222 *Reprography in copyright legislation.*
<<http://www.ifro.org/laws/>>, 1999, [accessed 10.08.04].
- 223 **Koskinen-Olsson, & Greenwood, eds.** ref. 149.
- 224 *Radio and TV programmes.*
<<http://www.kopioisto.fi/cgi-bin/iisi3.pl?cid=kopioisto&mid=590&sid=20081>>,
[n.d.], [accessed 23.01.05].
- 225 **Koskinen-Olsson, & Greenwood, eds.** ref. 156.
- 226 *Ibid.*
- 227 **Rochelandet,** ref. 125.
- 228 **Yanan Ma** interview with Chao Xu, deputy director general of the NCAC, Beijing,
23 February 2005.
- 229 *Ibid.*
- 230 **Koskinen-Olsson, & Greenwood, eds.** ref. 156.
- 231 **Koskinen-Olsson, & Greenwood, eds.** ref. 157.
- 232 *Ibid.*
- 233 *Ibid.*

-
- 234 *Ibid.*
- 235 **Koskinen-Olsson, & Greenwood, ed.** ref. 184.
- 236 **Wall**, ref. 29, p. 955.
- 237 **Copyright Licensing Agency.** *Annual review for 2003.*
<<http://www.cla.co.uk/about/review-03.pdf>>, 2003, [accessed 03.03.05].
- 238 *Collecting societies: efficiency, monopoly, competition and regulation.* ref. 93.
- 239 **Koskinen-Olsson, & Greenwood, eds.** ref. 156.
- 240 *Ibid.*
- 241 *Ibid.*
- 242 **Dietz**, ref. 93.
- 243 **Koskinen-Olsson, & Greenwood, eds.** ref. 184.
- 244 **Norman, S.** *Copyright in public libraries*, 1999. p.37.
- 245 *Ibid.*
- 246 **Guibault**, ref. 190.
- 247 *Levies: Distortion effects on trade in the single market.*
<http://europa.eu.int/comm/internal_market/copyright/docs/management/consultation-rights-management/eicta_attach2_en.pdf>, 2004, [04.03.05].
- 248 **Gervais**, ref. 88.
- 249 **Stokkmo, O., ed.** *IFRRO detailed papers distribution of remuneration.*
<<http://www.ifro.org/upload/documents/Distributionof-Remuneration-1998.pdf>>, 1998, [accessed 05.02.01].
- 250 **Koskinen-Olsson, & Greenwood, eds.** ref. 157.
- 251 *Ibid.*
- 252 **Stokkmo, ed.** ref. 249.
- 253 **Yanan Ma** interview with Bob Campbell, Blackwell President, Oxford, 17 November 2004.
- 254 **Stokkmo, ed.** ref. 249.
- 255 *Ibid.*
- 256 **Koskinen-Olsson, & Greenwood, eds.** ref. 156.
- 257 **Stokkmo, ed.** ref. 249.
- 258 *Ibid.*
- 259 **Copyright Licensing Ltd (CLL).**
<http://www.aut.ac.nz/student_services/PDF/Copyright%20DLE.pdf>, [n.d.],

-
- [accessed 02.02.05].
- 260 **Copyright Licensing Agency**, ref. 237.
- 261 *Ibid.*
- 262 **Stokkmo**, ed. ref. 249.
- 263 *Ibid.*
- 264 **Koskinen-Olsson, & Greenwood**, eds. ref. 156.
- 265 *Ibid.*
- 266 **Stokkmo**, ed. ref. 249.
- 267 *Ibid.*
- 268 *Ibid.*
- 269 *Ibid.*
- 270 **Koskinen-Olsson, & Greenwood**, eds. ref. 156.
- 271 **Stokkmo**, ed. ref. 249.
- 272 *Ibid.*
- 273 **Kopinor**, *Annual report for 2003*.
<<http://www.kopinor.org/content/download/1021/7763/file/annual-2003.pdf>>,
2003, [accessed 07.04.05].
- 274 **Stokkmo**, ed. ref. 249.
- 275 *Statistical surveys*.
<http://www.kopinor.org/hva_gjor_kopinor/statistikk>, 2005, [accessed 15.12.05].
- 276 *The distribution process*.
<http://www.kopinor.org/hva_gjor_kopinor/fordeling_av_vederlag/fordelingsarbeidet>, 2004, [accessed 12.12.05]
- 277 *Distribution process*.
<<http://www.kopiosto.fi/cgi-bin/iisi3.pl?cid=kopiosto&mid=616&sid=20081>>,
[n.d.], [accessed 12.12.05].
- 278 **Stokkmo**, ed. ref. 249.
- 279 *Ibid.*
- 280 *Ibid.*
- 281 **Publishers Licensing Society**. *Mandate handout*.
<[http://www.pls.org.uk/docimages/3 pdf](http://www.pls.org.uk/docimages/3%20pdf)>, 2004, [accessed 28.09.04].
- 282 **Dietz**, ref. 93.
- 283 **Stokkmo**, ed. ref. 249.

-
- 284 *Ibid.*
- 285 *What is CLA.*
<<http://www.cla.co.uk/about/index.html>>, [n.d.], [accessed 15.06.04].
- 286 **Stokkmo, ed.** ref. 249.
- 287 *Ibid.*
- 288 *Ibid.*
- 289 *Foreign rightsholders.*
<http://www.kopinor.org/hva_gjor_kopinor/fordeling_av_vederlag/utenlandske_ret_tighetshavere>, 2004, [accessed 10.01.05].
- 290 *Ibid.*
- 291 **Davies, J.** Publishers and copyright licence. *Interlending & Document Supply*, 1999, 27(2), 60-64
- 292 **Turner, C.** *Controlling your intellectual property.*
<http://www.illustratorpartnership.org/downloads/ControllingIP_03.pdf>, 2002, [accessed 14.01.2005].
- 293 **Koskinen-Olsson, & Greenwood, eds.** ref. 149.
- 294 *Ibid.*
- 295 *Ibid.*
- 296 *IFRRO statement on the digitisation of printed materials supported by the Authors' Coalition.*
<http://intranet.ifrro.org/papers/ifrro_ac_joint_2004.pdf>, [n.d.], [accessed 12.01.05].
- 297 **Hane, P. J.** Copyright Clearance Centre unveils digital-rights-management services, signs Dow Jones as first customer. *Information Today* [online], 2000, 17(6), 55-56.
<<http://proquest.umi.com/pqdweb?did=55274131&sid=1&Fmt=4&clientId=5238&RQT=309&VName=PQD>>, [accessed 10.01.06].
- 298 *IFRRO newsletter.*
<<http://intranet.ifrro.org/news/news12000.html>>, 2000, [10.12.05].
- 299 *Ibid.*
- 300 *IFRRO newsletter.*
<<http://intranet.ifrro.org/news/news199.html>>, 1999, [accessed 10.12.05].
- 301 **Shepherd, P.** Latest developments in copyright licences. *Managing Information*,

-
- 2003, 10(1), 16-17.
- ³⁰² **Kopinor**, ref. 273.
- ³⁰³ *IFRRO newsletter*, ref. 300.
- ³⁰⁴ **Kopinor**, ref. 273
- ³⁰⁵ *IFRRO newsletter*, ref. 298.
- ³⁰⁶ **Retti, G. LAURIN**.
<<http://laurin.uibk.ac.at/>>, 2004, [accessed 15.01.06].
- ³⁰⁷ *IFRRO newsletter*, ref. 298.
- ³⁰⁸ Yanan Ma interview with Bob Campbell, ref. 253.
- ³⁰⁹ *Levies: Distortion effects on trade in the single market*, ref. 247.
- ³¹⁰ Yanan Ma interview with Richard Gedye, Sales and Marketing Director for the journals division of Oxford University Press and Fiona Bennett, Head of Rights and New Business Development of Oxford University Press, Oxford, 17 November 2004.
- ³¹¹ **Gervais**, ref. 88.
- ³¹² *New York times co. V. Tasini (00-201) 533 U.S. 483 (2001) 206 F.3d 161, affirmed*.
<<http://supct.law.cornell.edu/supct/html/00-201.ZS.html>>, [n.d.], [accessed 11.01.06].
- ³¹³ *Stephen King offers serial novel over Internet*.
<<http://archives.cnn.com/2000/books/news/07/24/stephenking.internet.ap/>>, 2000, [accessed 15.01.04].
- ³¹⁴ *Ibid.*
- ³¹⁵ Yanan Ma interview with Anthony Watkinson, information consultant, London, 24 November 2004.
- ³¹⁶ *Project Plan*
<http://www.lboro.ac.uk/departments/dils/disresearch/pelican/projectplan.html#_Toc499372055>, [n.d.], [accessed 24.01.06].
- ³¹⁷ **Gervais, D. J.** *Electronic rights management and digital identifier systems*. The advisory committee on management of copyright and related rights in global information networks. 14-15 December 1998, Geneva.
<<http://www.press.umich.edu/jep/04-03/gervais.html>>, [accessed 15.01.04]
- ³¹⁸ **Cavan, M.** Digital copying: a voice from Canada. *Logos*, 2005, 16(1), 35-37.
- ³¹⁹ **Hadley, & Barrow**, ref. 164.
- ³²⁰ *Ibid.*

Chapter 3 Copyright and Publishing in China

3.1 The History of Copyright of P.R. China and Other Intellectual Property Laws in China

Compared with Western world, China does not have a consecutive history of copyright, although China was the first country where the art of printing from movable type was developed. Emperors, beginning with the Wenzong Emperor in A.D. 835, prohibited the unauthorised reproduction of items that could be used for prognostication¹. In A.D. 1068, the Shenzong Emperor enacted a licensing law to supervise the printing of Buddhism books and forbade civilians to print them without the licence². This is considered the earliest publishing licensing in China's history. Some Chinese scholars regard this kind of licensing as the birth of copyright protection³. Moreover, according to literature records, the protection of printers, publishers and authors on occasions by means of official prohibitions remained unchanged for more than eight hundred years (in the period between the Song Dynasty and the Qing Dynasty), though in the Ming Dynasty this form of protection seems to have been suspended for some time⁴. During such a long time, the Chinese courts also recognised the economic rights of the authors and protected works' integrity⁵.

However, this approach did not develop into copyright law in the modern sense of the term. In 1903, the Qing government signed the Renewed Sino-American Treaty of Trade and Navigation with the USA, and the word "copyright" appeared in China for the first⁶. The first formal copyright law in Chinese history, the Copyright Law of the Great Qing Empire, was enacted in 1910, at the end of the Qing Dynasty⁷. Although it was not enforced as the Qing government was overthrown by the Northern Warlords government the following year⁸, the Copyright Law of the Great Qing had a significant influence on the succeeding copyright laws before 1949⁹. After the end of the Qing Dynasty, both the Northern Warlords government and the subsequent Nationalist

government passed two copyright laws respectively in 1915 and 1928¹⁰. The first was called Law on Authors' Rights, whose content is almost the same as the 1910 law¹¹. In the second law, foreign authors may be protected under the law provide that they registered their works and that their countries protected Chinese authors¹². China did not adhere to any international Copyright Convention before 1949. Although in 1913 and 1920 the USA, the UK and France invited China to adopt the Berne Convention as well as to conclude certain bilateral copyright treaties with them, they were refused by the then Chinese Government on the ground that a negative influence on the Chinese economy and its education system might arise from adherence to any such treaties¹³.

A new copyright protection system has been developed since the foundation of the People's Republic of China (PRC). The first regulation related to copyright was the Resolution on the Development and Improvement of Publishing at the First National Conference on Publishing in 1950¹⁴. In 1952, the General Office of Publication (the predecessor of the National Publishing Administration) published Rules Concerning Editors and the Structure and Working System of State Owned Publishing House¹⁵. In 1953, a resolution forbidding the unauthorised reprinting of books was issued by the National Publishing Administration Organisation¹⁶. But the regulations were suspended for ten years from 1966 to 1976 during the so-called "Cultural Revolution"¹⁷, including the preparation of ideas for establishing a copyright system¹⁸. After the failure of the "Cultural Revolution", it was the Chinese Government's "open door" policy in the 1970s that took the first steps along the path toward a stronger copyright law¹⁹. Until 1979, when China joined the United Nations, few Chinese people had heard of copyright or the Berne Convention. Because of poor translation, for a long time, copyright was considered a publishing right in Chinese people's minds. For instance, even the first draft of a new copyright law was named as a publishing law during the 1980's²⁰. In January 1979, an agreement on High-Energy Physics was concluded between the Chinese Government and the Government of the USA, in which a provision concerned with copyright protection was included²¹. At the same time, many famous writers and artists in China stressed the necessity of copyright

protection in conformity with the policy of reform and opening up to the outside world²². In 1980 China became a signatory to the Convention Establishing the WIPO²³. In June 1984, the Ministry of Culture enacted the Copyright Regulation of Books and Periodicals²⁴. Since 1976, three documents concerning authors' remuneration have been published, the 1977 Measures Concerning Remuneration and Subsidiary Payment for Publications and Newspaper, the 1980 Provisional Regulations on Remuneration for Book-Writing and the 1984 Trial Implementing Rules Concerning Remuneration for Book-Writing²⁵.

In 1985, in order to speed up the drafting of copyright legislation and to strengthen the administration of copyright throughout the country, the State Council approved the establishment of the National Copyright Administration of China (NCAC)²⁶. After that year, the NCAC drafted the Copyright Law of the PRC and handed it in to the State Department²⁷. On 7 September 1990, China passed a new Copyright Law²⁸. The Copyright Law contains 56 articles divided into six chapters: General Provisions, Copyright, Copyright Licensing Contracts, Publication, Performance, Sound and Video Recording, and Broadcasting, Legal Liability, and Supplementary Provisions²⁹. It showed that the Chinese copyright system had stepped on to the legal system track. In the following year, Implementing Regulations prepared by the NCAC and approved by the State Council entered into force³⁰. In the same year, the Regulations for the Protection of Computer Software were adopted by the State Council, and procedures for the registration of copyright in computer software were prepared and promulgated by the Ministry of Machinery Building and Electronics in 1992³¹. The making of Chinese copyright laws was mainly based on the national conditions, but the international copyright Conventions serve as an important reference. In July 1992, China became a signatory of both the Berne Convention and the UCC³². It indicated that from that time, the Chinese copyright system had to keep up with the rest of the world. In 1995, the First Beijing Intermediate People's Court handed down its first copyright infringement decision³³. This indicated that China had begun to take action to protect international copyrights. In 1999, the Chinese Government agreed to the

agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) as part of its accession to the WTO³⁴. In 2001, the Standing Committee of the National People's Congress adopted the "Decision to Amend Copyright Law of the People's Republic of China³⁵." The Amendment of the Copyright Law of 1990 had a significant positive impact upon the efficacy of the law. Important substantive changes include the following: film rental rights, Internet distribution rights, rights in public performances, full and partial assignment of copyright, recognition of copyrights in databases, removal of the ten year limitation on copyright, and removal of the fair use exception for government employees³⁶. At present, the Chinese Government has built a copyright system combining with legislation, judiciary and regulation. There are several laws regulating copyright protection: Copyright Law of PRC, Implement Rule of Copyright Law, Software Protection Act and Regulation of Implementing Universal Copyright Convention and so on³⁷. Meanwhile, the government is making efforts to keep copyright protection up to international standards.

In 1982, the Trademark Law of the PRC was adopted, significantly marking the beginning of the systematic establishment of China's modern legal system for the protection of intellectual property rights³⁸. In 1986, intellectual property rights as a whole were clearly defined in China's basic civil law for the first time as the civil rights of citizens and legal persons in the General Principles of the Civil Law of the PRC³⁹. China began to improve its pace in intellectual property legislation from 1990 with a series of important intellectual property laws and codes: the Anti-Unfair Competition Law and the Consumer Rights Protection Law⁴⁰. The scope of current intellectual property laws in China now covers all of the international accepted elements of intellectual property, including patents, copyright, trademarks, new plant breeds, integrated circuits, computer software and network domain names, etc⁴¹. China also joined related intellectual property rights protection Conventions, including the Convention for the Establishment of the International Intellectual Property Rights Protection Organisation, the Paris Convention on the Protection of Industrial Property, the Madrid Agreement on the Registration of Trademarks, the Patent Cooperation

Treaty, and the Geneva Convention on the Protection of Phonograms⁴².

3.2 Copyright Collective Administration in China

The history of copyright collective administration in Europe dates back more than 200 years⁴³. In contrast, for China, the notions of copyright collective administration and its collecting societies are brand-new. Before 1 March 2005 when Regulations on Copyright Collective Administration were issued, the general description of a CMO or a CCAO¹ was first provided by Article 8 of Copyright Law:

The copyright owners and copyright-related rights holders may authorise an organisation for collective administration of copyright to exercise the copyright or any copyright-related right. After authorisation, the organisation for collective administration of copyright may, in its own name, claim the rights for the copyright owners and copyright-related rights holders, and participate, as an interested party, in litigation or arbitration relating to the copyright or copyright-related rights.

The organisation for collective administration of copyright is a non-profit organisation. Provisions for the mode of its establishment, rights and obligations, collection and distribution of the royalties of copyright licensing, and supervision and administration thereof shall be separately established by the State Council⁴⁴.

In the definition of CMOs, there were two different views in China on how well the law established this kind of organisation. Some authors say what is addressed in the new Copyright Law has given a clear definition of CMOs⁴⁵, while others claim that the new law just stated that rights holders can mandate their rights to CMOs, but this is not a definition⁴⁶. They deemed that this description could not deal with operational problems. Beside these two views, some experts think, based on the development of CMOs in China, there should be a specific law controlling them⁴⁷.

¹ In the English version of Chinese Copyright Law and other related regulations, "CCAO" is used instead of "CMO"

On December 28, 2004, the Regulations on Copyright Collective Administration were issued by the State Council and came into effect on March 1, 2005. These Regulations clarify the nature of the copyright collective administration organisation, regulate its activities and improve its administration⁴⁸. The Regulations contains 48 articles divided into six chapters: General Provisions, Copyright, Establishment of Copyright Collective Administration Organisations, Institutions of Copyright Collective Administration Organisations, Activities of Copyright Collective Administration, and Supervision over CCAOs and Legal Liabilities⁴⁹. The Regulations deal with authorisation and supervision procedures and with CCAO activities such as governance, statutes, exclusive mandates and non-exclusive licensing, distribution, dispute settlement, administrative fees and reciprocal agreement which must be registered with the administrative department's information consulting system⁵⁰. According to the Regulations, a CCAO is a non-profit mass organisation and it administers copyrights and other relevant rights under copyright owners' authorisation, and the scope of the copyrights administered shall be the rights that are difficult for owners to exercise effectively on their own, such as those of performance, presentation, broadcasting, rental, communication through information networks, and reproduction, provided for in the Copyright Law⁵¹.

According to Article 2 of the Regulations⁵², with the authorisation of rights holders, CCAOs are authorised:

- To conclude licensing contracts concerning copyright or rights related to copyright with users;
- To collect licensing fees from users;
- To distribute licensing fees among the owners;
- To participate as a party in legal or arbitration proceedings concerning copyright or rights related to copyright.

The Regulations are limited; only Chinese citizens and entities are allowed to form a CCAO, and other requirements for establishing a CCAO are the following⁵³:

- Each organisation needs to have at least 50 rights owners as its subscribers.

- The operating scope of one CCAO should not overlap with that of an existing CCAO and a CCAO should be in a position to represent rights owners nationwide.
- The CCAO must have articles of association, a policy on royalty rates and a mechanism by which it can transmit royalties to its members.

It also stipulated that rights holders of a foreign nationality may entrust their rights to a Chinese CCAO through a foreign counterpart organisation, provided that the foreign counterpart organisation has a reciprocity agreement with the Chinese organisation⁵⁴. Supervision is to be carried out by the administrative department for copyright under the State Council⁵⁵.

According to the Regulations, the general membership meeting of a CCAO is the institution of power of the organisation, which will be convened by the board of directors⁵⁶. The Regulations do not provide an explicit mathematical formula in determining the standard of charges. However, a number of factors are to be taken into account under Article 18: the duration, method, and area of uses; the type of rights implicated; and the complexity of the transaction, which would involve the examination of the licence contract and the royalties charged⁵⁷.

Currently in China, there is only one collective management organisation which is the Music Copyright Society of China (MCSC), founded in December, 1992 before the Regulations was enforced⁵⁸. In accordance with the Regulations, the NCAC and Civil Department must approve the establishment of a CCAO; thus the MCSC will need to seek re-approval of its status⁵⁹. Its membership includes Chinese composers, authors and publishers⁶⁰. It joined the CISAC in 1994 and has signed bilateral agreements with around 40 countries⁶¹. It collects remuneration for rights holders for mechanical reproduction including sound recording, video recording, books, magazines and newspapers, TV programmes, movies, MTV, and performances⁶² with detailed standards of charge⁶². Although MCSC is a member of CISAC, the initial fee

⁶² It includes live performance, exhibit, motor show, fashion show, music on hold for telephone, background music, mobile phone ring tone download from Internet, ringback tone download from Internet.

schedules being put together in China are considerably lower than in foreign countries. For example, the fees range from RMB 0.15ⁱⁱⁱ (GBP 0.01) per sq m per day for venues with a business floor area of no more than 100 sq m, to RMB 0.12 (less than GBP 0.10) per sqm per day for those larger than 100 sqm⁶³. For hotels which are heavy users, the fee is calculated on the basis of RMB 1.75 (GBP 0.12) per bed per month⁶⁴. In 2001, its total income was RMB 9,600,000 (around GBP 693,000) including RMB 6,720,000 (about GBP 485,000) from reproduction rights, and RMB 2,880,000 (about GBP 212,000) from performance rights⁶⁵. However, there has not been any income from broadcasting though the new Copyright Law in 2001 regulated that fees for broadcasting sound recordings should be paid to their rights holders. At present, MCSC distributes performance royalties 6 months after the end of a calendar year, with different categories of distribution based on resources of revenue^{iv}, which covers royalties collected from the preceding half year⁶⁶. The charge of administration cost also varies from one kind of distribution to another, from 5% to 20%⁶⁷.

With the introduction of the Regulations, it is expected that many more such organisations will be established in the future. In 1998, the Copyright Protection Centre of China (CPCC) was founded by the NCAC⁶⁸. One of its tasks is to prepare to found collective management organisations for literary works, photographic and artistic works. In August 2000, the China Copyright Association for Literary Works (CCALW) was established by the Chinese Writers' Association (CWA) and the CPCC. From CWA and CPCC's perspective, the CCALW will be the only collecting society covering all kinds of literary works authors in China and writers will grant it the right to administer their copyright and other relevant rights⁶⁹. The CWA planned to extend the CCALW to all rights of copyright owners which can be managed collectively⁷⁰. However, the NCAC emphasised that the original intention in the establishment of CCALW was mainly to take charge of the right of communication through information

ⁱⁱⁱ The exchange rate between Chinese Yuan Renmibi and the British Pound using in this thesis is 13.8542 Chinese Yuan Renmibi to 1 pound on November 2005 from www.x-rate.com.

^{iv} There are five kinds of distribution: General mechanical distribution, general performance distribution, mechanical performance distribution, online distribution and oversees distribution.

networks in the near future (see Chapter 6, Section 6.3.1). At present, it has more than 2000 members. Until now, there has not been any CMO to administer publishers' rights. As early as November 2001, the NCAC also authorised the China Audiovisual Association to prepare to set up the China Audiovisual Copyright Association, an organisation for the collective administration of audiovisual copyright⁷¹. Besides the societies already mentioned, another collecting society for performance rights is on the agenda⁷².

3.3 Publishing in China

The organisation and administration of the Chinese publishing industry is quite different from those in Western countries. The principal characteristic of the Chinese publishing industry is that it is state-owned and state-controlled for ideological reasons, but at the same time seeks the benefits of a market economy as government funding is reduced⁷³. The number of publishers is strictly controlled by the General Administration of Press and Publishing (GAPP)^v, a department of the central government which is responsible to the State Council for "supervision" of all publishing in China and directly manages about a dozen major publishing houses, and each publisher is assigned a certain number of titles according to their rank⁷⁴. In 2001, the total number of employees in the 562 companies in the publishing sector (including publishers, publicists, press materials companies, and music video companies) was 47,128 (i.e., around 84 people per company)⁷⁵. By 2003, there were 570 presses in China, 218 of which were national presses with the other 382 belonging to local government⁷⁶.

In China, there are three sectors of publications: books, textbooks, and illustrated material⁷⁷. Table 3.1 shows that in 2002, 170,962 titles were published in China, of which 100,693 were new and 70,269 were reprinted (a republication rate of 42.12%)⁷⁸.

^v GAPP has the same staff with the NCAC. It could be seen as "one organisation has two names".

In 1978, there were only 20,000 titles (and each took about 2 years to produce)⁷⁹. The total sales volume for China in 2002 was 7,027 million, worth RMB 43,493 million (about GBP 2,899 million)⁸⁰. Among them, school textbook sales played an important role, accounting for 41.4% of total unit sales in 2002⁸¹. Especially in some under-developed areas, school textbooks accounted for as much as 80% to 90% of the total local volume sales⁸². For periodicals, the increase of titles and volumes is very fast as well. In 1949, there were only 257 periodicals in China, with a total impression of 20 million copies, or less than 0.1 copy per capita, while in 2001, there were as many as 8,725 periodicals, with a total impression of 2.9 billion copies, or more than two copies per capita⁸³.

Categories	Total titles published in 2002			Increase or decrease in comparison with 2001(%)			Number of titles with imported copyrights	Increase or decrease in comparison with 2001 (%)
	Total	New	Reprint	Total	New	Reprint		
Total	170962	100693	70269	10.6	10.1	11.3	10909	10.3
1. Books with ISBN, Total	168769	99513	69256	10.8	10.6	11.1	10908	10.3
Marxism, Leninism, Mao Zedong Thought	324	227	97	25.1	30.5	14.1	9	
Philosophy	2053	1503	550	29.1	28.1	31.9	4	
Social Science General	1986	1511	475	9.6	6.1	22.4	1	
Politics, Law	7102	5402	1700	7.8	7.9	7.4	95	126.2
Military	493	447	46	10.5	14.6	-17.9		
Economics	12599	9200	3399	20.4	19.4	23.5	4	300.0
Culture, Science, Education, Sports	69488	32124	37364	13.6	16.7	11.1	9887	8.9
Language, Philology	8253	4688	3565	16.2	19.4	12.2	1	0.0
Literature	11199	8690	2509	-0.3	-0.3	-0.3	4	
Art	10087	6940	3147	3.3	4.0	1.7	837	11.5
History, Geography	5245	4272	973	7.5	4.8	21.2	30	172.7
Natural Science General	853	516	337	-4.5	-9.6	4.7	10	
Mathematics, Physics and Chemistry	3077	1388	1689	15.1	8.2	21.5	2	
Astronomy Geoscience	597	510	87	7.0	4.5	24.3		
Bioscience	685	451	234	22.3	25.6	16.4		
Medicine and Health	7105	4564	2541	10.3	12.0	7.4	11	
Agricultural Science	2936	1894	1042	-10.5	-7.3	-15.8		
Industry Technology	19517	11410	8107	10.3	5.7	17.5	11	83.3
Transportation	1647	1000	647	16.5	23.0	7.7		
Aeronautics, Astronautics	122	109	13	9.9	7.9	30.0		
Environmental Science	640	471	169	27.5	38.9	3.7	1	
Comprehensive Books	2761	2196	565	-3.1	-3.9	-0.2	1	
2. Books without ISBN, Pictures in Total	2193	1180	1013	-2.1	-19.5	31.0	1	0.0

Table 3.1 2002 Book Publishing Statistics of China (Titles)

China has one of the largest book industries in the world and the scale of the Chinese

book trade is vast. According to the report from the NCAC, the total volume of stocks of the book market reached a value of almost RMB 40,138 billion (GBP 2.897 billion) in 2003⁸⁴. In 2004, the number of new publications rose by 110,812 and of revised titles rose by 79,579 (respectively increases of 10% and 13.2% on the total for 2002). Children's books' sales grew rapidly across all categories, with 14.5% volume growth and 16.39% sales growth compared with 2002⁸⁵. The growth in philosophy, social science (6.44%), natural science (4.35%), literature, art (9.8%) compensated for the slight decline in culture, education (down by 0.72%)⁸⁶.

In 2003, the volume of exports of books, journals and newspapers amounted to 7.66 million, about USD 23 million⁸⁷. In terms of imports, statistics in 2003 from the U.S. Commerce Department showed⁸⁸:

China became the largest source of manufactured books in 2002, strengthened its lead in 2003. Books imported from China increased 22% last year, to USD 413.1 million. Over the last five years—as more manufacturing moved to China—the amount of books imported from there rose 190%, far surpassing the 23% increase in the total value of book imports during that span^v.

One of the stipulations for China entering into the WTO was that it had to open up its book retail market by November 2002 and part of its book wholesale distribution by November 2004⁸⁹. Based on this, the distribution of books was opened up to all publishers and book retailers in the form of public bidding in 2002⁹⁰. However, retail prices still remain far below international levels, with trade paperbacks selling for RMB 10-20 (around GBP 0.70 to 1.40) or less, though GBP 2-3 is not uncommon for an academic title⁹¹. From 2002 to 2004, the average prices of new book and reprinted nationwide were respectively RMB 13.37 (GBP 0.96) and 6.13 (GBP 0.44), RMB 13.38 and 6.53, RMB 13.67 and 7.26 (GBP 0.52)⁹².

Compared with developed countries, the Chinese electronic publishing industry has developed relatively late. In the 1980s, some computer companies attempted to

^v It needs to be pointed out that many of these books are Western-published that are just printed in China.

develop electronic publishing with floppy disk as the first generation medium⁹³. From the 1990s, a few publishing units, especially educational presses, have been active in publishing electronic publications. Professor Guangzuo Chen created the first electronic publication, the relationship history of Kuomintang and Chinese Communist Party at Wuhan University in 1991⁹⁴. There are now around one thousand kinds of floppy disk publications, which have been issued in more than 40,000 copies⁹⁵. The development of CD-ROM is a new phase of Chinese electronic publishing and has grown extremely quickly. In 1992, Beijing Qinghua Press produced the first CD for electronic publishing. In the following year, China began to produce CD-ROM products in batches. In 2002, 4,668 CD-Rom and 18 DVD-ROM titles were published in China, a 96.7% increase over the previous year⁹⁶. The development of the e-books in China has been extraordinarily fast. The sales of e-books in 2001 were 9,100, while in 2004, the sales were 8,050,000⁹⁷.

Looking at Chinese libraries and information services, in 1997, there were 2,500 public libraries which were the responsibility of local government, under the guidance of the Ministry of Culture's Department of Libraries⁹⁸. According to China, Statistical Yearbook 2005, to 2004, the number of public libraries has increased to 2,720⁹⁹. Before entrance of WTO in 2000, the importation of foreign journals is restricted to the China National Publications Import Export Corporation and (for sale to educational institutions only) the China Educational Publications Import Export Corporation which issue catalogues to their customers¹⁰⁰. These systems are more to do with political control than management efficiency: the corporations are able to ensure that foreign titles, especially news titles, are supplied only to those with a legitimate need to read them¹⁰¹. However, since 2003, China has opened its scientific and technical journal market and the distribution of books¹⁰². For scientific journals, there are five or six state-owned publishing companies, which are entitled to import scientific and technical journals and buy licences from abroad based on domestic customers' requirement and currently, Chinese customer can buy electronic publications from foreign publishers directly.

3.4 Piracy in China

Piracy is a global issue for the whole publishing industry, but especially in Asian countries. In China, piracy seriously threatens the development of the Chinese publishing industry as well as stunting the growth of industries, such as the film, music and computer software. It also significantly threatens the sales of copyright materials produced by organisations both inside China and outside China.

In the middle of the 1990's, according to a report from the China National Copyright Committee, China raided and destroyed more than 200 million pirate books and 300 million of CDs and DVDs¹⁰³ every year. Estimates suggested that the total sales of China pirate products was USD 2 billion per year¹⁰⁴ during that period, though Western countries have estimated far more than this figure. For book piracy alone, Senate testimony by McGraw-Hill claimed that in 1998, USA book publishers alone lost USD 125 million in China¹⁰⁵. Apart from this, based on statistics from International Copyright Society, the USA including film, music, software (except commercial software) industries lost USD 1.84 billion per year during the middle of 1990's in China¹⁰⁶.

Although the Chinese Government has made an effort to restrict piracy, significant problems have remained. According to industry figures, USA publishers lost an estimated USD 130 million to book piracy in China in 2000, continuing a trend of increasing losses over the past few years¹⁰⁷. From Table 3.2, it is clear that despite efforts made by the Chinese Government to crack down on the massive domestic piracy of all types of copyrighted products earlier in 2000, including raids netting millions of pirate optical media products, copyright piracy rates in China continue to hover at over 90% in last five years¹⁰⁸.

Estimated Trade Losses Due to Copyright Piracy										
(in millions of U.S. dollars) and Levels of Piracy: 2000-2004										
Industry	2004		2003		2002		2001		2000	
	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level
Motion Pictures	280.0	95%	178.0	95%	168.0	91%	160.0	88%	120.0	90%
Record & Music	202.9	85%	286.0	90%	48.0	90%	47.0	90%	70.0	93%
Business Software	1465.0	90%	1787.0	92%	1637.3	92%	1140.2	92%	765.1	94%
Entertainment Software	510.0	NA	568.2	96%	NA	96%	455.0	92%	NA	99%
Books	50.0	NA	40.0	NA	40.0	NA	130.0	NA	130.0	NA
Totals	2507.9	/	2859.2	/	1893.3	/	1932.5	/	1085.1	/

Table 3.2 Estimated Trade Losses Due to Piracy and Levels of Piracy

While the Harry Potter books and a few other popular titles have been subject to large-scale unauthorised reproduction, publishers from the USA said most illegal copying involves college textbooks, since textbooks are generally both required reading and relatively expensive, and the problem is particularly serious in scientific and technical subjects¹⁰⁹. In China, some universities themselves are directly or indirectly involved in the practice. Educational institutions usually supply textbooks to their students. However, unauthorised editions are common, as are illegal translations, typically with the author's name omitted and the name of a Chinese academic in its place¹¹⁰. Academic periodicals were also widely illegally reproduced in China before 2001. Even in many public libraries, it is easy to find unauthorised copies of foreign academic periodicals. After a directive banning the practice emanating from China's vice premier in 2001, the situation improved for a while. However, in 2004, there has

been some backsliding, especially through unauthorised access to online periodicals¹¹¹.

An estimate from the one of biggest Chinese publishing groups shows that the balance between pirate books and authorised books is roughly 1 to 1¹¹². In 2001, over 18 million pirated books were seized¹¹³. Some famous Chinese authors, who wrote several popular titles, even claimed publicly that no famous book authors in China could escape from piracy and there is no sense of safety in China at present to write books¹¹⁴. Between 1997 and 2000, the number of cases handled by the NCAC increased by 80% from 1,361 to 2,547. During that time, the number of copyright suits accepted by the courts jumped by 175% from 350 to 963¹¹⁵. Chinese textbooks are also subject to serious piracy. Authorities discovered RMB 3.56 million (around GBP 0.25 million) pirated textbooks and reference materials in primary and high schools in Northwest China's Xinjiang Uygur Autonomous Region in 2002 alone¹¹⁶. The national picture was quite bleak as well, with the State Press and Publication Administration seizing 10.24 million pirated books between August and October in 2003¹¹⁷.

There are four primary forms of book piracy in China. The most common is copying a book and selling bogus versions - most of best sellers and foreign textbooks are the victims. A craftier way is to sell foreign books that have been translated illegally, without any formal contract. The Harry Potter books had just such an unfortunate experience in China. A few days before the legally translated volume of one tome came out, a version translated in Taiwan was selling on the streets¹¹⁸. Another more laborious method is to print books ostensibly by famous authors but in fact written by clumsy imitators, or piecing famous authors' works together without their permission. This time, the Harry Potter books failed to escape either fate. An anonymous Chinese author who used the names of its translators and editors as well as a photograph of JK Rowling wrote a fake Harry Potter novel which was sold in Beijing street market for about one pound in the summer 2002¹¹⁹. The last method is a unique 'byproduct' from China publishing censorship system: before being published, every book should have a "China standard book numbering" to prove the validity of publishing¹²⁰. It is nearly the

same as the meaning of an ID number to a citizen. These book numberings are distributed by the National Copyright Administration to each publishing company every year. Thus, some pirate publishers collude with some publishing companies that want to earn money by fair means or foul to trade book numbers illegally¹²¹. Once the pirate publishers gain the book numberings, they not only escape from the government's censorship but also evade tax. Sometimes, one book number will be used twice by pirate publishers or several books use one book number at the same time. What is more, sometimes pirates publisher counterfeit book numbers for their illegal books.

Several reasons result in the piracy in China. First, China had a weak tradition of respect for copyright in its long history. The widespread resistance to proper adherence to the copyright laws of China is partly attributed to its particular culture: the influence of Confucianism and the notion of sharing creative works and ideas¹²². Second, the history of Chinese current copyright law is only over 50 years, far less than Western countries. As a consequence, copyright law in China has not been implemented very well. Law enforcement problems exist universally in various legal fields in China. Over recent years, though the enforcement of copyright laws has made great progress, there is still a long way to go in cracking down on piracy¹²³. In addition, infringement is fuelled by the lack of real deterrence, due to the low administrative penalties and virtually nonexistent criminal prosecutions for major acts of piracy¹²⁴. Third, it is clear that the lack of economic development is an important factor that lends Chinese citizens to purchase pirate products. At the same time, ideology-driven government quotas severely limit the legal import and distribution of films and television shows¹²⁵, so that the pirate market offers a much more up-to-date, uncensored viewing menu¹²⁶ and a black market has emerged to meet a need that would otherwise go largely unfilled¹²⁷.

References

- ¹ Neigel, C. Piracy in Russia and China: a different U.S. reaction. *Law & Contemporary Problems* [online], autumn 2000, 179.
<<http://www.law.duke.edu/journals/lcp/articles/lcp63dAutumn2000p179.htm#H1N3>>, 2000, [accessed 16.06.04].
- ² *Di san ke-ni zhi dao wo guo ban quan bao hu zhi du de li shi he xian zhuang ma?* [Lesson 3-Do you know the history of copyright protection system and it in current China?].
<<http://www.stcsm.gov.cn/learning/lesson/guanli/20011217/20011217-3.asp>>, [n.d.], [accessed 17.06.04].
- ³ *Ibid.*
- ⁴ Zheng, C. & Pendleton, M. *Copyright Law in China*, 1991, p. 16.
- ⁵ Zhou, L. *Zhong guo ban quan shi yan jiu de ji ge wen ti* [Several questions about the research of Chinese copyright history].
<<http://www.people.com.cn/wsrm/lt/jbz/zhoulin/A101.html>>, [n.d.], [accessed 17.06.04].
- ⁶ Zheng, & Pendleton, ref. 4, p. 16.
- ⁷ *Ibid.*
- ⁸ *Piracy in Russia and China*. ref. 1.
- ⁹ Stewart, S. M. *International copyright and neighbouring rights*, 1993, p. 3.
- ¹⁰ Zhou, L. ref. 5.
- ¹¹ Zheng, & Pendleton, ref. 4, p. 17.
- ¹² *Ibid.*
- ¹³ *Ibid.*
- ¹⁴ *Di san ke-ni zhi dao wo guo ban quan bao hu zhi du de li shi he xian zhuang ma?* [Lesson 3-Do you know the history of copyright protection system and it in current China?]. ref. 2.
- ¹⁵ Zheng, & Pendleton, ref. 4, p. 18.
- ¹⁶ Stewart, ref. 9, p. 3.
- ¹⁷ Drury, R. Publishing in China: developments since 1992. *Asian Libraries* [online], 1998, 7(5), 111-118.
<<http://www.emeraldinsight.com/Insight/ViewContentServlet?Filename=Published/>

[EmeraldFullTextArticle/Articles/1730070501.html](#)>, [accessed 10.03.05].

- ¹⁸ Zheng, & Pendleton, ref. 4, p. 20.
- ¹⁹ Chynoweth, G. J. Reality bites: how the biting reality of piracy in China is working to strengthen its copyright laws. *Duke Law & Technology Review* [online], 2003. <<http://www.law.duke.edu/journals/dltr/articles/PDF/2003DLTR0003.pdf>>, 2003, [accessed 18.06.04].
- ²⁰ Wu, H. *Zou xiang bo er ni* [Go to Berne]. <<http://www.bookhome.net/jishi/other1/zxben.html>>, [n.d.], [accessed 19.06.04].
- ²¹ Stewart, ref. 9, p. 3.
- ²² *Ibid.*, p.4.
- ²³ Chynoweth, ref. 19.
- ²⁴ *Di san ke-ni zhi dao wo guo ban quan bao hu zhi du de li shi he xian zhuang ma?* [Lesson 3-Do you know the history of copyright protection system and it in current China?]. ref, 2.
- ²⁵ Zheng, & Pendleton, ref. 4, p. 26.
- ²⁶ Stewart, ref. 9, p. 3.
- ²⁷ *Di san ke-ni zhi dao wo guo ban quan bao hu zhi du de li shi he xian zhuang ma?* [Lesson 3-Do you know the history of copyright protection system and it in current China?]. ref. 2.
- ²⁸ Liu, A., *zhu zuo quan shi yong shou ce* [Notebook of Copyright], 2004, p. 5.
- ²⁹ Stewart, ref. 9, p. 5.
- ³⁰ *Ibid.*
- ³¹ *Ibid.*
- ³² Liu, ref. 28, pp. 269-277.
- ³³ Cao, L. Solemn Promise: China protects foreign copyrights. *Dialog File 30·AsiaPacific*, 1996, 25-26.
- ³⁴ *Di san ke-ni zhi dao wo guo ban quan bao hu zhi du de li shi he xian zhuang ma?* [Lesson 3-Do you know the history of copyright protection system and it in current China?]. ref, 2.
- ³⁵ Neigel, ref. 1.
- ³⁶ *Di san ke-ni zhi dao wo guo ban quan bao hu zhi du de li shi he xian zhuang ma?* [Lesson 3-Do you know the history of copyright protection system and it in current China?]. ref. 2.

-
- ³⁷ Neigel, ref. 1.
- ³⁸ **State Council Information Office**, Intellectual property protection in China: Part 02: China's basic position regarding the protection of intellectual property rights. *Dialog File 30: AsiaPacific*, 1994, 8-10.
- ³⁹ *Ibid.*
- ⁴⁰ **Du, J., et al.** An evaluation of the construction of information laws and regulations in China with recommendations for improvement. *Journal of Information Science*, 2004, 30(4), 321-336.
- ⁴¹ *Ibid.*
- ⁴² **Li, N.** China protects Intellectual Property Rights: Part 02. *Dialog File 30: AsiaPacific*, 1995, 15-16.
- ⁴³ **Fu, X. & Fang, S.** *Zhu zuo quan fa xiu zheng an de san ge zhong da tu po* [Three points of the new Copyright Law].
<<http://library.zsu.edu.cn/law/content.asp?type=1&id=16>>, 2002, [01.08.04].
- ⁴⁴ **National Copyright Administration of China**, ed. *Copyright Law of the People's Republic of China*, 2003, p. 30.
- ⁴⁵ **Qu, S.** *Zou xiang ji ti guan li de zhu zuo quan* [Collective management of copyright in China].
<<http://www.jcrb.com/n1/jcrb308/ca181220.htm>>, 2003, [07.08.04].
- ⁴⁶ **Shao, M. & Zhang, X.** *Zhu zuo quan ji ti guan li de fa zhan he wan shan* [The development and completion of collective management of copyright in China].
<http://www.chinalawedu.com/news/2004_5%5C13%5C1653308035.htm>, [n.d.], [06.08.04].
- ⁴⁷ *Zhuan jia hu yu jin kuai wei zhu zuo quan ji ti guan li li fa* [The law of copyright collective management].
<http://www.xwcbj.gd.gov.cn/xwfb/news_brow.asp?id=105>, 2002, [accessed 17.08.04]
- ⁴⁸ **Zhang, W.** Copyright rules take effect. *China update*, [online], 2005, 1-2.
<http://www.ssd.com/files/tbl_s29Publications%5CFileUpload5689%5C9252%5Cchina.pdf>, 2005, [10.12.05].
- ⁴⁹ **National Copyright Administration of China**, ed. *The Regulations on Copyright Collective Administration*, 2005.
- ⁵⁰ *IFRRO newsletter*.

-
- <http://www.ifrro.org/news/2005_2_news.pdf>, 2005, [12.01.05]
- ⁵¹ **National Copyright Administration of China, ed.** *Zhu zuo quan ji ti guan li tiao li* [The Regulations on Copyright Collective Administration], 2005, p. 2.
- ⁵² *Ibid.*
- ⁵³ *Ibid.*, p. 3.
- ⁵⁴ *Ibid.*, p. 8 .
- ⁵⁵ *IFRRO newsletter*. ref. 50.
- ⁵⁶ **National Copyright Administration of China, ed.** ref. 51.
- ⁵⁷ **Teng, S.** All together now. *Copyright World*, 2005, No.150, 8-9.
- ⁵⁸ *The Music Copyright Society of China.*
<<http://www.mcsc.com.cn/english/aboutmcsc.htm>>, [n.d.], [accessed 13.11.05].
- ⁵⁹ *China introduces regulations on collective copyright administration.*
<<http://www.managingip.com/?Page=10&PUBID=34&ISS=14225&SID=494637&TYPE=20>>, 2005, [accessed 15.03.05].
- ⁶⁰ *Who can be a member of MCSC?*
<<http://www.mcsc.com.cn/english/membership.htm>>, [n.d.], [accessed 15.12.05].
- ⁶¹ **Qu**, ref. 45.
- ⁶² *Mechanical reproduction.*
<<http://www.mcsc.com.cn/english/Licensing.htm>>, [n.d.], [accessed 15.12.05].
- ⁶³ Policy and Law
<<http://www.tdctrade.com/alert/cba-e0211a.htm>>, 2002, [accessed 20.04.05].
- ⁶⁴ *Ibid.*
- ⁶⁵ **Li, M.** *Rang fa lu wei ban quan ji ti zu zhi shuo hua* [The base of collective management of copyright in China].
<http://www.legalinfo.gov.cn/pfzx/2003-02/11/content_12919.htm>, [n.d.], [accessed 06.08.04].
- ⁶⁶ *Sources of revenue-distribution pools.*
<<http://www.mcsc.com.cn/english/Distribution.htm>>, [n.d.], [accessed 15.12.05].
- ⁶⁷ *Ibid.*
- ⁶⁸ **Qu**, ref. 45.
- ⁶⁹ *Zhong guo wen zi zuo pin zhu zuo quan xie hui* [The Literary Works Copyright Society of China]
<<http://www.ccopyright.com.cn/1centre/copyrightclub.html>>, 2001, [accessed

18.08.04].

- ⁷⁰ *Zhong guo ban quan bao hu zhong xin* [China Copyright Protection Centre] <<http://www.booktide.com/news/20030423/200304230027.html>>, 2003, [accessed 01.08.04].
- ⁷¹ *Rumpus about Karaoke use fee.* <<http://www.cpahkLtd.com/cn/publications/e043mx.html>>, [n.d.], [accessed 01.08.04].
- ⁷² Yanan Ma interview with Si Gao, the director of the legal division of copyright department of the NCAC, 01 March 2005.
- ⁷³ **Drury**, ref. 17.
- ⁷⁴ *Books and publishing in China.* <http://www.euromonitor.com/BOOKS_AND_PUBLISHING_in_CHINA>, 2003, [04.07.04].
- ⁷⁵ *Ibid.*
- ⁷⁶ **Xu, K.** *The copyright of electronic publishing in China.* MSc dissertation, Department of Information Science, Loughborough University, 2004.
- ⁷⁷ *Books and publishing in China.* ref. 74.
- ⁷⁸ **Zhao, C. et al**, eds. 2002 book publishing statistics of China (Table 1: titles). *China publishing* [online], 2004, issue No.9, 28. <<http://www.cnpeak.com/eng/ejour/ejour9.pdf>>, 2004, [accessed 05.01.06].
- ⁷⁹ **Drury**, ref. 17.
- ⁸⁰ *Books and publishing in China.* ref. 74.
- ⁸¹ *Ibid.*
- ⁸² **Xu**, ref. 76.
- ⁸³ *Publishing.* <<http://www.china.org.cn/english/features/38320.htm>>, [n.d.], [accessed 05.01.06].
- ⁸⁴ *Shu zi zhe sheng zhong guo chu ban yin huan* [The statistics of Chinese publishing industry]. <http://www.xmwb.com.cn/wxpd/ds/sjdt/t20040621_105007.htm>, 2004, [accessed 15.07.04].
- ⁸⁵ *Ibid.*
- ⁸⁶ *Ibid.*
- ⁸⁷ **Xu**, ref. 76.

-
- ⁸⁸ **Milliot, J.** *Book export inched up in 2003*.
<<http://www.publishersweekly.com/article/CA409524.html?pubdate=4%2F12%2F2004&display=archive>>, 2004, [accessed 17.07.04].
- ⁸⁹ *The market for books and publishing in China*.
<<http://store.justchina.com/maforboardpu.html>>, 2003, [accessed 17.07.04].
- ⁹⁰ **Milliot, J.** ref. 36.
- ⁹¹ **Drury**, ref. 17.
- ⁹² **Liu, J. et al.** *Zhong guo chu ban nian jian 2002-2004* [China Publishing and Press Statistics 2002-2004], 2002-2004.
- ⁹³ **Wo, N. & Wan, Y.** *Zhong guo dian zi chu ban ye cun zai de wen ti* [The problems of Chinese electronic publishing].
<<http://www.people.com.cn/electric/1130/c1120.html>>, [n.d.], [accessed 10.06.04].
- ⁹⁴ **Kuang, W.** *The development of electronic publication in China*
<<http://libres.curtin.edu.au/libre9n1/wenbo.htm>>, 1999, [accessed 28.06.04].
- ⁹⁵ **Wo, N. & Wan, Y.** ref. 94.
- ⁹⁶ **Chen, Q.** *The marketing of electronic publishing in China*. MSc dissertation, Department of Information Science, Loughborough University, 2004.
- ⁹⁷ *Wo guo dian zi u shu fa zhan kuai si nian xiao shou zeng zhang jin qian bei* [Increase of E-book sales are about one thousand times than four years before].
<<http://info.publish.hc360.com/2005/05/2409465957.shtml>>, 2005, [accessed 05.01.06].
- ⁹⁸ **Drury**, ref. 17.
- ⁹⁹ **National Bureau of Statistics of China**, ed. *China statistical yearbook*, 2005.
- ¹⁰⁰ **Drury**, ref. 17.
- ¹⁰¹ *Ibid.*
- ¹⁰² Yanan Ma interview with Chaoxu Zhu, the vice president of the China national publishing industry trading corporation, 05 March 2005, Beijing.
- ¹⁰³ **Xiao, Q. & Hong, J.** *Zhong guo chu ban ye mian lin de tiao zhan* [The challenges of Chinese publishing industry].
<http://www.usc.cuhk.edu.hk/wk_wzdetails.asp?id=2556>, 2003, [17.07.04]
- ¹⁰⁴ *Ibid.*
- ¹⁰⁵ *Dao ban ji qi ta wen ti* [Piracy and other problems].

-
- <<http://www.caslon.com.au/ipguide25.htm>>, 2004, [accessed 17.07.04]
- ¹⁰⁶ **Xiao, & Hong**, ref. 104.
- ¹⁰⁷ **United States Trade Representative**. *2001 national trade estimate report on Foreign Trade Barriers*
<http://www.chinaonline.com/issues/econ_news/USTR/ustr_iprp.asp>, 2002, [accessed 18.07.04].
- ¹⁰⁸ **International Intellectual Property Alliance**. *2005 Special 301 Report: People's Republic of China*
< <http://www.iipa.com/rbc/2005/2005SPEC301PRCrev.pdf> >, 2005, [accessed 20.11.05].
- ¹⁰⁹ **Bollag, B.** *Don't steal this book-text book piracy runs rampant in developing countries, costing publishers and authors millions of dollars.*
<<http://chronicle.com/free/v50/i30/30a03801.htm>>, 2004, [accessed 18.07.04].
- ¹¹⁰ *Ibid.*
- ¹¹¹ *Ibid.*
- ¹¹² **Zhang, L.** *Shuo bu jin de dao ban gu shi (2)* [The endless story of privacy (2)].
<<http://book.sina.com.cn/2003-04-23/3/5095.shtml>>, [n.d.], [accessed 19.07.04].
- ¹¹³ *The market for books and publishing in China.*
<http://www.researchandmarkets.com/reportinfo.asp?report_id=64135>, 2003, [accessed 07.07.04].
- ¹¹⁴ *Zai zhong guo chu shu bu an quan* [It is not safe to publish a book in China].
<<http://www.gdwh.com.cn/cultureArtist/displayTwinkleSkyDetail.jsp?>>, [n.d.], [accessed 16.07.03].
- ¹¹⁵ **Chynoweth**, ref.19.
- ¹¹⁶ *Crackdown on book piracy.*
<<http://www1.china.org.cn/english/culture/56285.htm>>, 2003, [accessed 19.07.04].
- ¹¹⁷ *Ibid.*
- ¹¹⁸ *Pirates and the paper chase.*
<http://www.unesco.org/courier/2001_03/uk/culture.htm>, [n.d.], [accessed 19.07.04].
- ¹¹⁹ *Fake Harry Potter novel hits China*
<<http://news.bbc.co.uk/1/hi/entertainment/film/2092661.stm>>, 2002, [20.07.04].
- ¹²⁰ *Zhong guo biao zhun shu hao* [China standard book numbering].

-
- <<http://www.shdf.gov.cn/newshtml/868.jsp>>, 2003, [20.07.04].
- ¹²¹ **Zhang, L.** *shuo bu jin de dao bu gan su (1)* [The endless story of privacy (1)].
<<http://book.sina.com.cn/2003-04-23/3/5093.shtml>>, [n.d.], [accessed 19.07.04].
- ¹²² *Valuing creativity in the 21st Century*
<http://www.info.gov.hk/ipd/eng/information/study aids/piracy_hk_china_c.htm>,
[n.d.], [24.07.04].
- ¹²³ **Xu, C.** Impact of international copyright conventions on China's copyright system.
Dialog File 30: AsiaPacific, 2000.
- ¹²⁴ **International Intellectual Property Alliance.** *2001 special 301 report: People's Republic of China.*
<<http://www.iipa.com/rbc/2001/2001SPEC301CHINA.pdf>>, 2001, [accessed
16.07.04].
- ¹²⁵ **Cain, R.** *Content piracy in China: a massive problem. Is there any solution?*
<http://www.hollywoodreporter.com/thr/pwc/talking_display.jsp?vnu_content_id=1000446920>, 2004, [21.07.04].
- ¹²⁶ *China's market logic presents the pirate DVD player*
<<http://www.smh.com.au/articles/2003/12/12/1071125653800.html?from=storyrhs&oneclick=true>>, 2003, [15.07.04].
- ¹²⁷ **Cain**, ref. 125.

Chapter 4 Previous Research

4.1 Introduction

The current research is based on some previous research (A possible model of a licensing agency system for publishing industry in China), conducted from June 2004 to September 2004¹. In this chapter, an overview of previous research was given including aims and objectives, methods adopted before, limitations of the previous research. The main body of the chapter focuses on the explanation of the proposed model developed in the previous research.

4.2 Aims and Objectives

The aim of the project was to develop a possible licensing agency system for the publishing industry in China. The specific objectives can be broken down as follows:

- To provide an overview of copyright for publishing, including a brief history.
- To illuminate the structure, operation and functions of the possible licensing system, its position and effect on the whole publishing market.
- To describe the current conditions of traditional and electronic publishing market in China respectively, introduce the associated regulations and system in these two areas and analyse any weaknesses of the current rules and system in China
- To carry out interviews with the UK RRO and other related collecting societies
- To develop a model of a possible licensing agency system based on the current conditions and related regulations in China
- To make comments on the limitations of the research, and also introduce and make recommendations based on the further research (testing the feasibility of a licensing agency system for publishing industry in China) that is now becoming undertaken in the current project

4.3 Methods Adopted in the Previous Research

Qualitative research was undertaken to collect data in the research. Semi-structured interviews were used to explore what people felt about RROs and other relevant issues. The research required structured information like the management structure of the organisation and the kinds of licences as background information to develop the model later, and meanwhile it also need to explore people's opinions at a further level, such as the role of RRO in the whole copyright protection and publishing system, whether it works well, etc. The general process of the research was first to examine the UK RRO system from every party's perspective and to try to find the interactions and relationships among them. At the same time, cultural, political and social contexts in China were important to the research, and were considered when the model was developed.

Three face-to-face interviews were carried out. The interviewees represented three key stakeholders and were able to express their opinions and views from their organisations' viewpoints. As a developed RRO in the UK, the CLA was the most important interviewee in the previous research. In addition, the attitudes and opinions from the ALCS and the PLS were sought, because they respectively stand for different groups of rights holders' (authors and publishers) views of the RRO. These three organisations are the skeleton of the RRO system for published works in the UK. A pilot study was not appropriate because of the very small number of people interviewed, but questions were discussed with the researcher's supervisor and then he checked the questions and approved them before the interviews.

The framework of these three interviews were first to concentrate on the organisations themselves with basic information to get an overview of the organisations. The interviews then focused on their specific parts or functions which are related to the research. The interviews then stretched to other bodies close to the organisations, to explore their relationships. Finally, the interviews ended with questions about the

proposed model. Most of the questions for ALCS and PLS were similar because, from CLA's perspective, ALCS and PLS have equal positions but just act on different groups of rights holders' behalf. The questions emphasised the relationships between organisations and influence from ALCS and PLS to the CLA. The CLA is the kernel of the system. Accordingly its questions were somewhat different. They not only concerned on the relationship between it and the others, but also focused more on its own operations.

Several main questions were the same for all the interviewees. First, more background and details about the organisations were sought. The second set of questions explored the relationships and co-operation among the three organisations. There may be some different attitudes in their relationship, as two are owners and the other is the agency acting on their behalf. The next question was about the co-operation between the interviewees and IFRRO or other individual countries. The fourth asked how the organisations enforce copyright and how they deal with copyright infringement. The following question was concerned with the impact of electronic publishing on the RRO, authors and publishers in the UK. What other problems the organisations face was another significant question, because the answers can help the founders of the proposed Chinese RRO. There was a specific question concerned with the relationship between the organisations and government. The final question sought some suggestions for founding a RRO in China from these organisations. Special questions for the CLA focused on the kinds of licences and the process of issuing licences within the CLA, and its relationship with the Copyright Tribunal. As a result of these interviews, a model for a possible Chinese RRO was developed. This is described in the next section.

4.4 The Model and Its Explanation

4.4.1 The Structure of the Model for the Chinese Licensing Agency System

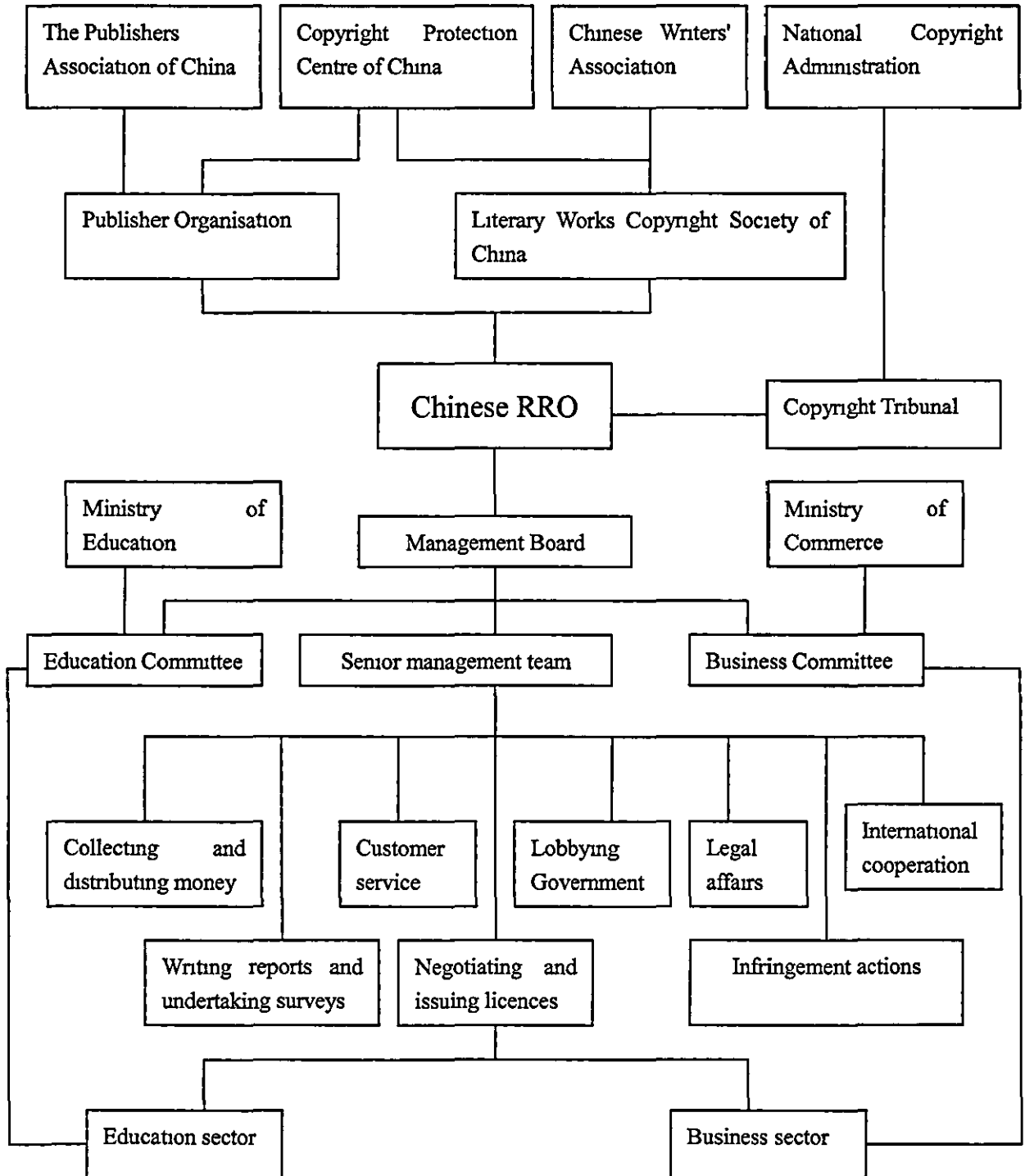


Figure 4.1 The Structure of the Model for the Chinese Licensing Agency System

**Red boxes stand for the organisations which already existed.*

4.4.2 Basic Features of the Proposed Chinese RRO

The Chinese RRO would be a non-profit-making agency that licenses organisations for photocopying and scanning printed materials. The agency would be owned by its members, i.e., the authors and publishers that it represents. These will be the China Copyright Association for Literary Works (CCALW) and the proposed new publishers' organisation. In addition, one users' representative should be on the board to help guarantee users' rights and help users communicate with the licensor. However, there is no user ownership of the RRO. The proposed RRO would be a collective management society for books, journals, magazines and periodicals, both printed and electronic.

The Chinese RRO would be responsible for looking after the interests of rights owners regarding the copying of books, journals, magazines and periodicals. It would pay authors and publishers (via the CCALW and the proposed publisher organisation) their shares of the fees for such copying. If necessary, it could also institute legal proceedings for the enforcement of the rights entrusted to it.

The proposed Chinese RRO would promote copyright through education and licensing, specifically by:

- Encouraging respect for copyright
- Preparing educational materials to teach people about copyright
- Working closely with government to ensure the views of rights owners are heard
- Licensing users to copy extracts from books, journals, magazines and periodicals
- Collecting fees from licensed users for the copying
- Distributing these fees to authors and publishers
- Instituting legal proceeding in cases of copyright infringement

4.4.3 Explanation and Discussion of the Model

As shown in Chapter 2, the China Copyright Association for Literary Works (CCALW) can be considered the collective licensing body from the author side. It could give a

mandate on behalf of its all the members to the proposed Chinese RRO in the future. The CCALW and the proposed publishers' organisation would own the RRO with 50% ownership for each.

At present, there has not been an organisation for Chinese publishers' collective management of copyright. It is suggested that there should be an organisation representing publishers on the Chinese RRO. The Publishers Association of China (PAC) is a nationwide publishers' union whose membership includes all kinds of publishers, local publisher associations, publishing research organisations and other relevant publishing organisations. In China, to develop any administration, organisation or guild for an industry, government should be one of the founders. Thus, in the model, the PAC will found a publishers' organisation as a collective licensing society for publishers with the CPCC, which is directly under the management of the NCAC. Hence, the proposed publishers' collecting society could be built below the PAC.

The role of the Chinese Government in the licensing agency system will be quite different from the situation in the UK. First, founding an RRO in China must be authorised by the NCAC. Second, government has the responsibility to push the legislative process to build the legal environment for the development of the RRO and the collective licensing society. Finally, according to the pattern of building copyright-related organisations in China, the CPCC or the NCAC should be one of the founders of the Chinese RRO.

At the same time, a legal body like the UK's Copyright Tribunal but in China running under the NCAC, is necessary to help the whole system keep a balance between authors, publishers and users. At the beginning, it also can help the growth of the Chinese RRO and give some support to the Chinese RRO from administration level. However, in China, as explained, the role of government is complicated. In most cases, the government is not just one of the players, but also is the judge. Thus, how to guarantee equity when the government has two different roles in the whole system will

be a controversial issue. It is clear that initially, the Chinese RRO will be unable to be an independent organisation like the CLA in the UK.

The management board will be composed of members from the CCALW, the proposed publishers' organisation and one users' delegate. The number of board members from each organisation will be equal based on ownership. They would represent the interests of authors, publishers and users. The board would oversee and evaluate the work of the RRO at the end of each quarter as well as the end of each year. Furthermore, they would receive reports from the RRO and act as a channel of communication between it and the CCALW and the proposed publishers' organisation. At the same time, it would plan strategy and deliver any decision from authors and publishers to the RRO. The board would not manage the daily work of the RRO, as the senior management team would have this responsibility. There would be several directors in the charge of different aspects of the proposed RRO in the senior management team, like chief executive, operations director, legal director, financial director and so on.

Below the management board, there would also be two committees at the beginning. They would respectively work in two areas. These two areas are the markets which the RRO would begin to work with: the educational sector and the business sector. It is suggested to begin with, universities and pharmaceutical companies be targeted. These committees will be respectively composed of several authors, publishers who work with publications in the specific sector, and corresponding administrations. At the beginning, these committees are supposed to work with the Ministry of Education and Ministry of Commerce. The cooperation between committees and government departments is very important to the RRO to gain the necessary support from government in the corresponding sector, help it become familiar with the relevant policies in the specific sectors, and build communication channels with the licensees. The main function of the committees is to negotiate the issues in those specific areas among the RRO, authors, publishers and government, and monitor and manage the RRO's work in those specific areas.

Under the senior management team, there are several functions of the proposed RRO. Negotiating and issuing licences, and collecting and distributing money would be key functions of the RRO. The RRO would develop several different licences for its customers. Negotiating licences would include negotiating which sort of licences customers should be issued, the fee customers should pay, how many employees or individual users can use the copied materials, and so on. Issuing licences will include the whole application process: sending application forms to customers, dealing with the completed form, making records for the licences and issuing certificates of the licences to customers. According to the CLA's experience, most licences would run for one year and customers would renew it each year, so the fee will be collected from customers and distributed to the CCALW and the publishers' organisation once in each year. There should be an agreement between the CCALW and the publishers' organisation for how to distribute the fee and what percentage each of them can receive from the RRO. Customer service would be important for the RRO from the beginning when the customers would not know clearly about the service from the RRO. It will have the responsibility to answer questions from customers as a consultant before they apply licences, help customers deal with the problems they meet in the application process and how to operate their rights under the licences.

At the same time, the RRO would have two functions to realise their copyright responsibilities: legal affairs and infringement actions. Legal affairs is designed as a department of the RRO to look at the Chinese and international legislative environment, to advise the RRO and others, involve itself in negotiation of individual licences, draw up contracts for the RRO, maintain and monitor the contracts, and keep up to date with the development of copyrights. Furthermore, legal affairs ought to prepare educational materials to teach people about copyright. Infringement actions will be similar to the function of the Copywatch held by CLA. It will be used to find copyright infringement and then get involved in legal action with the CCALW or relevant publishers.

Maintaining communication and co-operation with government is crucial for the development of the Chinese RRO. Not only does founding an RRO in China need government support, but also developing every new licence in a new sector requires an authorisation from government and co-operation with the relevant government department. Lobbying and negotiating between the RRO and government are therefore essential. In addition, there would be more bilateral and multilateral agreements among governments related to the collective licensing system in the future. Therefore, informing RRO regarding the international environment is another role for the government.

The proposed RRO needs international cooperation and to develop bilateral agreements with some of the members of IFRRO. Such co-operation includes negotiating bilateral agreements, gaining experience from the RROs in other countries about the development of the collective licensing system and discussing measures to promote copyright protection. After the foundation of the Chinese RRO, the most important international issue for it would be to prepare to join IFRRO. At the same time, the Chinese RRO ought to negotiate bilateral agreements with RROs not only in the UK and the USA but also in Asian countries and territories such as Japan, Singapore and Hong Kong, because in these areas, Chinese publications are used broadly and influentially. Moreover, because of the similar cultural background, co-operation between China and other Asian countries is much more useful for the development of the Chinese RRO.

Later on, the RRO will extend its operations to the whole education and business sector. In China, senior schools do not belong to the compulsory education sector, and thus, after universities, the next potential licencees in the education sector are senior schools. Eventually, all the educational institutions will have licences in the future. However, in China, education is not so advanced as education in the UK. For example, a lot of primary schools in rural or remote areas do not even have basic teaching equipment. Consequently, developing licences in the education sector will depend on

the development of education in China. For the business sector, there are plenty of new areas where the potential licensees may develop: banking, IT industry, food & drink manufactures and so on. Besides the education and business sectors, public libraries are other important potential licensees. The RRO should develop a licence for a high volume of photocopying in such libraries. According to the ideology in China now, it is however, too early to consider the government a potential licensee.

Beside the further development of the proposed RRO, the CCALW and the proposed publishers' organisation should also develop themselves in the future. Increasing their memberships will be the crucial issue for both of them In the near future. After all, the number of members is the basis of copyright collective administration. It represents the authority of the collective licensing agency.

4.5 The Limitation of the Previous Research

The primary limitation of the research was the small number of interviewees, and the fact that the only three people interviewed were all UK based. Because of the limited time, the approach was to identify key people who understood the UK RRO situation, as it was felt they could give valuable guidance regarding how an RRO should be set up. However, the Chinese political and economic situation is very different to that in the UK, and therefore there is no reason why their views would necessarily be appropriate and reasonable for China. The researcher tried to ask interviewees issues about developing a RRO in China. Though they gave some suggestions, they all emphasised before answering the question that they knew little about the Chinese situation. So their comments were adjusted to take into account interviewers' knowledge of the Chinese situation. For example, the requirement that the Chinese Government be a party to the proposed new RRO reflects the current political situation in China and the situation of Chinese education institutes needs to be considered in advance. Nonetheless, it is clear that this is a model which has not been tested with

relevant people and organisations in China, and as such, it should be viewed as a theoretical idea only, which needs further refinement and development.

Second, the researcher's knowledge of the publishing industry in China also limits the practicability of the model. Though she understood the situation of the Chinese publishing industry and copyright protection through the previous literature review, when the model was designed, she realised her lack of the knowledge about the Chinese publishing industry, copyright protect system, legal environment and administrative system. The model was mainly based on the literature review and results of interviews, plus the researcher's own experience and imagination. Due to the small number of UK interviewees and the researcher's lack of experience and knowledge, the model mostly simulates the UK licensing agency system, from internal management structure of the RRO, its activities and operation to the whole collecting societies' system.

References

-
- ¹ Ma, Y. *A possible model of a licensing agency system for publishing industry in China*. MSc dissertation, Department of Information Science, Loughborough University, 2004.

Chapter 5 Methods

5.1 Introduction

The successful study of copyright collective administration and collecting society, RROs practice, the current situation of photocopying in China and attitudes toward RROs and the protection of reprographic rights required methods for collecting both qualitative and quantitative data, such as interviews, and questionnaires. This combined approach aids appropriate data analysis and interpretation. This chapter discusses the research methodology employed, the research design, the pilot study, sampling techniques, and data analysis of the results.

5.2 The Research Questions

The main aim of this research at initial phase is to test the feasibility of a licensing agency system the researcher designed before. The first step in testing its feasibility is to check whether it accords with the existing theories and the basic Chinese copyright protection environment through a literature review. Chapter 2 (literature review on collective management of copyright and RROs) and Chapter 3 (publishing and copyright law in China) reveal the following issues relevant to the model:

- No research or survey has been conducted regarding photocopying in China.
- Because the original model was based on the UK system, it does not match Chinese copyright law and the Chinese political, social, cultural and economic climate completely.
- China lacks experience in practising collective management of copyright in the literary work area.

There are two further issues related to this topic but not focusing on the model:

- The rights holders' attitudes to RROs are unclear.

- Any RRO has to face and solve some controversial issues brought about by electronic publishing.

During the interviews, a crucial issue was proposed which affect the whole research:

- There is uncertainty whether now is the time to establish an RRO in China.

Questions or issue to address	Information required
No research regarding photocopying in China	The situation regarding photocopying in China now
Is this the time to establish an RRO in China?	-Reasons why China needs to establish an RRO at this stage -Barriers to prevent the development of an RRO in China now
Original model does not match the Chinese situation	-What the current situation is in China -Which parts of the model are impractical -Reasons why they do not match
Lack of experience of collective management of copyright in China	-What will happen next? (plans and actions in the future)
Rights holders' attitudes to RROs	-Relationship between rights holders and RRO -Reasons they have those relationships
Electronic publishing and RRO	-What happens currently and might happen in the future -Opinions from of stakeholders

Table 5.1 Lists Questions and Issues Which Needed to Be Addressed

5.3 Objectives of the Research

According to the literature review and the researcher's previous research, a two-way operation chain in the RRO system would be recognised between rights holders, RRO and users. Considering the Chinese political situation additionally, the parties involved in this research are divided into four groups: rights holders (publishers and their organisation, and authors' organisation); RROs and related international organisations; potential users in China; and the Chinese Government. With a view to the limitations of the previous research, in this research Chinese objectives and participants were heavily considered at the beginning of research design. The rights holders are divided into two groups: potential rights holders in China; and rights holders in the UK who have already been involved in the licensing system for a long time, as well as being familiar with the Chinese publishing industry, especially large scholarly publishers whose publications are heavily copied. In the whole process of this research, authors were treated as a group of people, so the representatives of authors' organisations in China were ideal interviewees, since the main UK authors' collect society has been interviewed in the previous research. In the previous research, interviews with CLA, PLS and ALCS were conducted in 2004. However, RROs whose home countries are familiar with China are further suitable targets, as are other international organisations with a global view. The target users in this research were the organisations in China which are involved in heavy photocopying. The part of the Chinese Government selected for this research was the NCAC, which directly administers copyright issues all over the country according to the literature review.

The research design was built around these four groups. Because the research topic focuses on one country (China) which does not have a licensing system and is also mainly based on another country's (UK) experience, the parties were from both countries. As a result, based on the different backgrounds of each country, these four groups were also re-classified under the geographic regions with UK, China and international range. The methods were designed around the following main research

objectives:

- Publishers and experts on the Chinese publishing industry in the UK

Assess the feasibility of the model based on their knowledge of the Chinese publishing industry.

Collect views about the RRO and its development in the electronic publishing environment from the rights holders' perspective.

- Publishers, authors' organisations, NCAC, and libraries in China

Acquire more information about Chinese publishing and copyright law.

Assess the feasibility of the model from potential rights holders and government perspectives within Chinese situations

Investigate the photocopying situation in China from the users' perspective (libraries)

- HKRRLS (RRO) in Hong Kong

Acquire more information and experience on the establishment and operation of an RRO based on the similar cultural background

- IFRRO, International

Collect IFRRO's views of the development of RROs from an international standpoint

Assess the feasibility of the model and collect suggestions of the establishment of RRO in China from experienced professionals

5.4 Research Design

5.4.1 Previous Research Strategy

This research is a continuation of the previous research, "a possible model of a licensing agency system for publishing industry in China", so it is important to consider and analyse the methods adopted in the previous research. In the earlier research, the researcher tried to explore complex issues based on the different publishing systems and legal systems, different ideologies, even different regimes through opinions and ideas for every topic but from different perspectives. Consequently, qualitative research was undertaken to collect data. The aim was to allow respondents to talk about their feelings and about their underlying attitudes,

beliefs and values to pre-determined issues¹. Semi-structured face-to-face interviews were used as the only method adopted in the research to explore what it is that people felt.

5.4.2 Present Research Strategy

As mentioned above, the previous research strategy heavily influenced the present research strategy. Consequently, qualitative research methods, especially semi-structured interviews, were designed for this study. There are five distinctive attributes of qualitative research: context, description, process, participant and induction. Qualitative research draws data from the context or environment in which events occurs and attempts to describe these occurrences²; qualitative research is ideally placed to understand the process of events, to understand what people believe, how they feel, how they interpret events, and to record and describe these beliefs, feelings and interpretations accurately³.

One of the chief reasons for conducting a qualitative study is that the study is exploratory, which is helpful when not much has been written about the topic or the population being studied, and the researcher seeks to listen to participants and build an understanding based on their ideas⁴. In this case, the previous research and the literature reviews of this research indicated that collective management of copyright was introduced to China in the last ten years. Reprographic rights and their administration by a collecting society are an undeveloped area in China. Some qualitative research gathers data from individuals by semi-structured and in-depth interviews, while other techniques use groups of people to obtain a considered picture, building on discussion and the development of individual views within a group setting⁵. "Because the qualitative researchers have to become part of the subjects' world to understand better what such phenomena mean to those being studied, the researchers might intervene in the reality of those being studied, and this distorts that reality to some extent⁶". "They also tend to work with a relatively small number of cases, and therefore qualitative researchers are prepared to sacrifice scope for detail. On the other

hand, some qualitative researchers believe that qualitative methods can provide deeper understanding of social phenomena than would be obtained from quantitative data⁷". They are also flexible in the sense that much less pre-specification takes place and the design evolves, develops and "unfolds" as the research proceeds⁸.

On the other hand, "a survey provides a quantitative or numeric description of trends, attitudes, or opinions of a population by studying a sample of that population⁹". "Quantitative research falling within the positivist paradigm is more precise, explicit, and predetermined, and assumes that the relevant variables can be identified in advance and validly measured¹⁰. Quantitative research designs, with their reliance on quantitative data and statistical generalisation, are considered by their proponents to be 'scientific', while the scientific status of qualitative research designs is more in dispute. The main advantages of quantitative research are its ability to identify attributes of a large population from a small group of individuals, the economy of the design and the rapid turnaround in data collection¹¹". Its relative weakness is that it cannot capture the subtleties and complexities of individual human behaviour because quantitative approaches are to transcend individual differences and identify patterns and processes which can be linked to social structures and group or organisational features¹². Quantitative approaches call for a tight pre-specification for the design prior to data collection¹³, so there are often long periods of preparation and design preliminaries before data collection, and a substantial period of analysis after data collection. Generally, researchers using quantitative methods remain at a greater physical and emotional distance from the study than those using qualitative methods¹⁴. Fink identifies four types of data collection: self-administered questionnaires, standardised interviews, structured record reviews and structured observations¹⁵.

Recognising that all methods of both quantitative and qualitative research have limitations, the purpose of mixing methods is twofold. First, when two or more methods are employed, the researcher is able to address different aspects of the same research question, thereby extending the breadth of the project¹⁶. Second, by

employing methods from different research paradigms, the researcher is able to compensate for inherent weaknesses in each approach¹⁷. These two research designs can provide a binocular vision with which to deepen researchers' understanding¹⁸. However, mixing methods may mean that the researcher has adopted them in the mistaken intention to reveal "the whole picture", which speedily leads to scrappy research based on under-analysed data and an imprecise or theoretically indigestible research problem¹⁹ .

In this study, a sequential exploratory strategy was adopted. In a sequential exploratory strategy, the research is characterised by an initial phase of qualitative data collection and analysis, which is followed by a phase of quantitative data collection and analysis. Therefore, priority was given to the qualitative aspect of the study²⁰. At the basic level, the purpose of this strategy is to use quantitative data and results to assist in the interpretation of qualitative findings²¹. Morgan suggested that this design is appropriate to use when testing elements of an emergent theory resulting from the qualitative phase and similarly, Morse cited as the purpose for selecting this approach: to determine the distribution of a phenomenon within a chosen population²². The exploratory strategy is often discussed as the strategy used when a researcher develops and tests an instrument²³. Creswell provides several advantages of this strategy²⁴:

It is useful to a researcher who wants to explore a phenomenon but also wants to expand on the qualitative findings.

It is especially advantageous when a researcher is building a new instrument.

However, he also mentioned two drawbacks: it required a substantial length of time to complete both data collection phases; and the researcher may find it difficult to build from the qualitative analysis to the subsequent quantitative data collection²⁵.

The main aim of this research was to test theories and hypotheses developed from the previous research. This is a research that builds a new instrument and then tests its operation. The methods adopted for this study consisted of a literature review followed

by fourteen semi-structured interviews and a questionnaire survey. Through the process of the interviews, it was shown that the research required a questionnaire survey to test the theories and ideas, and explore the answers of the questions brought forth from the interviews. In the use of all methods, the ethics of research were considered and appropriate action was taken: the promise of anonymity was given to some Chinese respondents as required while others agreed to identify them and their comment in the thesis, and permissions were gained from all the UK interviewees to quote their comments in the dissertation, by email request.

5.4.3 The Literature Review

The literature review in a research study accomplishes several purposes²⁶:

- It shares with the reader the results of other studies that are closely related to the study being reported.
- It relates a study to the larger ongoing dialogue in the literature about a topic, filling in gaps and extending prior studies.
- It provides a framework for establishing the importance of the study as well as a benchmark for comparing the results of a study with other findings

Some key search terms were adopted throughout the research: collective administration (management) of copyright, copyright collective administration (management) organisation, reproduction rights, Reproduction Right Organisation /RRO, licensing system, licensing agency, copyright law. Databases, the Internet, print and e-journals, the catalogues of Loughborough University Library and the British Library were all identified as sources and searched using the key terms. Databases like Dialog, CSA, and Metalib were searched by the academic librarian who supports the Department of Information Science, Frank Parry, with the key words supplied by the researcher. Besides literature in English, the researcher also acquired the internal journals of NCAC and other materials such as articles in newspapers, on-line articles and books in Chinese. Moreover, the researcher also collected the Copyright Law of the PRC, the Regulations for the Implementation of the Copyright Law of the PRC and the Regulations on Copyright Collective Administration of China in both Chinese and

English. It has to be pointed out that the most of print materials on collective management of copyright in English were quite old, in the time frame 1990 to 1998, while equivalent materials in Chinese are very new, because of the new Regulations issued in 2004. All relevant documents, papers and studies were stored in hard copy or electronic form. Moreover, the main resource for materials for RRO used in this thesis is come from IFRRO's website and other RROs' website since the researcher was unable to find many independent publications on the research topic.

5.5 Interviews

Semi-structured interviews were selected as the main data collection method to receive responses from UK rights holders, potential rights holders in China, the Chinese Government, the RRO in Hong Kong and IFRRO, as the study involved complex situations with different countries' licensing systems and several parties. Semi-structured interviews have predetermined questions, but the order and question wording can be modified, based upon the interviewer's perception of what seems most appropriate; and particular questions which seem inappropriate with a particular interviewee can be omitted, or additional ones included²⁷. The following list covers the advantages of using interviews²⁸:

- The interview is more appropriate for complex situations
- It is useful for collecting in-depth information
- Information can be supplemented by observation of non-verbal reactions
- Questions can be explained
- Interviewing has a wider application with almost any type of population.

Oppenheim provided a few more advantages related to the so-called subject's motivation²⁹:

- Interviews supply an opportunity to ask open-ended questions or open-ended probes which encourage interviewees to say more.
- Using interviewers can improve response rates.

Creswell adds to the list with the following³⁰:

Useful when participants cannot be observed directly
Participants can provide historical information
Allows researcher "control" over the line of questioning

However, he also mentioned a number of disadvantages³¹

Provides "indirect information filtered through the views of interviewees"
Provides information in a designated "place" rather than the natural field setting
Researcher's presence may bias responses
People are not equally articulate and perceptive

A discussion about the participants and site might include four aspects identified by Miles and Huberman quoted by Creswell: the setting (where the research will take place), the actors (who will be observed or interviewed), the events (what the actors will be observed or interviewed doing), and the process (the evolving nature of events undertaken by the actors within the setting)³². In this research, fifteen interviews were conducted from November 2004 to March 2005 in the UK and China. Five sets of interview questions were developed, respectively for UK rights holders; UK experts; Chinese potential rights holders; the Chinese Government; and the RRO in Hong Kong and the international organisation. Those are discussed in detail in Section 5.5.2. The main objectives to be achieved in conducting interviews were as follow:

- Find out whether it is the right time to establish an RRO in China now.
- Discover what factors are preventing the establishment of RRO in China.
- Test the feasibility of the model, and how to improve it.
- Ascertain which kind of system will be fit for the Chinese situation
- Look into the role of the Chinese Government in the proposed system

5.5.1 Selecting Interviewees and Response: UK and China

There were five kinds of interviewees in this study: representatives UK rights holders, including UK experts on the Chinese publishing industry, Chinese potential rights holders, the Chinese Government, the RRO in Hong Kong and IFRRO. UK rights

holders were represented by one publishers' organisation, the Association of Learned and Professional Society publishers (ALPSP) and several large scholarly publishers. The idea behind qualitative research is to purposefully select participants that will best help the researcher understand the problem and the research question³³. This does not necessarily suggest random sampling or selection of a large number of participants, as typically found in quantitative research³⁴. Most qualitative researchers prefer to select a purposive sample, which is one chosen by the researcher to include representatives from within the population being studied who have a range of characteristics relevant to the research project³⁵. Considering the topic, time, and cost, it is impossible and unnecessary to conduct interviews with all the publishers in the UK, so some large publishers were selected whose publications are heavily copied and which also have business in China, including Oxford University Press, Blackwell, and Macmillan. Besides large scholarly publishers, interviews with two experts in the UK publishing industry, Anthony Watkinson and David Croom, were also arranged for further insight and discussion of the research issues. The former held senior management positions in a number of leading publishers and has been an information consultant since 1998; the latter was an academic books publisher for 30 years and now works for an online education company as a co-founder and director. Finally, the interview with ALPSP could collect data from a broader point of view, as it represents a group of publishers.

At the beginning of the research, UK experts on the Chinese publishing industry were not on the list of interviewees, because it was estimated that the interviews with large publishers who have business in China or cooperation with Chinese publishers would supply adequate information and data for response to the research questions. However, as soon as the first interview with UK publishers was conducted, it became clear that the researcher overestimated the UK publishers' knowledge of the Chinese publishing industry. The interviewees realised this point during the interviews too, and they introduced several extra experts to the study, i.e., Lynette Owen, Ian Taylor, Chris Paterson, Mark Robertson, Dick Rudick and Hugh Jones. Lynette Owen is a copyright director and licensing specialist at Pearson Education, and has visited China regularly

since 1982. Ian Taylor is the former Director of the International Division of the UK Publishers Association (PA), and was its expert adviser on Chinese publishing, bookselling, and journal distribution. Chris Paterson is Chairman of the International Division of the PA and Chairman of Macmillan Education. Mark Robertson is the President of Blackwell Publishing Asia, and was elected to CAL¹ board as a Publisher-elected Director in 2001. Dick Rudick and Hugh Jones were also mentioned by Anthony Watkinson, but it was not possible to interview them, and it was considered that four experts were adequate for the research.

Some publishers selected in this research were contacted by the researcher's supervisors, Professor Charles Oppenheim and Dr Fytton Rowland, first, and then the researcher contacted them or their assistants further via e-mail, based on the reply e-mails forwarded by them. Other UK publishers' contact details were supplied by the tutors as well, and the researcher contacted them herself with a request letter for an interview via e-mail. The first three experts were contacted first by Mr Richard Gedye from Oxford University Press, since he was mentioned during the interviews and Mark Robertson was contacted by Anthony Watkinson. An e-mail was then sent requesting their assistance or directly sent to the experts. All the e-mails included information about the researcher and her previous and current research, the reasons for selecting the interviewee, the main topic expected to be explored in the interview, the expected length of the interview, and researcher's contact details and her tutors' names. All the publishers, experts and ALPSP responded favourably and agreed to take part in the study and participate in an interview. Even, before the researcher conducted the interview with Mr Richard Gedye in Oxford University Press, he also introduced Ms Fiona Bennett, the Head of Rights and New Business Development of Oxford University Press. As a result, that interview was conducted with these two people together.

¹ The Copyright Agency Limited (CAL) is a copyright collecting society administering reproduction rights in Australia.

The interviewees of Chinese potential rights holders included one author organisation, the China Writers' Association, which is the only central-level authors' organisation in China, and one publisher. It has to be emphasised that after following up several contacts with Chinese publishers to request interviews, the researcher found that most Chinese publishers did not know about RROs at all, or their knowledge of RRO was limited. This is the reason why the researcher conducted only one interview with a Chinese publisher. This was one of the largest foreign trade corporations engaged in the press and publishing fields in China. Based on the special political environment in China, NCAC, as the copyright administration of the Chinese Government, was the most important interviewee. Three interviews were conducted with officials in NCAC, in different departments or divisions, to collect more comprehensive information mainly from the legal aspect (interview with the director of the legal division), and the administration aspect (interview with deputy director general). It has to be pointed out that, regarding to the special political and speech situation in China, the formal process to request that the authors' organisation, as a semi-governmental body, and NCAC as a government department, take part in the study was very slow, strict and difficult. Consequently, all the contacts between the researcher and interviewees were informal via personal relationships, and all interviews are considered as a personal conversation or academic discussion without any official comments. The researcher had explained to them the main topic of the research before the interviews but they did not see the questions in advance.

As Hong Kong is a special administrative region of the PRC, the RRO in Hong Kong is an important reference of the model, although its establishment was based on UK system. IFRRO, as the international federation of RROs, has a lot of experience in helping countries to establish RROs and it has a global view of RROs' development. Furthermore, it was indicated in the literature review that IFRRO had contact the Chinese Government and had a meeting with it several years before. Two e-mails were respectively sent to Dillys Yu, the General Manager of the HKRRLS, and Olav Stokkmo, the Secretary General of IFRRO, with a request letter explaining who the

researcher is, the purpose of the research and the main topics of the interview. Initially, HKRRLS refused the researcher's request, because they were not willing to make comments on mainland issues. The researcher then revised the questions. HKRRLS accepted the request after the revision of the questions.

Because of time limitations, cost and distances, different methods of interviews were adopted in the research between. Six face-to-face interviews with UK rights holders were conducted in Oxford and London, and five more with Chinese officials, the authors' organisation and one publisher in Beijing; two telephone interviews with ALPSP and Lynette Owen were conducted, following the interviewees' preference; the interviews with IFRRO, HKRRLS and Asian Blackwell were conducted by e-mail since these organisations are not based on the UK. All the interviews were conducted between November 2004 and March 2005. Of the three email interviews, the researcher has already received comments from IFRRO and HKRRLS, but although the researcher has sent question list to Asian Blackwell twice, there was no reply from Mark Robertson.

5.5.2 Question Design

The questions in the interviews were developed in two directions. From the UK rights holders, UK experts to Chinese rights holders, Chinese Government, questions were developed further to explore the research topic deeper. It could be considered a four-stage interview process. On the other hand, the questions for IFRRO and HKRRLS could broaden the views of the research topic and collect more comprehensive data at the same time. The research questions may change and be refined as the inquirer learns what to ask and to whom it should be asked³⁶. Gorman and Clayton suggests that after commencing first round of interviews, it will be worth revising the questions in the light of the researcher's growing familiarity with the topic and the likely responses, and if the researchers are undertaking longitudinal cases, each stage of the project will require new questions³⁷. In this case, as soon as she finished one stage of interviews, the researcher stated the lessons learned from previous stage,

and devised further questions to be asked for the next stage. These were checked by her supervisors before use.

Regarding the different backgrounds of interviewees, five sets of interviews' questions were designed (Appendix 1 to 6), which consisted of six questions as the main body of the interviews and several other questions tailored for each kind of interviewees. For all the interviews, the questions could be characterised into three parts. Firstly, warm-up questions are very general and easy to answer. Obviously, the aim of these questions is to help interviewees to be familiar with the situation of the interview and the research topic. The second part was the five main questions based on the main objectives mentioned above and they were kept almost the same in each interview. They are: the timing to develop an RRO in China; the licensing system adopted for the proposed RRO; suggestions of the model; the role of the Chinese Government; the preparations China should make for the development of an RRO. Finally, there were some questions in detail to collect concrete information for a specific part or issue of the model. Most questions for all the interviewees were designed as open-ended to encourage the interviewees to make more comments on the research issues and explore them more deep.

For the UK rights holders, the warm-up questions focused on the attitude to the CLA and then expanded to the RRO system. The feedback on the operation of CLA and comments on the RRO system from UK rights holders can be a reference to the researcher to assess the reaction of Chinese potential rights holders to the establishment of an RRO in the future. Furthermore, RRO and electronic publishing is an important issue which should be considered in the establishment of a Chinese RRO and its further development. There were two questions at the end; one sought the attitude of UK rights holders to the idea of a reduced local fee for the Chinese users at the beginning. The second one asked whether the interviewees had any general suggestions for the Chinese equivalent if China begins to establish an RRO in the future.

For the UK experts, since they are much more familiar with the Chinese publishing industry, department policies and political environment than UK rights holders, there is just one warm-up question for them to make comments on the CLA and the RRO system. There was one questions related closely with the Chinese situation. Since the low price of publications in China leads to a lesser need to establish an RRO for the domestic publishing industry, could Chinese Government see the benefit of establishing an RRO for the Chinese publishing industry and if not, what will happen? This question was proposed by Lynette Owen the first time she talked with the researcher after reading the researcher's previous research documents. After the discussion, these two questions were considered to be valuable, so they were added into the question list.

For the Chinese potential rights holders, there were four warm-up questions. Because the research topic is relatively new to Chinese publishers and authors, it was reasonable to give them more time and information to become familiar with the interview and topic. The questions were very basic and concentrated on the attitudes of rights holders to the collective management of copyright and its societies, the RRO system, and Chinese publishing industry. The final questions focused on the proposed RRO's main functions and the price of books. Compared to Chinese publishers and authors, the NCAC is much more familiar with the research topic. As a result, the interviewees directly faced the main questions at the beginning and gradually went further with the detailed questions in the middle. These were almost the same as the Chinese rights holders', but one more was added to discuss contact and cooperation between NCAC and IFRRO.

According to the requirement of HKRRLS, its questions completely focused on the HKRRLS itself, including its basic information, the process of development, working area, legal base and fees, government involvement and the electronic issue. The questions for IFRRO were mainly based on the questions for the Chinese Government, but sought comments from a global perspective. There were also another two specific

questions, one discussing the relationship between the Chinese Government and IFRRO, and one seeking support for establishing an RRO from IFRRO in the future.

5.5.3 The Process of the Interviews

A normal interview goes through a series of stages. These may be characterised as: introduction; completion of ethics paperwork and obtaining permission to record; establishing rapport and putting the interviewee at his or her ease; prepared questions, often asked of all interviewees to gather comparative data; the more open-ended questions; an opportunity for the interviewee to raise any matters which may have been overlooked; and concluding remarks and thanks³⁸. In this case, the face-to-face and telephone interviews began with introductions and seeking permission to record the interview. The questions were addressed and explored, and other important comments or issues were then addressed. All the interviewees were very helpful in all aspects of the research. The interviews varied in length between forty and ninety minutes. All the interviewees were willing to divulge much information and stressed the importance of the research, and some of them requested the results of interview before they gave the permission to use their comments in this dissertation.

It has to be pointed out that at the first stage, the researcher encountered a gap between the questions and the interviewees' knowledge. At the beginning, the researcher found that the detailed questions about Chinese publishing for UK rights holders were too specific and some of them were even beyond their knowledge. For some main questions, like which system to choose and which sector to begin with, because of the limitation of their knowledge of Chinese publishing and political environment, most of the UK interviewees had to make comments partly based on their imagination, in which case it was quite difficult to explore the issue deeper both for interviewer and the interviewees. In the last stage, the research also encountered a gap between the questions and Chinese real situations, especially for the detailed questions. Because currently in China the idea of establishing an RRO in China to most interviewees, even the NCAC, is an issue which has not been mentioned on their schedule, the detailed

questions went too far to make comments. Throughout the interview, some Chinese interviewees suggested that some questions were very difficult to answer, or the situation in the future was too difficult to imagine or estimate. Both the interviewer and the interviewees just could only discuss the questions based on their existing information and knowledge.

A problem the interviewer met in the process of interview is that sometimes it was difficult to lead the interview with some interviewees. Although there was a designed question list, in some cases the interviewee guided the conversation and developed the topic before they were asked, or developed the questions too far. However, the researcher was generally able to control the interview's pace skilfully.

5.6 Questionnaire Design

Questionnaires are one of the tools of population surveys - a main research method, which usually aims at a comparative and representative picture of a particular population³⁹. It was selected as the data collection method to receive responses from Chinese potential users. Gillham lists several advantages of using questionnaires⁴⁰:

- Low cost in time and money
- Easy to get information from a lot of people very quickly
- Respondents can complete the questionnaire when it suits them
- Analysis of answers to closed questions is straightforward
- Less pressure for an immediate response
- Respondents' anonymity
- Lack of interviewer bias
- Standardisation of questions
- Can provide suggestive data for testing a hypothesis

However, he mentions some negative features as well⁴¹:

- Problems of data quality (completeness and accuracy)
- Typically low response rate unless sample 'captive'
- Problems of motivating respondents
- The need for brevity and relatively simple questions

Misunderstanding cannot be corrected and respondent literacy problems
Seeks information just by asking questions
Assumes respondents have answers available in an organised fashion
Lack of control over order and context of answering questions
Question wording can have a major effect on answers
People talk more easily than they write
Impossible to check seriousness or honesty of answers
Respondent uncertainty as to what happens to data

As mentioned in Section 5.4.2, the research adopted a sequential exploratory strategy which is characterised by an initial phase of qualitative data collection and analysis, followed by a phase of quantitative data collection and analysis. Throughout the interview, Lynette Owen had suggested that it is necessary to make some sense of the photocopying situation in China (see Appendix 7). She claimed that the market's need is the base of this research, and the key factor to discuss is whether this is the right time to establish an RRO in China. Other UK experts agreed with her when the researcher mentioned her suggestions during the interviews. On the other hand, Lynette Owen pointed out that it was impossible for the researcher to do a countrywide survey to investigate the whole photocopying market in China.

Under these circumstances, a questionnaire was designed according to the literature reviews and the results of the interviews. The target population were Chinese libraries, including university, public and industrial libraries. Based on the literature review, it is clear that materials in the libraries are heavily photocopied by users, and libraries are one of the most important potential licensees of RROs. Throughout the interviews in China, it was indicated that some Chinese rights holders have considered protecting their reprographic rights beginning with the photocopying in libraries. Finally, compared with copy shops and business companies, in theory, it is relatively easy to have contacts with libraries and distribute questionnaires to them. The objectives in conducting questionnaires with Chinese potential users were as follows:

- Make sense of the photocopying situation in China now
- Find out potential users' attitudes to establishment of an RRO in China
- Test the findings and results of interviews at the first stage from Chinese potential

users' perspective

5.6.1 Sample Selection and Questionnaire Distribution

A sample is a portion or subset of a larger group called a population and it is representative of the population if important characteristics are distributed similarly in both groups⁴². Sampling methods are usually divided into two types. The first, called probability sampling, provides a statistical basis for saying that a sample is representative of the study or target population; the second type of sampling is non-probability sampling, chosen based on judgment regarding the characteristics of the target population and the needs of the survey⁴³. In this case, the population is all the public and universities libraries as well as other kinds of libraries, such as industrial libraries, in China. And the sample method adopted for this research was convenience sampling, a kind of non-probability sampling. A convenience sample is a group of individuals who are ready and available. For this research, in the original plan, the group of individuals were the attendees at the annual conference of the China Society for Library Science (CSLS).

There are several reasons to choose these attendees as the questionnaire's sample. Firstly, the members of CSLS are the information specialists, especially librarians, working for libraries all around the country. The attendees at the conferences were mainly the senior librarians and other information specialists countrywide. The sample of the questionnaire would be stratified by both category and area. Second, compared with mailing questionnaires, distributing and collecting questionnaires during the conference would increase the response rate effectively. Finally, the period of distribution and collection of the questionnaire was much shorter than other methods. Before attendance of the conference in 2005, the researcher consulted with the conference committee and obtained their permission to distribute the questionnaires during the conference. However, when the researcher arrived at the conference in China, she was told that it was forbidden to distribute any materials during the conference, or to contact delegates privately which would be seen mistakenly by the

delegate as a conference activity. Another Chinese PhD student met the same problem as well. After long negotiation with the president of the conference committee, although she apologised their imprudent permission given before, she insisted that the questionnaire should not be distributed during the conference. Consequently, the researcher failed to distribute questionnaires among the ideal sample.

As soon as it was impossible to distribute questionnaires, an alternative way to distribute questionnaires on the Internet was developed at the end of July, 2005. The questionnaire's layout and some questions have to be adjusted to adopt the Internet questionnaire design and implementation. From the beginning of August to the end of September, the electronic version of the questionnaire was distributed on the Internet, with the URL <http://www.my3q.com/home2/72/mayanan/47167.phtml>. According to the previous distribution experience in China and researcher's familiarity of Chinese culture, the convenience sample was adopted again by distributing the Internet questionnaire through informal channel via personal relationships. The goal of utilising personal relationships is to improve the feedback rate of the questionnaire as much as possible. The main parts of the sample (120 libraries) were identified and contacted by employees in large information software and systems company in China which have a lot of business co-operations and customer contacts with libraries all around the countries. One of the researcher's Chinese interviewees introduced the researcher to the vice-president of the company and the president contacted some staff to distribute the questionnaire on the behalf of the researcher. Ten out of the sample were identified by the contact details given by the researcher's bachelor degree supervisor. The reminder of the sample (25 libraries) were the researcher's previous classmates and their personal contacts. Because of the limitation of Internet access in China, seven libraries responded to the Word version of the questionnaire and send them back by e-mail. Because most of the distribution process was completed by others instead of researcher herself, the quality and quantity of the sample were extraordinarily difficult to control by the researcher. However, according to the total number of the sample, 155 libraries in China, the coverage of the sample would be guaranteed in some degree. For

the same reason, the researcher only sent the follow-up e-mails to the librarians she contacted directly. She also contacted the staff of the company to request to send follow-up emails to 120 libraries that did not reply, but the staff did not reply to her e-mail and from the results, it seemed that there were no follow-up e-mails to these libraries.

5.6.2 Question Design

Drafting the questions and designing the layout are the two key stages in questionnaire construction⁴⁴. The topic of the questionnaire usually falls into three main categories: questions of fact, questions about opinions, beliefs and judgements, and questions about behaviours (what people do)⁴⁵. In this study, the questionnaire is composed of the first two: factual questions and questions about attitudes, opinions and beliefs. The questionnaire had eighteen questions in total, divided into three parts (see Appendix 11 and 12): basic level details about the library, then section one focusing on factual questions about the photocopying situation in the library, and section two focusing on questions about the attitude towards reprographic rights and the establishment of an RRO in China.

Basic level details included three questions: Which library and which kind of library the respondent is working for and how many members are registered in the library. The first question is to identify the organisations and areas the respondents came from and also reduced the risk of multiple feedbacks from the same library. The following two questions could indicate the type and size of the library. The central part of the questionnaire was devoted to the survey questions which derive from the research question⁴⁶. For this questionnaire, the central part was section one and section two, which respectively matched the main objectives mentioned above. Section one consisted of ten questions, which were: number of photocopiers in the library, the charge for photocopying to members and non-members, the total income of photocopiers each year and income trend in recent five years, materials which are photocopied most heavily, the scanning service in the library, and the percentage of

students photocopying textbooks instead of buying books. Section two discussed five issues: whether reprographic rights should be protected by paying royalties to rights holders and who should pay them, how much royalty the library could afford for each member, what are the barriers to prevent the establishment of an RRO in China currently, and whether an RRO is the best way to help rights holders to protect their economic interests in China. Initially, in December 2004, the questionnaire was designed only with two parts: basic information and section two. At that time, the main aim of the questionnaire was to explore the potential users' attitudes to establishment of an RRO in China. After the interviews in China, it became clear that the research required more detailed information about photocopying in China and the original sample from the conference could supply this kind of information sufficiently, so section one was developed in May 2005, when the researcher decided to attend the conference in July 2005.

Five out of the eighteen questions were open-ended. They were all factual questions focusing on photocopiers in the library and library itself. There were another three questions which supplied several possible answers but also offered the opportunity to the respondents to explain their personal opinions and experience at the end of the questions. All the other questions were designed with selected responses. As some questions were related to others, routing questions were adopted at the beginning of two sections so as to follow up responses in more detail and get more precise information. The question about the materials which are photocopied most heavily used ranked responses get respondents to express preferential judgements and give the researcher a better idea of the relative merits of the different items⁴⁷. This ranked response question was adopted in the paper form of the questionnaire which was supposed to be distributed during the conference. When the questionnaire was transferred to the Internet, because the website, www.my3q.com does not provide the ranked response function, the question was adjusted to select the most heavily used materials, three kinds at most. Because during the distribution, 20 copies of Word version of the questionnaire were sent out via e-mails, all the questions in the Word

version kept consistent with the Internet version. The last question about the attitude to an RRO itself used scaled responses to collect more detailed information about users' attitudes.

Besides the main body of questions, the questionnaire also had a head page, including the title, explanation what an RRO is and a number of the questions and sections at the beginning to provide some background information of the questionnaire. At the end, the researcher thanked the respondents for their help, gave her contact details for further inquiries and promised to keep the privacy of the respondents.

5.6.3 Pilot Study

A proper pilot study is one where the researcher simulates the main study⁴⁸. Piloting is an important stage to ensure that potential problems are identified and eliminated⁴⁹. A possible limitation of conducting pilot studies would be in making inaccurate assumptions or predictions based on the pilot study result⁵⁰. Teijlingen and Hundley stated that completing a pilot study successfully is not a guarantee of success of the full-scale survey⁵¹.

Moore concluded that there are normally two stages of testing⁵². First the researcher pre-tests by sending a draft of the questionnaire to one or two people who can be trusted to give an honest opinion, and then, taking a small group of respondents, sends the revised version out to them under conditions that are as similar as possible to the real survey⁵³. In this research, at the first stage, the pilot respondent was Frank Parry, an academic librarian in Loughborough University. The pilot was completed in the middle of December 2004. Initially, the questionnaire was designed in English. Because the questionnaire would be translated into Chinese before doing a pilot study with Chinese respondents at the following stage, the first pilot was mainly to test the content of the questions and the question sequence of basic information and section two. After translation into Chinese by the researcher in May 2005, three Chinese librarians were selected as pilot respondents through contacts of the researcher's

previous Chinese supervisor in June 2005. Two of them are working for universities' libraries and one at a public library. Respondents were approached via e-mail with attachment of the Word version of the questionnaire, and the pilot survey was held during June and the beginning of July 2005. One respondent did not reply to the e-mail; one respondent simply completed the questionnaire without any comments and the other respondent completed the questionnaire with her comments and suggestions. Through the questionnaire design, the researcher's two supervisors checked the questionnaire after every revision. The researcher also asked one of her friends help and suggestions, who distributed her internet questionnaire last year for her Master dissertation. Table 5.1 shows the feedback from the pilot study and the action taken to improve the questionnaire.

Comments	Action Taken
Taking it for grant that respondents believe some parties should pay for photocopying	Add a question to ask respondents if they think anyone should pay for photocopying
The meaning of "members" is not very clear at the organisation level (members of CLSC or library?)	Identify that "members" is the registered users for library
The meaning of "members" is not very clear even at the individual library's level	Identify the "members" with a detailed explanation
The income of the photocopying is a sensitive issue of libraries	Add a question to ask respondents whether they know the income or they are willing to answer this question
The photocopying fees are based on the paper sizes	Add an example of answer in internet version; Add "A4 ___ B5 ___ " in the word version
The reasons of the reduction of photocopying income may relate to the research topic	Add a route question to ask the reasons why the income reduced

Table 5.2 Feedback and Action Taken, As A Result of the Pilot Study

5.6.4 Response Rate

At the end of September 2005, a total of 27 libraries had responded to the questionnaire, including 20 Internet questionnaires and seven Word questionnaires. This gave an overall response rate of 18%. All of the researcher's five previous classmates responded to the questionnaires; one of them contacted twenty other libraries and received seven Word questionnaires back. Eight out of ten libraries contacted via the researcher's previous supervisor completed questionnaires on the Internet. Six out of one hundred and twenty libraries contacted by the company responded to the questionnaire online. This indicated that the response rate of the first three parts was 58% which showed the convenience sample through personal relationships works acceptably. In contrast, the response rate of the last part was only 5%. Because the researcher did not have any direct personal relationship with the company and the distribution process was not transparent, it is very difficult to analyse the reason why the response rate was so low. However, according to the feedback from some respondents, there are some reasons which may have led to such a low response rate.

First, copyright is a very sensitive issue in China, and especially reprographic rights are copyright virgin lands in China, even for Chinese information professionals. Moreover, according to the Chinese culture and political environment, people reluctantly express their own opinions on sensitive issues before the government has reached a conclusion. For example, one of the respondents emphasised her worry about unexpected troubles with answering the questionnaire by e-mail. Second, as mentioned above, even librarians in China are not familiar with reprographic rights. To answer "who should pay for the photocopying?" one of the respondents filled in "publishers", one of the rights holders. Because section one related to many photocopiers, some respondents felt it was difficult to answer and they could not be bothered to ask the people in charge of the photocopiers. Third, dislike of online questionnaires and the preference for Word questionnaires should be considered in this case. The researcher's classmate indicated that he received only one response after

contacting 20 libraries via e-mail with the URL, while he received seven responses after contacting the same libraries a second time via e-mail with an attachment of the Word version of the questionnaire. Based on his experience, for Chinese librarians, who are mainly middle-aged, online questionnaires are quite new. Compared with Word, librarians lack trust in them and preferred the method with more familiarity. Finally, there is a physical connection problem of the Internet. Most of the respondents work in university libraries. In China, Internet accesses in all education institutions are limited to browsing only certain websites based outside the country. Some respondents found they could not browse the questionnaire, or the download speed of the page was terribly slow. The researcher also met difficulties in sending e-mails to some respondents, since the e-mails were delayed or failed to be sent.

5.7 Data Analysis

Qualitative and quantitative data were generated from the research, the majority of data being qualitative. Each stage of the research was analysed separately and then comparisons were made. The quantitative data from the Chinese libraries questionnaires were coded and analysed using www.my31.com self-created software and Microsoft Excel. The qualitative data from the interviews were compiled in a MS Word file for manual analysis.

5.7.1 Interview Transcription and Analysis

The process of data analysis of qualitative research involves preparing the data for analysis, conducting different analyses, moving deeper and deeper into understanding the data, representing the data, and making an interpretation of the larger meaning of the data⁵⁴. John W. Creswell deems that an ideal analysis situation of qualitative research is to blend the generic steps with the specific research design steps⁵⁵. The generic steps include the following steps⁵⁶:

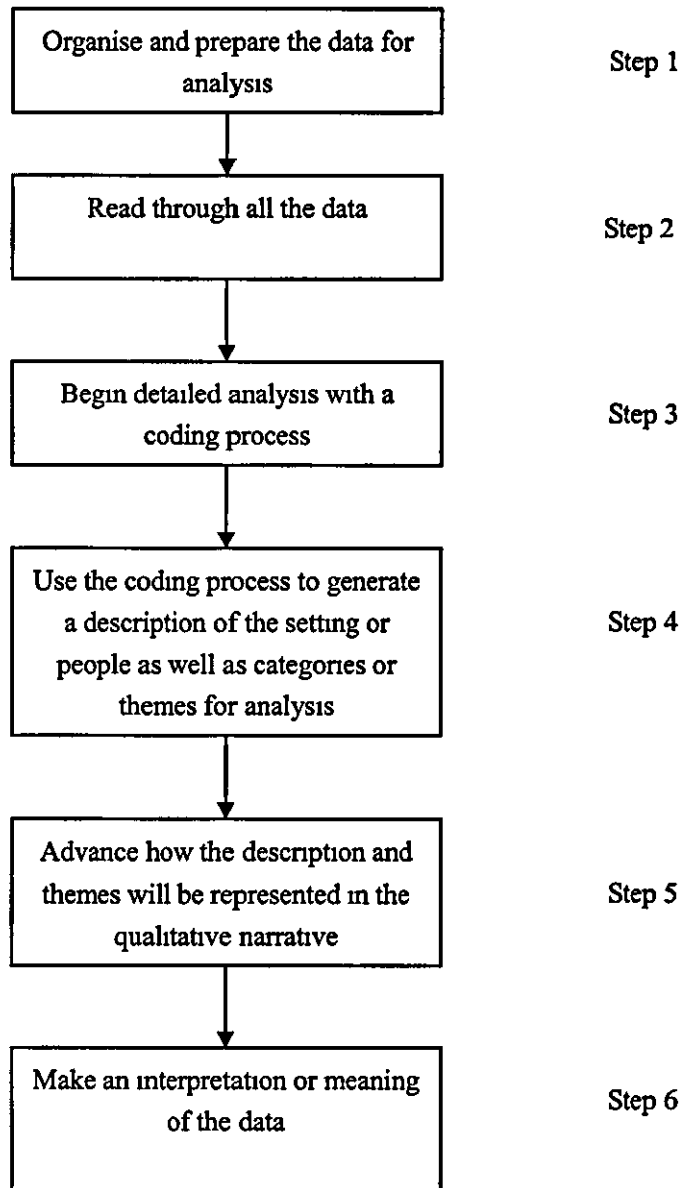


Figure 5.1 Six Steps of Qualitative Data Analysis

There are several types of qualitative analysis developed by Tesch, Creabtree and Miller. The main difference between these methods is the way to create code used in step 3⁵⁷. In this research, because the interviews' questions were almost the same or changed only slightly, template approaches were adopted so that the key codes are determined on an *a priori* basis derived from the research questions. Interviews were recorded for transcription, and codes and general patterns were noted during transcription. Firstly, the researcher went through each interview record to identify

similar phrases, patterns, themes, relationships, sequences, and differences of the all content. Second, according to the interview questions, these patterns, themes, etc, were taken out to compose into several main topics. Gradually, a small set of generalisations were elaborated, which cover the consistencies in all the interview records. Finally, these generalisations were linked to a formalised body of knowledge in the form of constructs or theories (see Chapter 6).

However, it has to be pointed out that because of the differences in of knowledge between UK interviewees and Chinese interviewees, the process of generalisation of interviews in the UK and China are separate and the main topics of each part are different as well. The main topics generalised from the interviews with UK interviewees are: the right holders and RRO, RRO and electronic publishing, the time to establish an RRO in China, and suggestion of the model. Topics generalised from interviews with Chinese interviewees are: photocopying, reprographic rights in China, potential rights holders and collecting societies, suggestion of the model. However, eventually, all the data were re-assembled by the main five objectives of the interview (see Section 5.5). The data which could not be contained in the main objective but needed to be discussed further were organised and separated into Chinese and UK interviewees' groups' topics (see Chapter 6).

5.7.2 Questionnaire Results and Analysis

The first stage of analysis is essentially a descriptive one: setting out the results in a summary form (tables or graphs), so that researchers can see the overall response to individual questions at a glance⁵⁸. In this research, because of the utilisation of www.my3q.com, graphics including bar charts and pie charts of all the selected questions, closed questions and scales questions were self-created by the website. The website also supplied the function to create Excel document of all the answers of the open questions. Thus, the results were presented in graph form for each question and percentages were calculated for the corresponding responses.

References

-
- ¹ **Moore, N.** *How to do research: the complete guide to designing and managing research projects*, 3rd edn., 2000, p. 121.
 - ² **Gorman, G. E.** *Qualitative research for the information professional*, 2nd edn., 2005, p. 5.
 - ³ *Ibid.*, pp. 5-6.
 - ⁴ **Creswell, J. W.**, *Research design*, 2nd edn., 2003, p. 30.
 - ⁵ **Moore**, ref. 1, p. 121.
 - ⁶ **Gorman**, ref. 2, p. 3.
 - ⁷ **Silverman, D.** *Doing qualitative research*, 2000, pp. 9-10.
 - ⁸ **Robson, C.** *Real world research*, 2nd edn., 2000, p. 5.
 - ⁹ **Creswell**, ref. 4, p. 153.
 - ¹⁰ **Reichardt, C. S. & Rallis, S. F.** *The Qualitative-Quantitative Debate: new perspectives*, 2004, p. 17.
 - ¹¹ *Ibid.*, p. 154.
 - ¹² **Robson**, ref. 11, p. 98.
 - ¹³ *Ibid.*, p.164
 - ¹⁴ *Ibid.*, p. 98.
 - ¹⁵ **Creswell**, ref. 4, p. 153.
 - ¹⁶ **Gorman**, ref. 2, p. 12.
 - ¹⁷ *Ibid.*, p. 13.
 - ¹⁸ **Reichardt, & Rallis**, ref. 6, p. 11.
 - ¹⁹ **Silverman**, ref. 9, p. 122.
 - ²⁰ **Creswell**, ref. 4, p. 215.
 - ²¹ *Ibid.*
 - ²² *Ibid.*, pp. 215-216.
 - ²³ *Ibid.*, p. 216.
 - ²⁴ *Ibid.*
 - ²⁵ *Ibid.*
 - ²⁶ **Creswell**, ref. 4, p. 30.
 - ²⁷ **Robson**, ref. 11, p. 270.
 - ²⁸ *Ibid.*

-
- ²⁹ **Oppenheim, A.N.** *Questionnaire design, interviewing and attitude measurement*, 2nd edn., 1992, p. 35.
- ³⁰ **Creswell**, ref. 4, p.186.
- ³¹ *Ibid.*
- ³² *Ibid.*, p. 185.
- ³³ *Ibid.*
- ³⁴ *Ibid.*
- ³⁵ **Gorman**, ref. 2, p. 128.
- ³⁶ **Creswell**, ref. 4, p. 181.
- ³⁷ **Gorman**, ref. 2, p. 130.
- ³⁸ *Ibid.*, p. 134.
- ³⁹ **Gillham, B.** *Developing a questionnaire*, 2000, p.18.
- ⁴⁰ *Ibid.*, p. 7.
- ⁴¹ *Ibid.*, p. 8.
- ⁴² **Fink, A.** *The survey handbook*, 1995, pp. 33-34.
- ⁴³ *Ibid.*, pp. 36-37.
- ⁴⁴ **Gillham**, ref. 43, p. 25.
- ⁴⁵ *Ibid.*, p.26
- ⁴⁶ **Robson**, ref. 11, p. 245.
- ⁴⁷ *Ibid.*, p. 31.
- ⁴⁸ **Gillham**, ref. 43, p. 42.
- ⁴⁹ **Franzer, L & Lawley, M.** *Questionnaire design and administration*, 2000, p. 33.
- ⁵⁰ **Hardy, R. L.** *The future of UK university presses in the electronic environment*. PhD thesis, Department of Information Science, Loughborough University, p. 111.
- ⁵¹ *Ibid.*
- ⁵² **Moore**, ref. 1, p. 115.
- ⁵³ **Gillham**, ref. 43, p. 42.
- ⁵⁴ **Creswell**, ref. 4, p.190.
- ⁵⁵ *Ibid.*
- ⁵⁶ *Ibid.*, pp. 191-195.
- ⁵⁷ **Robson**, ref. 11, p. 458.
- ⁵⁸ **Gillham**, ref. 43, p. 49.

Chapter 6 Results of Interviews

6.1 Introduction

According to the question design in Chapter 5, five categories of interviewees were asked a list of common questions for all the interviewees plus specific questions for each category. Therefore, this chapter is divided into two parts: the results of those answers to the common questions; and the results of those answers to the specific questions for each group and other issues which are considered related to this research and are discussed in Chapter 8. The fifteen transcripts were made by the researcher and then cut-and-pasted so that all the answers from fifteen conversations referring to a particular common question were selected and collected together first, and then the remainder of answers referring to a particular “group question” were collected together. These collected transcript answers to the different interview questions and all the background information about interviewees and their organisations are given in Appendix 7 to Appendix 10. The collected transcripts from any particular question were then surveyed and classified into groups, and the results of these answers now follows.

6.2 Results of Common Questions

6.2.1 The Role of the Chinese Government in the Development of the RRO

Before discussion of the key question, Is it the right time to develop an RRO in China?, the role of the Chinese Government in the development of the RRO should be elaborated first. It is the prerequisite for most issues in Section 6.2 and 6.3.1, especially for the common questions.

First of all, IFRRO stated that in most, if not all, countries it has proven difficult to set

up an RRO without the support of the government. HKRRLS stated that at the beginning of issuing licensing in 2000, it gained the HK government support by signing a licence with it. In the Chinese case, most UK publishers and experts pointed out that how difficult it is to develop an RRO in China depends on the Chinese Government, because the political view and environment is one of the key factors which should be considered. For example, Lynette Owen indicated that if someone were seeking to make an RRO a reality in China, it would be very clear that only the Chinese Government could develop it. Ian Taylor also said that full and whole-hearted support from the government is the only prerequisite for the development of the Chinese RRO. Not only he and Bob Campbell, but also the Chinese publisher, Mr Zhu, all commented that China could establish this kind of organisation much more easily than similar organisations in other countries, even do it overnight, because it is an advantage of the Chinese Government that it has a very strong administrative capability. Moreover, UK experts pointed out that in the whole proposed model of the Chinese RRO, the government is the number one rights holder, because the upper organisations in the system are all under the control of government. Bob Campbell also added a precondition that because in different RRO systems the involvement of government is quite different, it is important to consider which system China will adopt (see Section 6.2.3), and then discuss the role of the Chinese Government in the system.

It follows that the next question will be, since the Chinese Government is the only body can establish an RRO in China, how to persuade the government to do it. Sally Morris said it is very important to get the government interested and get government to want to do this, because they believe they will do good if they do it. Consequently, the radical issue of persuasion is to offer incentive reasons for the development of an RRO to the Chinese Government. Publishers and experts gave two main reasons which could push the Chinese Government to consider the establishment of an RRO in China (see more details in Section 6.2.2).

First, publishers such as David Croom, Lynette Own, and Richard Gedye expressed the view that it would be a persuasive reason for the government to develop an RRO to protect the economic interests of local authors and publishers at the first stage. Lynette Owen said "if the government finds photocopying is damaging the local publishing industry or Chinese authors are losing money because their books are copied without permission, the government would be more likely to seek to control it via an RRO." Moreover, Richard Gedye saw that, besides the protection of the indigenous publishing industry and rights holders, it can be argued that there would be some extra benefit for the rest of Chinese community to develop an RRO, especially a lot of educational institutions. "From international publishers' point of view, the Chinese educational institutions would have the ability to use the content they do not currently use at low cost. It will be very useful for academic research to supply a channel to pay for it, otherwise they have to do it illegally."

Secondly, David Croom said that although it will be impossible for the Chinese Government to establish an RRO just in order to protect foreign rights holders, the pressure from outside China would be another factor the government will consider. He gave an example that it was the case that when Taiwan tried to develop its significant computer industry, the USA claimed that it would impose sanctions against Taiwanese technical goods unless Taiwan would tighten up its copyright and patent protection. On the analogy of Taiwan's experience, when the Chinese Government thinks it is worthwhile to do it, or is threatened fiercely from outside, it maybe will take some actions. In the same way, Sally Morris said that not only the UK but also many other countries would be very happy to put pressure on the Chinese Government, because they very much want it happen. However, Richard Gedye imagined that from the government's point of view, the concept of an RRO would be probably quite obscure and would not be focused on any kind of pressures, although after entrance of the WTO, there is still plenty of pressure on China about copyright protection. Both Sally Morris and Richard Gedye remarked that not only the foreign publishers but also local publishers should put pressure on the government to let it know they are Chinese

businesses and are suffering. This would be a very strong and different message to the government from the message non-Chinese organisations could send. However, Chris Paterson indicated that although Chinese publishers hate the piracy of their books, but they have different emphases on how strongly they should be against the people who pirate their books. In addition, Ian Taylor mentioned that in China, everyone can successfully prosecute the universities for copying the books; however, the publishers are reluctant to do that.

In contrast only Ms Gao from NCAC mentioned that the government's role in establishing not only an RRO but also other collecting societies, is to administrate these organisations, give some funds and supervise them after the establishment. Furthermore, in the future, the NCAC will draft some standards or schemes as reference for the collecting societies for collecting and distributing fees. IFRRO also stated that one important role of the government is to provide an adequate legal framework.

6.2.2 Is It the Right Time to Develop An RRO in China?

This is the key question which influenced all the rest of the questions. There are three different answers for it: positive, no answer, negative. IFRRO made clear that it favours the development of an RRO in China which would provide legal access to copyright works and that there is a need for such access in the Chinese society. Moreover, the work of RROs is an efficient means to combat piracy and reduces the need for pirate copies of works protected by copyright. Most UK publishers except one indicated clearly that it is the right time to develop an RRO in China and that they would welcome its establishment. Four main kinds of reasons were mentioned by publishers. First, the RRO would be a strong way of making it possible to protect their economic interests. Most UK publishers mentioned that several years before, Western publishers were very worried about the piracy in China, but it has changed observably in the last few years. However, at the same time publishers like Chris Paterson said they also realise that there is still a lot of piracy in China currently affecting Chinese

publishers' rights and to some extent affecting the rights of international publishers who license copyright in China. Bob Campbell indicated that besides an agency to look after the interests of copyright holders, an RRO in China would also be seen as a central resource and meeting place, so if the Western publishers had copyright difficulties in China, they could go to the Chinese RRO for advice. For example, "It will be very helpful for the Western publishers, when they are negotiating with Chinese organisations about online document delivery, that they could seek the advice of the Chinese RRO."

Sally Morris emphasised that it is important for people to understand "we are not just talking about protecting Western publishers and authors, but also or even more to protect Chinese publishers and authors". Anthony Watkinson also expressed the view that "copyright protection in China is not just a result of external factors like signing WTO or TRIPS, but also an internal requirement of the development of the domestic publishing industry." Bob Campbell thought that it would be argued that part of the reason to have an RRO in China is that in the long term, the overseas market will eventually return revenue to China and China would collect revenue on the behalf of these Chinese authors, because Chinese copyright would be valuable abroad. On the other hand, from users' perspective, as Richard Gedye said in 6.2.1, an RRO would be an easy and cheap channel between rights holders and users to obtain their works, so that it could bring some benefit for the whole Chinese community. Bob Campbell added that given that China is a big country, an RRO would make it much easier for the Chinese community to obey copyright because they could find a way to pay and whom to pay.

Second, the establishment of an RRO would show the improvement in the respect for copyright in China. Sally Morris, Bob Campbell and Ian Taylor thought that the establishment of an RRO would look good for the international image of China, and it would give a sense to overseas publishers that China is taking copyright seriously and the awareness of copyright in China has improved observably.

Third, some interviewees such as Richard Gedye, Fiona Bennett and Anthony Watkinson considered this issue to be more based on the development of electronic publishing. The prerequisite is that the RRO would move from a role in the traditional printing environment to a role in the electronic environment (see Section 6.3.2.2). Richard Gedye and Fiona Bennett believed that, although electronic publishing is not probably so advanced in China as in the UK now, it will get more advanced over time, and at that time there would be much more room for a Chinese RRO in the future. Under these circumstances, it would be the right time to develop an RRO in China to establish the principle from the ground up. From their perspective, because UK publishers are just on the brink of developing sales and distribution of online materials in China, if China decided to develop an RRO, the UK publishers would feel much more comfortable about expanding their sales in China. Accordingly, Richard Gedye and Fiona Bennett discussed that it will be interesting to make clear the attitude of developing electronic publishers in China. An example that Anthony Watkinson gave was that in the 1970s, some Chinese publishers faced a problem that they had no control over any mistakes in what they published, because they were unable to stop the transmission and copying of their works all over the country. In the digital environment, he said this will become more serious because it is easier for people to get the materials they want, so it should be right that publishers have some control on the behalf of authors of the ways by which text is transmitted.

Fourth, publishers like Sally Morris, David Croom, Richard Gedye and Fiona Bennett believed that the educational and policing role of Chinese RRO is quite important as well. Compared with UK, the notion of the RRO is brand-new in China, so that the education function of the Chinese RRO is even more important for the RRO and the users. David Croom said that if the perception among Chinese users is that copyright is not important, then it needs an RRO in the policeman function to make Chinese citizens understand that they cannot get materials free and ignore copyright. Considering electronic publishing in the future, Richard Gedye and Fiona Bennett commented that because people always think that electronic materials are available and

free, the RRO should educate people to pay for the electronic materials and supply a way for the users to pay for them. Ian Taylor fully agreed that the policing role for the Chinese RRO is much more important than collecting revenue, and also suggested that if China developed an RRO, it should generate more income to be spent in a much higher proportion for the copyright enforcement and education of Chinese citizens compared to that spent by the CLA. He also assumed that the NCAC might see this as a way of financing its copyright education and enforcement.

However, Lynette Owen pointed out that although the education function is very important for an RRO, but it may be difficult to persuade the Chinese Government to develop it for purely educational purposes, because the Chinese Government, especially NCAC, has this responsibility to conduct a great deal of education on copyright. Moreover, it is impossible to develop a purely education organisation because it needs to be able to afford the cost of undertaking educational activities. Interviewee C (Appendix 8, NCAC1) and Ms Gao also confirmed that, compared with collecting societies, NCAC has the main responsibility to provide education on copyright to the mass and might need some help from the collecting societies in the future. One problem of education is that most of the organisations like the CWA and the Chinese Music Association lack funding because most of them do not have any income except from the government.

UK experts gave more neutral answers of this question. Lynette Owen said "it is a very difficult question to answer"; Chris Paterson answered "I think it is the right time to think about it"; Only Ian Taylor answered explicitly that he thought now is the right time to establish an RRO in China or at least carry on feasibility studies. According to 6.2.1, Lynette Owen discussed this issue from the view point of how to persuade the government, so the argument needs to be backed with some evidence of whether unauthorised photocopying of domestic works is a large-scale problem or not in China at the moment. She also re-emphasised that it is important to distinguish between printing unauthorised copies of books as piracy, and photocopying parts of the books.

Lynette Owen suggested that some kind of survey should be undertaken to get some indication of the scale of copying, not only of journal articles but of parts of books or complete books, in Chinese universities. If there is some evidence that they do some photocopying of parts of Chinese books or even complete books, there will be a strong argument with the government that Chinese publishers and authors will be the main beneficiary of the RRO at the beginning. However, Lynette Owen suspected that photocopying Chinese books does not seem very common in China, given that the differential between the price of copying and that of buying the complete book is far less than in Western countries, although there is evidence of unauthorised photocopying of entire foreign works. Most Chinese interviewees agreed that according to the high cost of copying a book and low book price in China, it is quite unusual to copy a book instead of buying one in China and there is no evidence showing that photocopying is damaging the Chinese publishing industry at present.

On a whole, in Lynette Owen's opinion, there is a paradox that if the Chinese RRO began with original Chinese works, there could not be a justification for its surviving; if it began with foreign works where there is a relatively large market, the government might not agree to develop it. Subsequently, Lynette Owen summarised that there are two factors which might affect this problem in China, changes in the Chinese political environment or an increase in book prices in the future. She also said that whether either factor changes in the future, this problem cannot be solved in a short time.

Meanwhile, Chris Paterson and Ian Taylor admitted that book prices in China are quite low, but they are increasing gradually now. Ian Taylor emphasised that, in theory, there is some small percentage of photocopying in China and also supposed that the books in China would get more expensive in the future because they are very much under-priced and the Chinese publishing industry is still in transition from a subsidised industry to a commercial industry now. However, he thought that until now, Chinese publishers could not be in front of the trend, and they are nervous to do it, because the Chinese publishing market is not strong enough to do it.

Chris Paterson commented that "China's GNP per head is about a thousand dollars and, although it is not like the USA, Singapore or Hong Kong, compared to most of the countries in the world which do respect copyright, including African, Indian, and South American countries, China is richer." And he insisted that the point of this problem is that no matter whether the book in China is expensive or cheap, and no matter whether Chinese citizens get the book by buying or photocopying, they should respect the efforts of rights holders and pay for it. From Chris Paterson's point of view, once China did join the WTO and sign the Copyright Convention, it has the obligation to make them work. But at the same time, Chris Paterson admitted that it is difficult to persuade the government, because most of the world brands are not Chinese and most of international books are in English.

Sally Morris and Ian Taylor both mentioned that if the styles of teaching are different and used textbooks all the time in China, there would be less photocopying. Mr Zhu as a Chinese publisher proved that the Chinese pattern of teaching is surely different from Western countries. Teachers scarcely distribute photocopied reading materials to students or suggest that students photocopy any other reading materials. But Ian Taylor suggested that if China decided to have an RRO, it should look at the future and not just the current situation, or look at the trail of other Asian countries like Japan or Singapore, because "The longer they delay, the more difficult it will get." He believed that the Chinese educational institutions will do a lot of photocopying in the future because the courses will be more specific and students will want access to more information, just as UK education changed in the last twenty years.

David Croom was the only UK publisher who thought it is not yet the right time to develop an RRO in China now or in the electronic era. His answer relies on how important the RRO is for the domestic publishing industry. David saw that it is not very important domestically because, on the one hand, the Chinese book is so cheap and on the other hand, there is not yet a willingness to contemplate cultural change. However, he emphasised that it will eventually become necessary at some time. To

establish an RRO in the electronic era, he mentioned that it is important to look at statistics on the usage of material to make a judgement.

Most Chinese interviewees, especially the interviewees from NCAC, stated clearly at the beginning of interview that it is too early to discuss whether it is the right time to establish an RRO and no-one has even considered this issue. Mr Zhu expressed the view that although publishers have some cooperation with the MCSC, at this stage, the copyright collective administration would not have any influence on Chinese publishers. "It is a good idea for authors because their income will increase and generate more enthusiasm for their work".

There are conflicting comments between two interviewees from NCAC: interviewee C (Appendix 8) pointed out that copyright, in accordance with the Copyright Law, includes the right of reproduction which includes photocopying, so theoretically the writers and publishers should enjoy their reprographic right, while Ms Gao claimed that until now, the Copyright Law did not include any articles on reprographic rights, so that there is nothing about reprographic rights from the legal aspect in China now. Apart from this conflict, the interviewees from NCAC and the Chinese publisher listed several problems associated with establishing an RRO in China now.

First, there were no laws or regulations on copyright collective administration for a long time. Most interviewees mentioned that this is the biggest problem through the initiation of the CCALW before the promulgation of the Regulations on Copyright Collective Administration on 1 March 2005. Second, although the Regulations has been effective, the market for photocopying in China is not mature because photocopying the whole book or parts of a book is not very common for Chinese patrons so that there is no demand for an RRO from rights holders. Besides low book price and different teaching styles in China, emphasised by both UK and Chinese interviewees, other reasons are: (1) In the education sector, most of the universities in China write and compile textbooks themselves or adopt textbooks published by other

universities, so universities are unwilling to let students photocopy textbooks. (2) More and more universities have begun to adopt original edition foreign textbooks in the class, so that students can gain access to foreign books much more easily than before. (3) The library lending system is not as well developed as in the developed countries. Moreover, Chinese citizens are not used to getting books from libraries. (4) Regarding Chinese tradition, Chinese people still prefer to own a book instead of photocopying parts of it.

In other sectors like business or pharmacy, Mr Zhu estimated that companies in these sectors will do some photocopying. However, he also pointed that the cost of this kind of photocopying will be very high, so that the volume of this sort of photocopying will be limited. However, Ms Gao believed that there is a tendency towards a potential market for photocopying developing now, because of the increase in the price of books and the decrease in the cost of photocopying. At this stage, nobody knows clearly whether photocopying is threatening publishers' original sales or not, so she thought it needs a survey to show whether there is a problem and how serious the problem is.

Third, the government should consider the degree of citizens' acceptance of an RRO to collect fees for reprographic rights. Interviewees from CWA (Interviewees A and B, see Appendix 8) pointed out that most users in China, especially in the business sector, have not realised that they should pay remuneration to rights holders for photocopying, and lack of respect of copyright and understanding of collective administration among the citizens is a serious issue they are facing during the establishment of CCALW. Fourth, it is clear that the lack of economic development is an important factor which means that Chinese citizens are unwilling or cannot afford to pay remuneration to rights holders.

Only interviewees A and B indicated that some Chinese experts had proposed that rights holders should receive remuneration for photocopying several years before

including reproduction for private and personal use¹. They said that they have also paid attention to the reproduction behaviour in libraries, and think rights holders should receive remuneration for this. Moreover, they recognised that reproduction rights are not only concerned with the traditional methods by printing or photocopying, but also the rights in the digital environment. However, they emphasised that although it is now generally recognised that some amount of charge for photocopying is payable, it is just a pure idea from the authors' point of view, and there are still a number of practical problems needing to be discussed, such as who has the rights and responsibility to collect the fee on behalf of writers, how to collect the fee and so on.

6.2.3 What Kind of Licensing System Would You Choose for the Proposed RRO?

Because of the limitation of time and of familiarity with Chinese publishing and political environment, among UK interviewees, only Sally Morris, Chris Paterson and Ian Taylor made comments on this issue. The first two both preferred a voluntary system at the first stage while Ian Taylor assumed that China cannot have a voluntary system. However, Sally Morris thought it necessary to have a compulsory system considering the lack of support for copyright, and a combination of different systems would be a good idea which she had never considered before. Chris Paterson preferred a voluntary system rather than compulsory system because he deemed that it is more practical. However, both he and Ian Taylor admitted that maybe a voluntary system will not work in China, because on the one hand, all the upper organisations involved in the system are governmental bodies, and on the other hand, if it is voluntary, no-one will take it seriously. IFRRO indicated that it does not favour one model over another, and will support the model chosen to be the appropriate one in China by the Chinese.

From Chris Paterson's perspective, under the compulsory system, although the system might be developed more easily and quickly, the reason why the system can work is based on the law but not based on people's awareness. This is the substantial difference

¹ Copyright Law of PRC stipulates this kind of use as "limitations on right", see Chapter 3 and Appendix 14

between a compulsory system and a voluntary system from the users' points of view. In his opinion, people need to know why they should pay and understand that a lot of people worked hard for the book. David Croom indicated a similar idea that the existence of the CLA is based on the general understanding of copyright among users. In Singapore's case, Chris Paterson deemed the reason why they adopted the combination system is that they knew they can make a compulsory system work for the education sector, but they could not do it for business sector.

Because all Chinese interviewees had expressed the view at first that it is too early to discuss the conception of an RRO in China, it is difficult for them to make any comment on such more detailed questions. Only interviewees A and B explained their opinion that a levy on photocopiers is the most reasonable and most convenient way to collect the fee¹¹, because they deemed that it is quite difficult to conduct an accurate statistical survey of the frequency of use for photocopying and what materials are photocopied from every user, which is very similar to the situation of music works. They also said that they did not consider transactional licences appropriate either. However, even a levy system will have some implementation difficulties. The biggest problem is that imposing tariffs on photocopiers or collecting fee from operators and protecting reproduction rights are not in the same government system, while the Chinese Governmental administration structure is also much more intricate than others. They emphasised that a levy system is purely hypothetical at this stage, so there is no feedback on this idea from the users' and operators' perspectives.

Their suggestion is that it would be test to begin with the education sector, like libraries and schools. Later, it ought to extend to the owners of photocopiers which serve the public commercially, like copy shops. Interviewee C said it is quite difficult to estimate at this stage which system China will adopt in the future, but he confirmed that there will be rates for collecting licensing fees which might take account of the

¹¹ The interviewees did not mention anything about other equipment, like reader printers and scanners during the conversation and they admitted they only knew partly how the German system works and they had never heard of the measures other countries had adopted before the researcher's descriptions

categories of use, commercial or non-commercial, the manner and place of using works, public or private, the difference between developing areas and developed areas and so on.

6.2.4 Preparation for the Development of RRO in China

All the UK publishers, experts and IFRRO emphasised the importance of undertaking copyright education. For an RRO to succeed, Chris Paterson deemed that before its development there does have to be an understanding by user of what copyright is and why copyright holders should be paid. This understanding is not always there in China, because the Chinese tradition over a very long time has been quite different to the Western tradition of copyright, so that more public education is especially needed. Moreover, the notion of the RRO is something really new to Chinese citizens. According to HKRRLS' experience, when it began to issue its licence in 2000, many users' groups refused to discuss. Irrespective of whether China will develop an RRO in the future or not, education is crucial because if China began to educate when it planned to develop an RRO, it would be too late. David Croom estimated that the arrangement of educating the population on the value of intellectual property will be necessary maybe for twenty years. Sally Morris said that the government should do a lot of copyright education, especially in the universities to make sure that people in the academic world understand the importance of copyright all around the world. IFRRO considered it is a two-way education with both rights holders and user groups to promote a wider understanding of the immediate and long term benefits of collective copyright management, particularly to the national publishing industry.

Richard Gedye and Fiona Bennett both agreed that there should be some legislation for the RRO. Ian Taylor said that China does need a law for the copyright collective administration in the future before it takes any action to establish any collecting societies, not only the RRO. HKRRLS stated that the main problem it faces now is still copyright law related issues, but it did not supply more details. From IFRRO's perspective, new legislation on copyright collective administration on March 1 2005 is

an important step to enable the development of a Chinese RRO. However, irrespective of the model chosen, IFRRO emphasised that it is essential that the Chinese copyright law should acknowledge the type of licensing system chosen, and provide the necessary legal and administrative infrastructure to restrict the operation of copyright exceptions, so that there is space in the market for the selected system to operate in the future.

Richard Gedye deemed that the support of the indigenous Chinese publishing community would be quite important during the development of an RRO in China. Sally Morris also indicated that publishers should get together to discuss the possibility. They should also get involved together a lot and give it some funds during its development, because it will protect them in the long term. She and Ian Taylor believed that it needs international involvement to get some international experience and guarantee the independence of the proposed RRO. IFRRO and visitors from other countries will be very good information resources to access these experiences.

From IFRRO's perspective, "IFRRO is ready to assist the Chinese rights holders, their representative organisations and the government in setting up and developing the work of a Chinese RRO, and would be pleased to engage in more detailed discussions both with the Chinese Government and with other stakeholders to explore the areas where IFRRO can assist with the establishment of a self-sustainable RRO". Olav Stokkmo said that "IFRRO support typically takes the form of appointing a mentor RRO operating under a model similar to the one established in the country of the newly established RRO". This mentor RRO will be responsible for providing assistance required by the RRO, which normally includes training of personnel and information on licensing and distribution models and could also take the form of grants or loans. IFRRO could also assist in providing information on modifications that would be needed in the current legislation.

For grant and loans, Ian Taylor supposed that it would be helpful for the proposed

Chinese RRO if it could manage to cover the cost with help from someone else, like the Norwegian RRO, which has quite a lot of money, and persuade it to offer an interest-free loan to help the RRO start. However, he admitted that if the Chinese Government wanted to establish an RRO, money will not be a problem and they will not want to have anyone else's money.

From the publishers' perspective, Mr Zhu thought that the education function of the CPCC and the CCALW is weak. Until now, the Chinese Government has not paid much attention to educating citizens about copyright because, as Mr Zhu and Interviewee C both indicated, copyright is only relevant to a small number of people compared with the whole population in China. Therefore for the whole country, it is a long way from eliminating piracy and other copyright infringements, not only by copyright protection but also by educating citizens and boosting domestic industry and the economy.

6.2.5 The Suggestion of the Model

Sally Morris and Bob Campbell thought it is a very sensible model to follow. Sally Morris was concerned about whether there are any connections currently between the publishers' association, the writers association and CPCC. She believed that the question of selecting the educational sector at the beginning in the model depends on the teaching style in China. Moreover, she supposed that the Chinese Government should be considered a potential user, because plenty of copying happens in its departments.

Bob Campbell suggested adding one user representative respectively into the education committee and business committee to represent users' interests in those specific areas. Furthermore, considering the long-term role of the Chinese RRO, the function "collecting and distributing" should be divided into two – international and national. It should become a two-way process to also provide a route to collect revenue from overseas instead of one-way just from Chinese users to foreign rights holders.

Accordingly, the link between “international cooperation” and “collecting and distributing” should be indicated in the diagram. Finally, the Copyright Tribunal is a good idea to keep the balance among all the parties, although in the UK, the problem with this concept is that the Copyright Act has some loose areas rather than being drafted with very exact legislation.

Richard Gedye asked whether there is a mechanism at the moment between the CLA and any Chinese organisation to transfer revenue from the UK back to Chinese publishers. And he suggested strongly that the model should be discussed with any Chinese authority who understands the issues, as the most important interviewee to test the feasibility of the model. Ian Taylor thought it would be a mistake if the Chinese Government (the NCAC) just decides to establish a new department for reproduction rights, although government must be involved in this, and the Chinese Government has been involved in international books much more than other countries’.

Since the publications involved into the model are mainly from the Western world, Chris Paterson’s suggestion is that the licensing system should be for Chinese books as well, because “any copyright book should be protected even if the money there is very small.” Lynette Owen suggested that considering the political environment in China, the RRO might arrange for payment to be made initially for original Chinese works and only move later for foreign works, which may influence which sectors would come into the scheme. The sectors which Chris Paterson thought one might begin with are education, business and health, including medical research publications for hospitals and doctors. Another problem for this model is that the Publishers Association of China is a governmental body, but technically it represents the Chinese publishers, and likewise the Chinese Writers’ Association. As a result, when the individual users pay the money, it will become very complicated in the system among the users, rights holders and the government.

IFRRO emphasised that it is important that the Chinese adopt their proper model to

respond to their concrete needs. Technically, the model could work, but it is too early to tell whether this would be the appropriate model for China. It also stated that photocopying of printed material does not only apply to text. Illustrations, musical notes and sheet music should also be included in the repertoire of the RRO. It is unclear if this is the case in the suggested model.

Mr Xu and Ms Gao pointed out that according to the Regulations, the CPCC and the CWA are only the initiators of the CCALW, so there will be no direct relationship between those organisations and the CCALW in the model and it will be an independent organisation not a company like CLA. Second, a copyright arbitration body like a copyright tribunal does not exist in China. The NCAC has the responsibility to settle a dispute over a copyright contract by mediation, but has no arbitration function. As an alternative, if the NCAC fails to mediate between the parties, a dispute may be submitted for arbitration to an arbitration body. Beside the supervision from the NCAC, collecting societies will also receive supervision from the civil administrative department, owners and users. On the whole, the model needs some changes in response to the Chinese copyright protection system and government structure.

6.3 Results of Group Questions

6.3.1 Group Questions for CWA, Chinese Publisher and NCAC

6.3 1.1 Collecting Societies in China and the CCALW

Ms Gao explained that most secondary rights stipulated in Copyright Law only can be implemented through copyright collective administration organisations, so to complete the Chinese copyright protection system, specific regulations on copyright collective administration and its organisations are needed. On the other hand it considered that collecting societies might have a monopoly on the area they operate in the future, so another aim of the regulation is to regulate their activities and establish a supervision

system to supervise these societies.

In 2001, the CWA and the CPCC initiated the CCALW. Besides its establishment, following the enacting two other collecting societies are on the agenda: China Copyright Association for Audio-Visual Works and a collecting society for performance rights. Ms Gao stated that in most countries which adopted a Civil Law system, this kind of organisation could find their status in the Civil Law; however, because of the uncompleted legal system, until now, collecting societies could not find their status in the Chinese Civil Law. Interviewee C explained that in China, guilds for each industry or a certain group of people are administrative organisations under government control, so it is time to establish an organisation like the CCALW purely serving writers and helping them enjoy their rights. The only established collecting society in China, the MCSC was founded by CPCC and the Chinese Music Association. In this case, the government recognised it an effective way to establish collecting societies by CPCC and the guild or authoritative organisation concerned in one industry as their two initiators.

As one of the initiators from the writers' side, the CWA is mainly responsible for administrative affairs between writers and other parties. The operation of the CCALW will follow the pattern of the MCSC. The membership of the CCALW is supposed to be writers registering in the CWA, including journalists and writers who published their articles in academic journals, and all members of the CCALW would join voluntarily. Interviewees A and B alleged that it will be a collecting society covering all kinds of literary works in China, and will deduct from the licensing fees which it has collected a certain proportion as administration fees to maintain its regular activities. Writers grant the CCALW the rights to administer their copyright and other relevant rights, and it will work on the behalf of rights holders to collect fees from users and distribute fees to the rights holders.

Interviewees from NCAC claimed that the original intention of its establishment was

mainly to take charge of the right of communication through information networks in the near future. Moreover, the interviewees indicated that it is very difficult to establish a collecting society to mandate all the rights from rights holders. From global comparisons, although every country has their own system, most countries classified their system based on the category of works or category of rights holders. In China, NCAC planned to establish collecting societies for each category of works or category of rights or rights holders.

Another function of the CCALW is to educate people to respect copyright but also explain the notion of copyright collective administration; however, all the Chinese interviewees emphasised that the most important function of the CCALW is to help writers manage their rights, rather than education. According to functions, there are three main departments: collecting fees, distributing the collection, and the legal department. There are no more details so far.

Interviewee A and B assumed the CCALW will extend to all rights of copyright owners for literary works which can be managed collectively. Consequently, there is a possibility that the CCALW will take charge of the main function of the RRO in the future. Interviewees from NCAC admitted that the CCALW probably will engage in the right of digitisation of literary works and the protection of reprographic rights instead of establishing an RRO or other collective society separately. "There is a tendency that the CCALW will administer the reprographic rights among other rights which writers are unable to manage themselves, if there is the demand for protection of reprographic rights from right holders in the future" and "when the market is so small, it wastes money, time and manpower to establish an RRO separately."

Interviewees A and B expected that the CCALW will cooperate with Chinese publishers as well. According to the Copyright Law, the publishers enjoy the typographical rights, so besides the membership of writers, CCALW provide a kind of group membership to legal entities such as publishers and publishing companies. In the

HK RRO's case, they also provided association membership and corporate membership respectively to publishers' associations and individual publishers and also a kind of honorary membership to the Hong Kong Publishing Federation Limited. As mentioned before, because this idea is purely hypothetical, it is a step too far to discuss how to distribute the collection between writers and publishers in the future. However, from the publishers' perspective, Mr Zhu assumed that it will be extraordinarily difficult to implement the "ambitious" CWA blueprint for the CCALW. At present, the legal system in China is still uncompleted and the rights holders' understanding of copyright law is not comprehensive either. Meanwhile, there is a large degree of overlap of rights and duties between government organisations and departments. Thus it is hardly possible to organise all the writers and publishers together just through one association. He thought even just establishing one organisation including all the publishers in China would be impossible, because of the complex structure of Chinese publishing industry.

Mr Zhu mentioned that, based on publishers' experience of cooperating with CPCC, it is very difficult for CPCC to protect writers' and publishers' rights. For example, through the process of investigation of piracy, one of the problems is that how to cooperate with local police and judicial departments effectively. In many cases, they did not find the suspects and the whole case ended up with nothing definite. What is worse, sometimes the cost of this resultless investigation is much higher than the loss. Mr Zhu suggested that the CCALW should take into account that it will probably face the same problem as the CPCC. Accordingly, publishers are quite disappointed with the CPCC and do not expect results from it any more. Publishers therefore often choose to take action by themselves to reduce the loss to a minimum by forming a kind of informal league to prevent piracy.

6.3.2 Group Questions for UK Publishers and Experts

6.3.2.1 *CLA and UK Publishers*

Most publishers summarised two primary functions. One is copyright protection to provide a mechanism for safeguarding rights holders in the environment where they cannot do business directly. Second is revenue collection and distribution for those rights holders. Every publisher mentioned that compared with original sales, the revenue from CLA is really “tiny” for most publishers. However, Bob Campbell claimed that for some journals which are heavily copied, it represent a significant amount of money for publishers and especially for small publishers, the income from CLA can be very important. Sally Morris added that it has become more important revenue for publishers and has grown in the recent years. Ian Taylor said that although the income from the CLA is not especially attractive to the publishers, it is designed to be more attractive to authors. Chris Paterson emphasised that in the countries like Singapore, the USA and Australia, authors are quite pleased with the income from RROs. On the whole, publishers agreed that the policeman role of the RRO is more important than revenue collection.

Meanwhile, publishers have always worried that photocopying would threaten their original book sales and they were unwilling to become involved in the RRO at the beginning. Sally Morris and David Croom said they did not think there was very much evidence that happened. And also, it is very interesting that now, people have the exactly same worry about digital copying.

Publishers also mentioned some difficulties that the CLA faces. First, it is impossible to satisfy both sides all the time, because sometimes publishers and authors have conflicts. Second, in the situation where there is a conflict between the licensing income and primary income, it is understandable that publishers will always save the primary income. In Richard Gedye’s opinion, it would be better if the policing role and

revenue collecting role could be more separated. He also proposed a third debate, that the development of CLA should be more focused on educating people or on improving the mechanisms for users to pay more easily or focussing on making clear what they paid for is going to be better quality. This would be better than on prosecuting people. Ian Taylor stated that the CLA is not the biggest producer of income per capita among the RROs. Another problem is that UK publishers criticised the complicated way CLA allocated the money. Fiona Bennett pointed out that if China planned to develop an RRO, at the beginning, the proposed RRO would need to pay attention to its relationship with the publishers, trying to speak to all the parties in the community regularly and trying to gain trust from publishers

6.3.2.2 The Future of the RROs and Electronic Publishing

In the electronic publishing environment, publishers can sell their product and issue licences directly to their customers, whilst CLA focuses on photocopying. Until now, CLA has not obtained any mandate in an agreement to exercise digital rights, because the publishers on the whole are keen to issue digital licences themselves. Under this circumstance, it is possible that publishers will avoid using the CLA. Meanwhile, besides digitisation, the CLA is currently facing a challenge from advanced technology such as digital printing, DRM and other media science technologies. An example Richard Gedye gave is that DRM have already reach such a high level that people have begun to assume that publishers will be like the telephone company, which allows users to make a phone call and then sends the bill to him or her.

All the UK publishers agreed that the role of RROs may reduce over time, and they did not see a long future for RROs if they just stay in photocopying. Bob Campbell assumed that RROs might be replaced by some kind of central electronic database based on DRM. He also supplied a possibility that there could be a smaller role for RROs in helping to police the situation for publishers, developing some central

database service belonging to organisations like Rightscom, dealing with photocopying of books and other hardcopy materials. For China, the question would be that if China would set up an RRO, it should look to the future and plan for ten or twenty years' time. It will have an important policing role but also may become an agency to handle digital rights.

Ian Taylor emphasised that it will take quite a long time to see what will happen on RROs. There is evidence that, although journal publishing has moved a long way in the electronic direction, educational publishing and consumer publishing are still much more paper-based. On the other hand, publishers are quite worried that they will lose control of their electronic rights. He pointed out that in the UK or the USA, where the publishing industry is relatively advanced, the systems Richard Gedye mentioned have not come into use yet. It seems that it will take some years to establish this kind of system, and publishers do not know if it will happen in the future. For the Chinese publishing industry, it is a fact that it is behind the UK and the USA, so what Richard Gedye said would happen in China is probably at least ten years away or more. Although in a long-term view it seems that RROs will become redundant in the electronic publishing era, it is quite far from now for China and there would be a role for RRO for quite a few years in China.

David Croom also believed that the CLA will not disappear immediately and if it develops itself, it can find a new role. Another point is that photocopying is not quite so important but it still has its place, and the financial distribution from the CLA is still important for a lot of small publishers who are unable to invest in the full electronic delivery. Sally Morris gave an example that the CCC has developed some licences which include some use in digital environment, which has turned out to be quite popular with customers. The reason is that every publisher has a different licence and it is very difficult for users to make sure of their rights with all the publishers. She estimated that if the RRO could provide a standard for the minimum level for all the licences and customers find it useful, it is a possibility that RROs might survive in the

future. Richard Gedye mentioned that there is a problem with DRM systems in that there are lots of competing systems, and there is an opportunity for RROs to get together and design a DRM technology or system exactly for the publishing industry. Hence they would be in a very interesting position for themselves, either doing all the collecting themselves or at least licensing the software and keeping the software up to date. He also said that publishers like OUP really do not want to have bilateral relationships with tens of thousands of small communities and organisations all round the world, because it would just be too expensive. Under those circumstances, publishers need some intermediary party which can establish bilateral relationships with all these small “customers”, and RROs probably have the advantage to do it.

6.3.2.3 Whether the UK Publishers Realise That Only A Low Fee Is Acceptable in China

All the UK publishers have realised that only a low fee is acceptable in China at the beginning. Sally Morris believed that it is exactly because of this attitude that the Western publishers have first started local editions of their publications. In many cases, they started at a low fee because they wanted to exist, and then over the years, they have made the fee more economic. In the Chinese case, publishers from outside China understand why the fee must be low, and if they started with a quite high fee, nobody will pay it. Richard Gedye expressed the view that if the revenue were very disappointing at the beginning, the OUP would fully understand that the new RRO would take time to get people to pay, and it would be willing to wait for some time. Chris Paterson claimed that besides the amount of fees, it is crucial that China needs to establish the principle, but it should also make enough money to cover the costs. Sally Morris emphasised that if it is really necessary to start with a low fee, it would be extraordinarily important to explain to users and other parties that it is a transitional fee.

Bob Campbell and Richard Gedye indicated the worry from the UK publishers is that if it began with a low fee, it would be very difficult to increase it in the future. Bob

Campbell considered that Chinese are very tough negotiators. He gave an example that Blackwells is negotiating with CALIS (China Academic Library and Information System) toughly on price. Hence, he proposed that in China there would be some organisation to manage the expectations of the international publishing companies and explain what is possible. Chris Paterson mentioned that the standard charges should be acceptable not only to foreign publishers but also to Chinese publishers, NCAC and Chinese rights holders. In accordance with the Regulations, Interviewee C proposed that a copyright collective administration organisation shall draw up the methods for collecting and distributing licensing fees and submit the draft to the administrative department for copyright (the NCAC) under the State Council for the approval.

6.4 Summary and Conclusions

It is generally agreed among interviewees that the Chinese Government is the only body able to establish an RRO in China, so its attitude to an RRO would be crucial for this research. Although UK publishers listed several reasons to support their standpoints that it is the right time to establish an RRO in China now, from the result of interviews with Chinese interviewees, it is clear that neither relevant Chinese Government bodies nor rights holders think it is the right time to establish. It is even too early to discuss the timing question based on the low book price, “every-student-having-a-textbook” teaching style, lack of respect of copyright and other social and cultural factors. However, through the interviews with the NCAC, it would be recognised obviously that although the Chinese Government involved in the publishing industry much more than Western countries’ government are and the whole industry is totally under government control, for copyright collective administration, the Chinese Government is much more open-minded than UK interviewees imagined and keeps the independence of Chinese collecting societies from government control through the Regulations as much as they can.

It also could be seen from the interviews that the establishment of an RRO in China required multiple changes from different aspects and the time of preparation would not be a short period. Meanwhile, the Chinese interviewees suggested another possibility, that the CCALW might take charge of reprographic rights from an RRO, which idea will be elaborated in Chapter 8. Finally, the RROs themselves also met challenges from electronic publishing and new digital technologies and their future is not very clear at this stage. Attention needs to be paid to this point during feasibility discussion of the development of the Chinese RRO.

There is a two-sided problem that needed to be explained at last for both UK publishers and the Chinese interviewees. The former group is familiar with collecting societies but lacks knowledge of Chinese publishing, so all their comments on the Chinese issues are based on their own assumptions, while the latter are quite familiar with Chinese publishing but lack of knowledge of collecting societies, so there are few comments from them on the detailed questions. That is the reason why the results of common questions and group questions are separated, in order to find information related to the research as much as possible. It is also obvious that UK publishers made their assumptions heavily based on their experience with the CLA and UK licensing system, which might not be suitable to apply to Chinese situation. Finally, because HKRRLS replied to questions which only related to its own establishment and operation (see Chapter 5), the researcher found its answers were less relevant, so that the results of this interview were less useful than others. The answers which related with the main topic have been added in this chapter, and others could be found in the Appendix 10.

Chapter 7 Results of Questionnaire

7.1 Introduction

Twenty eight of one hundred and fifty three Chinese librarians completed quantitative questionnaires. The questionnaire was composed of 19 questions (see Appendix 11), separated into three sections. Section one included three questions and covered general library information; Section two, including eleven questions, dealt with photocopying and its fees in the libraries; Section three, including five questions, covered the attitudes and acceptability of paying for reprographic rights among the libraries.

7.2 Location

Seven (25%) of the libraries were located in Beijing; four (14%) of the libraries were in Tianjin; one (3%) library was in Shanghai. Beijing, Tianjin and Shanghai are three out of the four municipalities (a municipality being directly under the Central Government) in China. Three provinces Henan, Gansu, and Zhejiang, provided two libraries (7%) each. The rest, ten libraries (36%), were from seven provinces and three autonomous regions out of twenty three provinces and five autonomous regions in China. They were: Hebei, Hubei, Guangdong, Jiangsu, Jiangxi, Liaoning, Shangdong, Guangxi Zhuang Autonomous Region, Inner Mongolia Autonomous Region, Ningxia Hui Autonomous Region. It has to be pointed out that two Special Administration Regions of P.R.C, Hong Kong and Macao, and Taiwan province were not suitable for this research, because of the different legal systems and political reasons.

7.3 Category

The results of the questionnaires showed that three libraries (11%) were public libraries; twenty-two libraries (78%) were University libraries; three libraries (11%)

were other kinds of libraries, i.e. industrial libraries and organisational libraries.

7.4 Memberships

Of the twenty-eight libraries, four (14%) have below 5000 registered members. One library (3%) has a number of registered members between 5000 and 10000. Ten libraries (36%) stated that they have numbers of registered members between 10000 and 20000. Five libraries (18%) reported numbers of registered members between 20000 and 30000. Another five libraries (18%) reported numbers of registered members between 30000 and 40000. And three libraries have numbers of registered members above 50000. Two of the four libraries that have registered members below 5000 are university libraries and the other two are other kinds of libraries. Two of the three libraries that have registered members above 50000 are public libraries and the other is one of the other kinds of libraries. The other public library has registered membership between 30000 and 40000. Most of the university libraries (20 university libraries) have numbers of registered members between 10000 and 40000. Figure 7.1 shows the number of different kinds of libraries with different ranges of numbers of registered members.

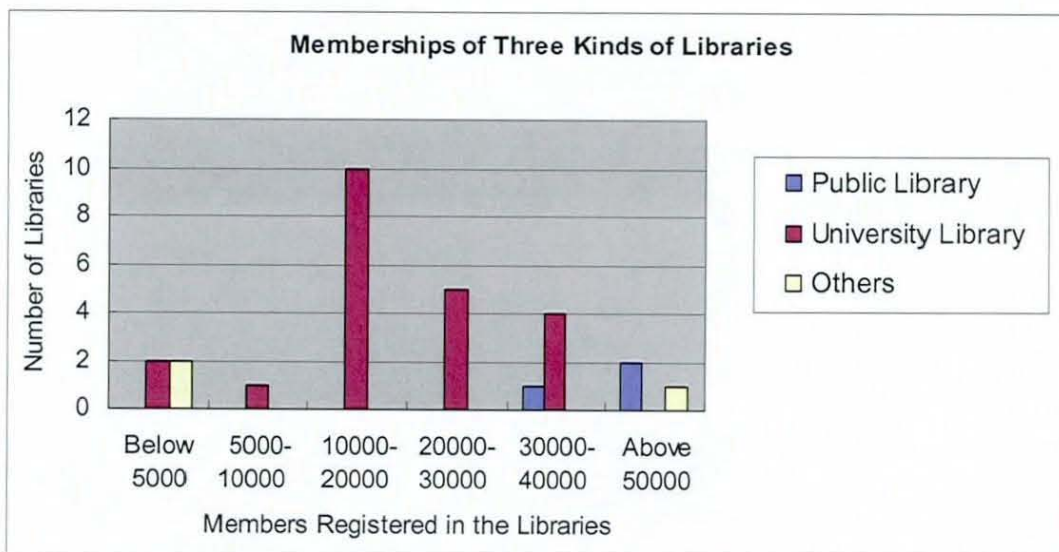


Figure 7.1 Memberships of Three Kinds of Libraries

7.5 Photocopiers in the Libraries

Twenty-six respondents gave clear answers to this question, while two of them claimed they had no idea about the number of photocopiers in their libraries. The numbers of photocopiers are quite various from one library to another. The maximum was two hundred photocopiers and the minimum was one photocopier, as reported by twenty-six respondent libraries. Six libraries (23%) stated that they only have one photocopier for their patrons' use. Three groups of four libraries (15% each group) responded that there are respectively two, three and four photocopiers for patrons' use in each group of libraries. Five libraries (4% each) reported that there are respectively five, seven, nine, ten and twelve photocopiers in each library. Two (8%) stated there are six photocopiers in the library and another one (4%) stated there are two hundred photocopiers in the library for patrons' use. Totally, two hundred and ninety seven photocopiers were reported by twenty-six libraries.

7.6 Commercial Use of Photocopiers or Just Supplied to Members?

In this question, the photocopiers are the ones mentioned in Section 7.5. All the respondents responding to the last question gave answers to this question. Six libraries (21%) reported that some of their photocopiers are for commercial use and seven (25%) claimed that none of the photocopiers are for commercial use but only supplied to members. Thirteen libraries (46%) responded that in their libraries, they do not distinguish commercial use and member use. Figure 7.2 shows these results in graphical form.

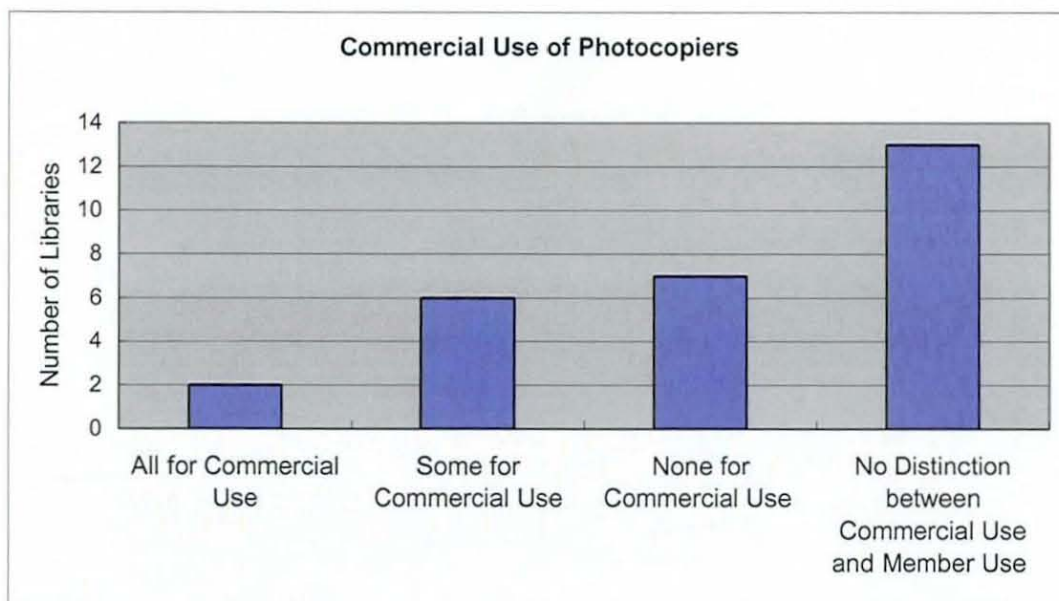


Figure 7.2 Commercial Use of Photocopiers in the Libraries

7.7 Photocopying Fees for Commercial Use and Member Use

Twenty-two libraries gave detailed answers of this question, while five respondents indicated that they have no idea about the photocopying fee or they skipped this question directly. Another respondent said that in their library, it is free of charge for teachers to copy the materials but no answers of either commercial use or member use. In the similar way to Section 7.5, the photocopying fees charged by different libraries are also very diverse. For both commercial use and member use, the maximum charge is RMB 10 (around 72pⁱ) per A4 page and RMB 0.50 (around 3.6p) per B5 page. The minimum is RMB 0.10 (around 0.7p) per both A4 page and B5 page. However, the library which charged RMB 10 per A4 page is the only one out of twenty-two libraries (5%) which charged a fee beyond RMB 0.50 (around 3.6p) per page. In other words, twenty-one libraries (95%) charged photocopying fees below RMB 0.50 per A4 or B5 page.

According to Section 7.6, eight respondents stated that all or some of the photocopiers

ⁱ The exchange rate between Chinese Yuan Renminbi and the British Pound using in this thesis is 13.8542 Chinese Yuan Renmibi to 1 pound on November 2005 from www.x-rate.com.

in their libraries are supplied for commercial use. Among these eight libraries, six (75%) reported that the photocopying fees for commercial use are the same as the fees for member use, while two (25%) reported that the fees for commercial use are higher than the fees for member use. Table 7.1 lists the charges for photocopying adopted by the eight libraries which distinguish commercial use and member use, in price descending order. According to the questionnaire, the respondents who stated that in their libraries none of photocopiers are supplied for commercial use or that there is no distinction between commercial and member use were prompted to answer the fees for member use direct question instead of answering the fee for commercial use first. As a result, Table 7.2 lists two kinds of charge standards of photocopying fees, non-commercial use and no distinction between commercial use and member use, in price descending order, and also how many libraries adopted each standard. According to Tables 7.1 and 7.2, the charge standard adopted most often, by seven libraries (32%) out of twenty two libraries is RMB A4 0.20 /B5 0.15, and the charge standard adopt second most commonly, by five libraries (23%), is RMB A4 0.30 /B5 0.20.

library	Commercial Use (i.e. A4 0.45yuan pp;B5 0.35 yuan pp)	Member Use (i.e.A4 0.45yuan pp;B5 0.35 yuan pp)
1	10 (72p); --	10; --
2	0.50 (3.6p);0.40 (2.8p)	0.50;0.40
3*	0.30 (2.1p);0.20 (1.4p)	0.10 (0.72p);0.10
4*	0.25 (1.8p);0.20	0.20;0.15 (1p)
5	0.20;0.15	0.20;0.15
6	0.15;0.10	0.15;0.10
7	0.10;0.10	0.10;0.10
8	0.10;--	0.10;--

Table 7.1 Standards of Photocopying Fees in the Libraries Distinguishing Commercial Use and Member Use

(* represents the libraries that charged different fees for commercial use and member use.)

standard	Non Commercial Use (i.e. A4 0.45yuan pp;B5 0.35 yuan pp)	Number of Libraries	No distinction (i.e. A4 0.45yuan pp;B5 0.35 yuan pp)	Number of Libraries
1			0.50;0.30	1
2			0.40;0.30	1
3	0.30;0.20	1	0.30;0.20	3
4	0.25;0.20	1	0.25;0.25	1
5	0.20;0.15	2	0.20;0.15	3
6			0.10;0.10	1
Total		4		10

Table 7.2 Standards of Photocopying Fees for Non-commercial Use and No Distinction between Commercial Use and Member Use in the Libraries

7.8 Photocopying Income

Based on the pilot study, it appeared that income is a very sensitive issue for Chinese respondents, so the issue of income from photocopying was explored by two questions. The first one asked if the respondents are willing to answer the question related to photocopying income or if they know the photocopying income last year. And then, the second question asks the respondents who are willing to answer the income question to write down the income for last year. In total, twenty-one respondents (75%) selected the negative answer for the first question; however, one of them still carried on answering the following question. So in total, six respondents reported their library's income. One respondent (4%) skipped these two questions directly.

All the six libraries which reported their photocopying income are university libraries. It appeared that the photocopying income is related closely to numbers of registered memberships. The minimum income, RMB 100 (around GBP 7) and the second minimum income, RMB 3000 (around GBP 216) were both from libraries with

memberships below 5000, and the maximum, RMB 30000 (around GBP 2000), was from the library with a membership between 3000 and 4000. The middle two ranges of the income were all from the libraries with memberships between 10000 and 20000. It has to be pointed out that comparing with the incomes of the other five of the same kind of libraries, the researcher suspected the validity of the answer of the minimum income for a Chinese university' library because there are more than 30 times differential between the minimum and the second minimum income which based on the same level of numbers of memberships. It was concluded that it might be not a reasonable and genuine answer.

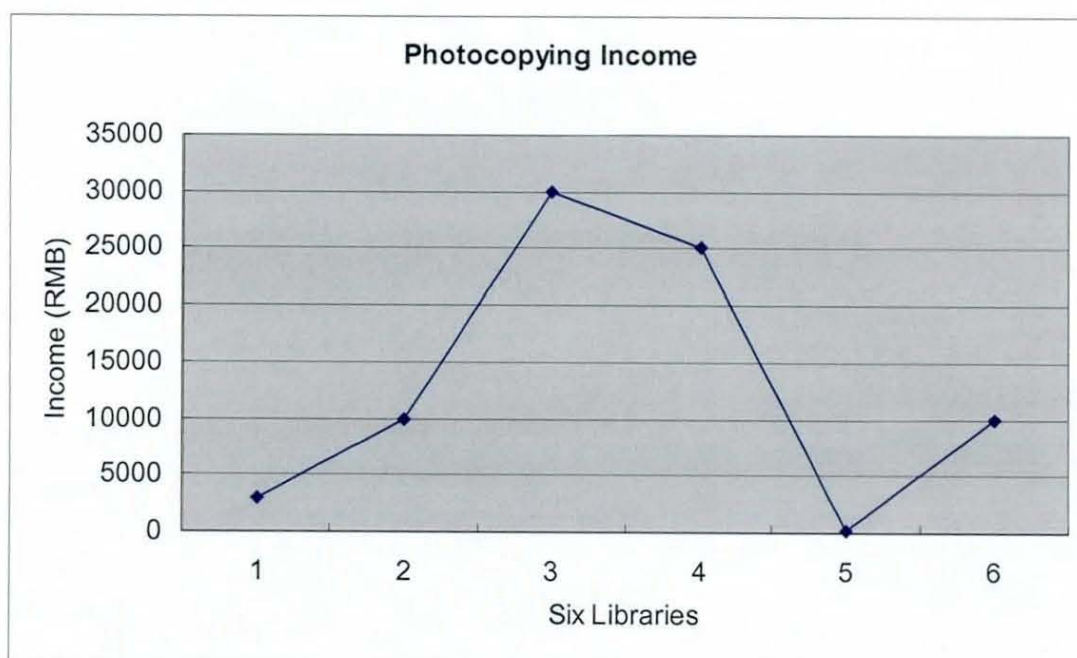


Figure 7.3 Photocopying Incomes of Six Chinese University Libraries

7.9 Trends of Photocopying Income in Recent Five Years

Twenty-five libraries responded to this question while three libraries did not answer it. Seven libraries (28%) stated that their photocopying incomes have continuously increased in the last five years. Six libraries (24%) claimed that their incomes were stable and that there was no distinct change in this period. Eight libraries (32%)

reported that their incomes were unstable and there is no regular trend of the income in the last five years. Four libraries (16%) claimed that their incomes have continuously decreased in the last five years.

7.10 The Reasons of Income Declining

Although four libraries claimed that their photocopying incomes had declined in the last five years, ten libraries responded to the question why the income declined, so this included another six libraries which did not report that their photocopying income decreased. In that case, these six answers were considered as invalid data and were not accounted into the final results. Among the four libraries, vicious competition among photocopy shops and other organisations supplying photocopying service, and users choosing printing instead of photocopying are the two main reasons why the photocopying income has declined in the last five years. The second reason is that the increase in photocopy shops and other organisations supplying photocopying service. One library selected price reductions in photocopying materials, such as paper and ink.

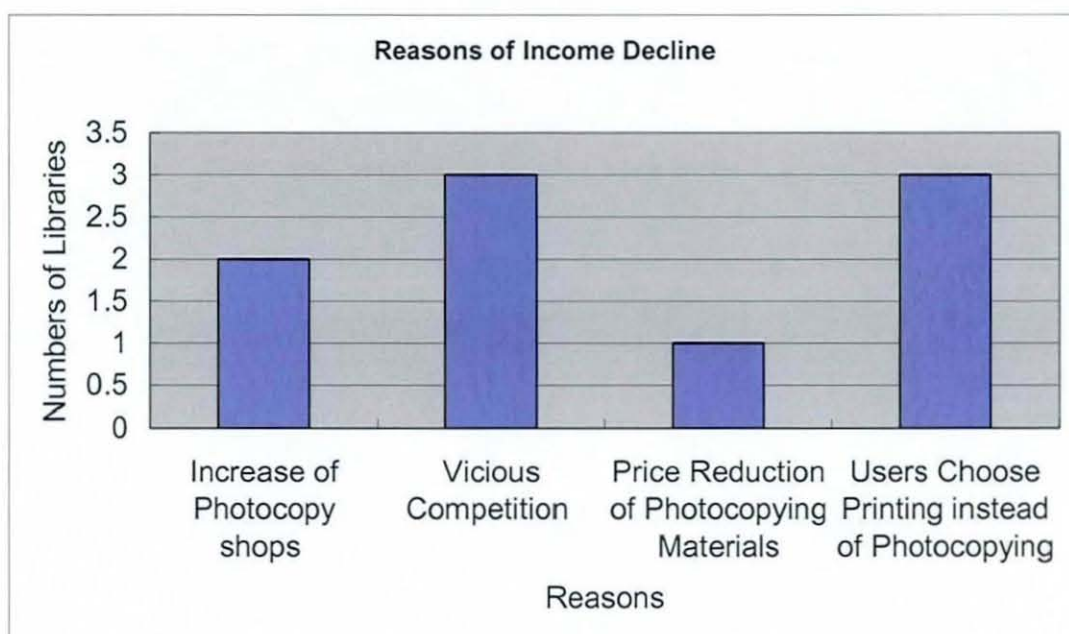


Figure 7.4 Reasons of Photocopying Income Decline in Recent Five Years

7.11 Three Kinds of Materials Photocopied Most

Twenty-five libraries responded to this question while two respondents skipped it and another one stated he or she had no idea about this issue. Six kinds of materials were suggested to select from: STM materials, fiction and drama materials, teaching materials (e.g. text books), sheet music, illustrations (including photographs) and newspaper, press etc. According to the answers, STM materials, teaching materials, newspaper and press were the three kinds of materials which were considered to be photocopied most. Illustrations were seen as the fourth kind of material photocopied most. No respondent chose sheet music for this question.

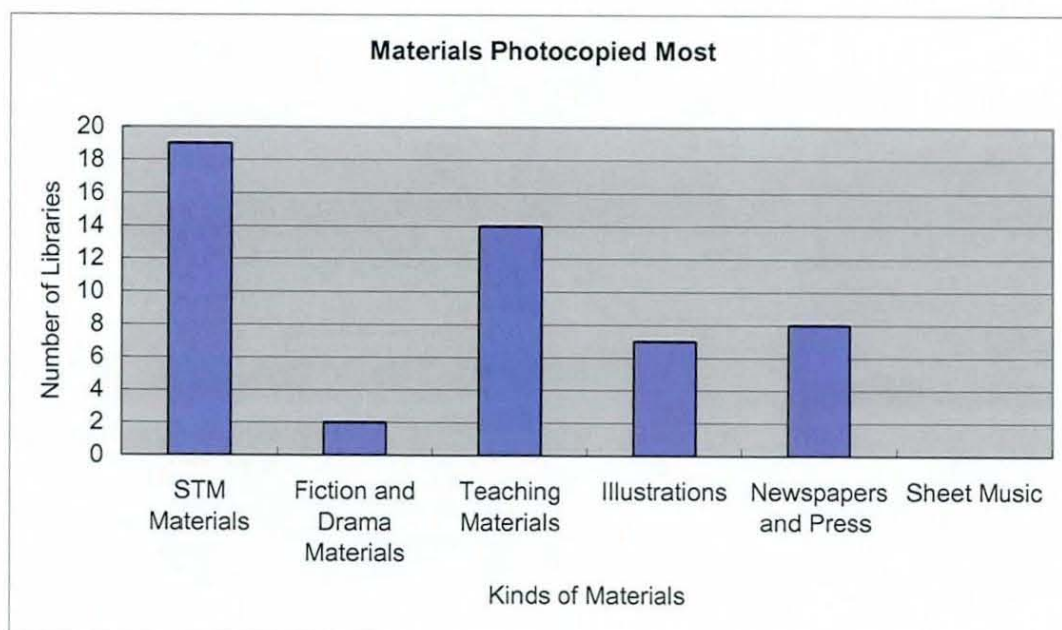


Figure 7.5 Materials Photocopied Most

7.12 Scanning Service (digitisation) in the Libraries

All the twenty-eight libraries replied this question. Ten out of twenty-eight libraries (36%) stated that they provide a scanning service to patrons for digitising paper materials to their electronic format. Eighteen libraries reported they do not provide a scanning service to patrons currently.

7.13 Photocopying Textbooks among University Students

Seven libraries (25%) agreed that few Chinese university students chose to photocopy parts of textbooks instead of buying textbooks. Five libraries (18%) agreed that a few Chinese university students (less than 5%) choose to photocopy parts of textbooks instead of buying textbooks. Sixteen libraries (57%) agreed that because there are no statistics or survey on this issue, it is very different to make a conclusion. No respondent agreed that some Chinese university students (more than 5%) choose to photocopy parts of textbooks instead of buying textbooks.

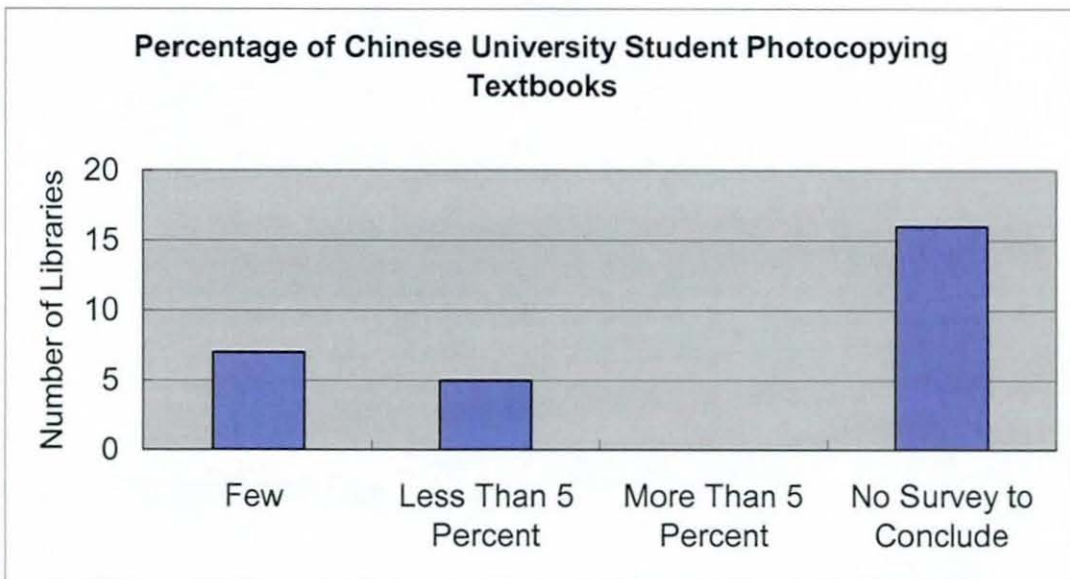


Figure 7.6 Percentage of Chinese University Student Photocopying Textbooks

7.14 Should Pay or Not?

This question focused on whether respondents think libraries or patrons should pay for photocopying. Ten of twenty-eight respondents (36%) stated that either libraries or their patrons should pay for copying to authors and publishers. Eighteen respondents (64%) disagreed that either libraries or their patrons should pay for copying to authors and publishers.

7.15 So, Who Should Pay for It?

This question is for the respondents who agreed that either libraries or their patrons should pay for photocopying to right holders, to explore further who should pay for it. According to 7.14, ten respondents believed someone should pay for photocopying. Three of them (30%) stated that libraries should pay for copying carried out by their patrons while seven respondents (70%) stated that patrons should pay for their photocopying. No one stated that other parties other than libraries and their patrons should pay for it. Another six respondents who disagreed that either libraries or their patrons should pay for photocopying to right holders also answered this questions. Although their answers were invalid data for this question, there is an interesting point that three of them stated that publishers should pay for photocopying because they received benefit from publishing and one stated that photocopy shops or other organisations which supplied photocopy service for commercial purpose should pay for it.

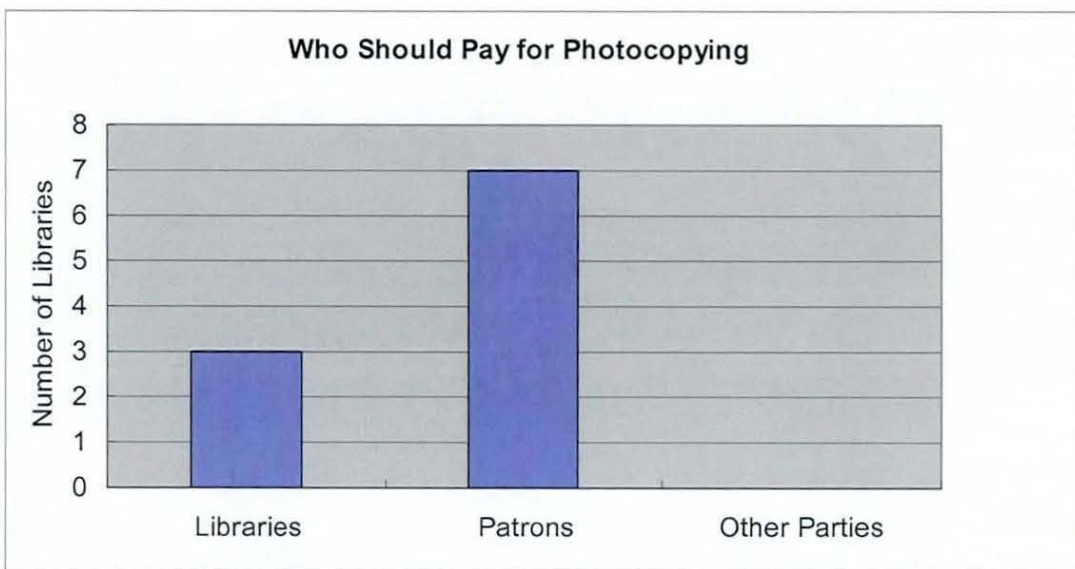


Figure 7.7 Who Should Pay for Photocopying

7.16 What Annual Fee per Users Is Acceptable to Libraries?

Two of three libraries which stated that libraries should pay for copying carried out by their patrons responded this question. Both of them agreed that the fee below RMB 10 (below GBP 0.70) out of six options is acceptable for their libraries. The other library did not give any answer about this question. Another four libraries which stated that their patrons should pay for photocopying also answered this question. Two of them agreed that a fee below RMB 10 is acceptable for their libraries. Another two selected a fee between RMB 41 to 50 (GBP 2.7 to 3.3) and a fee above RMB 50 (above GBP 3.3) respectively.

7.17 Barriers Preventing the Development of An RRO in China Now

All but one of the libraries responded to this question. Incomplete copyright protection system was selected by twenty-four respondents (89%) as the main barrier preventing the development of an RRO in China now, followed by lack of respect for copyright among the citizens (sixteen respondents, or 59%). Unwillingness to pay the fee and lack of funds were selected by thirteen libraries (48%) and ten libraries (37%) respectively. Five libraries agreed that low publication prices prevent the development of an RRO in China now and three libraries agreed that it is an obstacle to the development of an RRO in China that photocopying the whole books or parts of book is not very common for Chinese patrons. None of the respondents mentioned any other factors which may prevent its development in China.

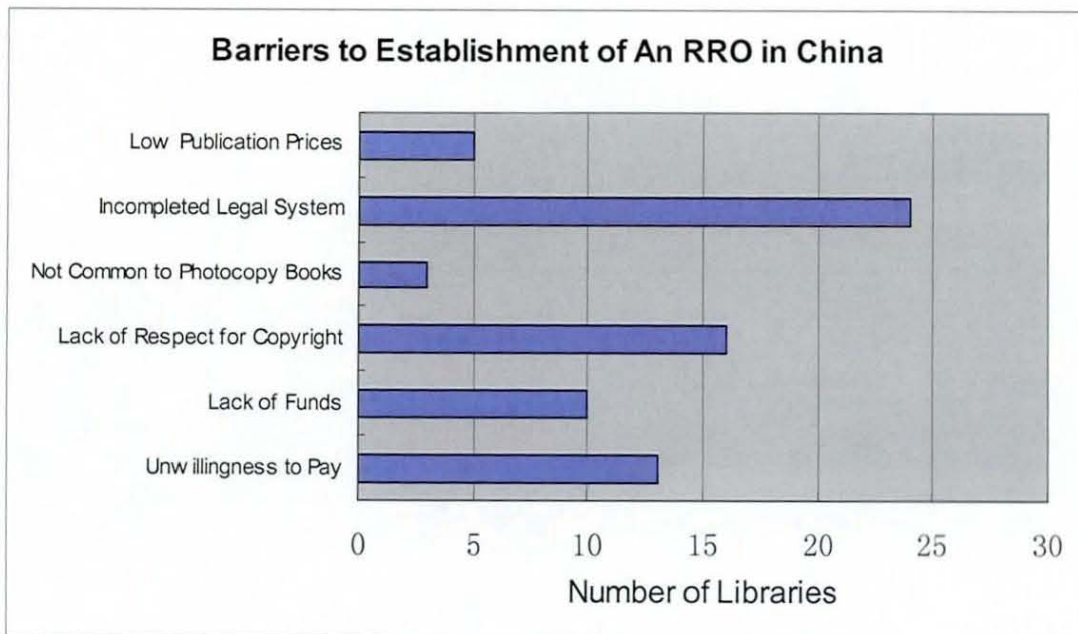


Figure 7.8 Barriers to Establishment of An RRO in China Now

7.18 Is An RRO the Best Way to Help Rights Holders to Protect Their Economic Interests in China?

Merging two kinds of answers, strongly agree and agree, twelve respondents agreed with this statement. Fifteen respondents (53%) stated that their opinions on this statement were undecided. Only one respondent strongly disagreed that an RRO is the best way to help rights holders to protect their economic interests in China, and no other respondent disagreed with this statement.

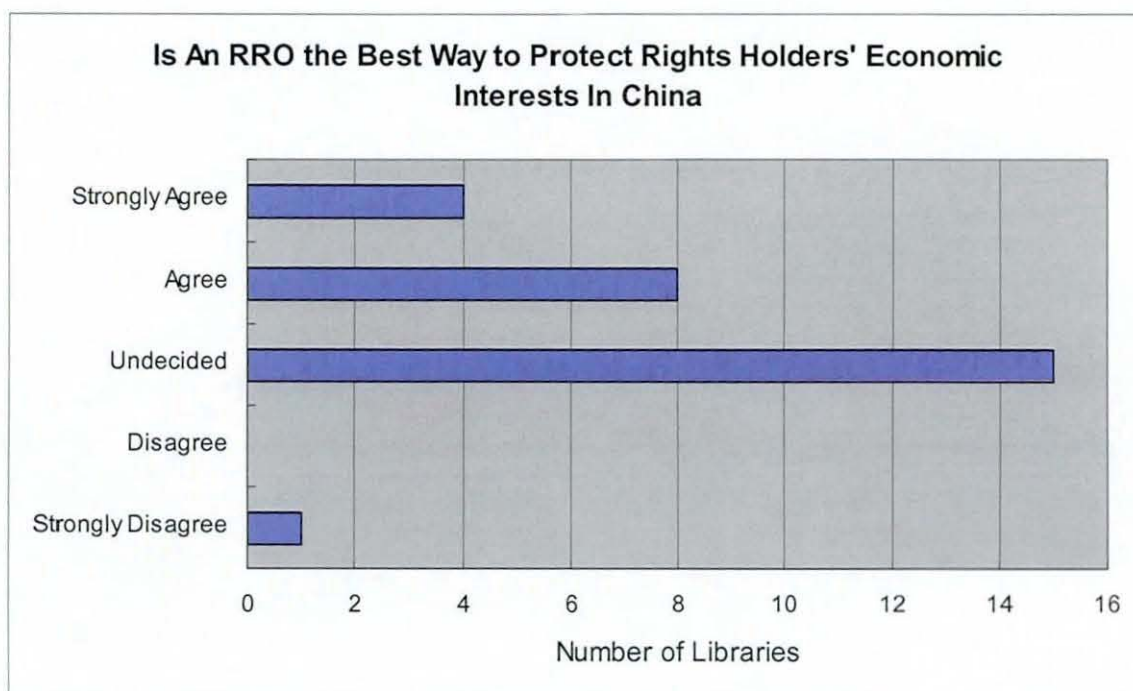


Figure 7.9 Is An RRO the Best Way to Help Rights Holders to Protect Their Economic Interests in China?

7.19 Summary

In this research, most respondents of the sample are university libraries, with a few public libraries and other kinds of libraries. Nearly half of them are based in the municipalities where education and economy are the most developed in China. Meanwhile, the respondents also covered half of the Chinese provinces and autonomous regions. The majority of libraries have numbers of members between 10000 and 40000. Compared with university libraries and other kinds of libraries, it is clear that public libraries have more members. In this questionnaire survey, three public libraries' memberships are all above 30000. For other kinds of libraries, the situation is more extreme, two of them are below 5000 while one is above 50000, which depended more on the subjects the libraries are working for.

All the libraries involved in the questionnaire supplied photocopiers to their patrons or members. More than half of the libraries supplied fewer than five photocopiers. Half of the libraries distinguished between commercial use and members' use in different

degrees, but there is no obvious charge difference to show the distinction between commercial use and members' use in these libraries. On the other hand, nearly half of the libraries did not distinguish the commercial use and members' use. Most of the libraries charged photocopying fees below RMB 0.30 (2p) and RMB 0.20 (1.4p) for paper in different sizes. Although the respondents are willing to answer on charge standards, the low response rate to question eight (see Section 7.5) shows that some of them have no idea about their total photocopying income, and others were unwilling to answer this question because of sensitivity.

Half of the libraries indicated that their photocopying income increased or was stable in the last five years and four libraries claimed their income declined. Among the reasons for declining income, users' preference of printing instead of photocopying is an important factor which will be discussed more in Chapter 8. It is also noticeable that teaching materials is the second most photocopied type of material among these libraries, following STM materials. However, on the other hand, half of the respondents considered that photocopying parts of textbooks is not common among Chinese university students. And another half claimed that it is difficult to answer without a survey. More than one-third of the libraries have supplied digitisation service to their patrons, which might lead to more controversial issues of copyright in China in the future.

Around two-thirds of respondents considered that no-one should pay for photocopying. The last question also showed that half of the respondents did not have a clear opinion about an RRO and its establishment. Among one-third of respondents who considered that someone should pay for it, majority stated patron should pay for their photocopying. Some respondents thought publishers should pay for it, which showed that the notion of reproduction rights is not very clear among Chinese citizens, even librarians. The situation of how large a fee should be paid is very extreme. All the respondents either chose the lowest fee standard or the highest and nobody selected the middle ones. It indicated that if libraries are supposed to pay the fee, low charges will

be preferred by libraries while if their patrons are supposed to pay the fee, much higher charges would be acceptable among the librarians, because there will be no influence on libraries' budgets. Finally, there are several barriers preventing the establishment of RRO in China currently, which included several different areas such as the legal system, aspects of copyright, economic development, and the development of domestic publishing industry, etc.

Chapter 8 Discussion and Conclusions

8.1 Introduction

In this chapter, the key question “is it the right time to establish an RRO in China?” will be discussed, and conclusions are drawn according to the findings from the research, and then two other main topics, the feasibility of establishing an RRO in the future, and the suggestions for the model will be detailed, also based on the findings. In each section, the deeper reasons and detailed explanations from the findings which support the researcher’s opinions will be given and analysed following the main points. Finally, the overall conclusion of the research will be documented and discussed including the limitations of the study, recommendations and identified areas of potential further research.

8.2 Is It the Right Time to Establish an RRO in China now?

The main aim of this research at the beginning was to test the feasibility of the developed model and make revisions to it. However, through the research process, it was suggested strongly by data from the interviews that the research should go backwards to a more basic question: whether it is the right time or not to establish an RRO in China now, the reasons why an RRO could be established at the current stage, and what are the barriers to developing it. If it is shown that Chinese publishing does need an RRO urgently, the model would be revised, mainly based on the current situation and developed in more detail. If it is shown that there are insurmountable barriers or an impossibility to establishing an RRO in China at current stage, then the model should be re-developed in a way which pays more attention to the future and possible changes in these barriers.

8.2.1 It Is Not the Right Time to Establish an RRO in China

Although most UK publishers and IFRRO gave positive answers that they would welcome the establishment of an RRO in China, and expressed the view that it is the right time to do it, their reasons and explanations were not sufficiently based on the current Chinese situation. As the international federal organisation of RROs, it is clear that IFRRO would like to establish RROs all over the world. Besides this factor, the reasons mentioned by IFRRO and UK publishers primarily include the benefits for the domestic publishing industry and international rights holders, but also the benefits for other parts of the Chinese community, completing the Chinese copyright protection system, giving a good public image of copyright protection to the international community, assisting in electronic publishing control and management in the future, educating the Chinese community and policing copyright law. On the whole, these reasons are mainly the general benefits of the establishment of an RRO, which could be adopted in other countries where there are no RROs and copyright protection is not complete. Consequently, because of the limitations of their familiarity with Chinese publishing industry, IFRRO and the UK publishers were unable to consider this issue based on China's particular situation. However, all the UK interviewees, IFRRO and some Chinese interviewees agreed that the Chinese Government is the only possible body that could establish an RRO in China, because of China's special political environment.

We next consider the question of how to persuade the government to establish an RRO, based on the results of interviews with the UK experts, and also considering the results of the questionnaire survey. A crucial question behind how to persuade the government to establish an RRO was raised: whether there is any domestic market demand for an RRO in China at present. In other words, the degree of market maturity is the jumping-off point of the timing question. Although the government attitude is quite important, it also depends on the market demand. Generally speaking, if there is high market demand or a mature market for an RRO, there will be a strong incentive to

push the government to take action. As a result, the discussion has to move on to finding out how mature the market for an RRO is in China now.

In the Chinese case, results from both the interviews and the questionnaire survey, together with the information from the literature review, showed that the market for photocopying Chinese books is not mature and that there is very low market demand for an RRO. This was led by two factors. First, the most important factor is that the differential between the price of copying a book¹ and that of buying the complete book is far less than that in Western countries. It has to be emphasised that the books in the following discussion are the ones which are heavily copied by the main categories of RROs' users. According to the literature review (see Chapter 2), most RROs began to issue their licences in the education sector, and education, especially higher education, is the biggest licensing sector of RROs in most countries. Moreover, in the model of the proposed Chinese RRO, it was also supposed to begin with higher education sector. Thus, the comparison of the differentials between the price of copying a textbook and that of buying the complete textbook is a particularly important point for evaluating the potential market of an RRO in China. According to the previous research¹, the CLA and the UK collecting society system is the most important reference system for the model of the proposed Chinese RRO. In this research, the UK was also selected as the representative of Western countries for the comparison with China. Because the differential resulted from two factors: book prices and photocopying charges, two comparisons were made: the average textbook prices in the UK and China and photocopying charges in public libraries and university libraries in both countries.

According to China National Press and Publishing Statistics 2004², the average prices of new textbooks and reprint textbooks used in higher education institutions were RMB 23.77 (GBP 1.71) and RMB 19.9 (GBP 1.43) respectively in China. On the UK side, based on the LISU statistics on the average price of British and USA academic books³, in the latest academic year to June 2005, the average price of UK academic

¹ The photocopying charges in this thesis are black and white photocopying only.

books is GBP 41.85¹¹. Based on the definition of academic books given by LISU, in the researcher's opinion, although academic books in the UK statistics are not the exact equivalent of textbooks used in Chinese higher education institutions in the China Press and Publishing Statistics, they are quite similar in a general sense and also are the only data the researcher found that could be compared with the minimum of misunderstanding of the data¹². Comparing the average prices in the UK and China, It could be concluded that the average price of UK academic books is around 24.5 times that of new Chinese textbooks in 2003/2004.

On the other hand, dividing the photocopying charges into two groups with two types of libraries maintains the accuracy of the comparison. Based on the results of the questionnaire survey, photocopying charges in the Chinese public and university libraries mainly range from 0.72p to 3.6p per A4 page, while in the UK, a proposal for a directive on copyright and related rights in the Information Society⁴ showed that in 1998 photocopying charges were between 5p and 10p per page in academic libraries¹³. According to Fines and Charges in public libraries in England and Wales 2005⁵, the photocopying charges in UK public libraries varied between 5p and 10p per A4 page and a minority of libraries (five out of 176 libraries) charged photocopying fees between 12p and 20p per A4 page. In that case, the photocopying charges in the UK libraries could be seen mainly between 5p and 10p per A4 page in this research. Consequently, it could be calculated that photocopying charges in the UK libraries were about 1.4 times to 14.3 times those charged in the Chinese libraries.

By observing the comparisons of textbook prices and the charges for photocopying

¹¹ Academic books in this report included textbooks of interest to both undergraduates and advanced students and good quality books, which are primarily intended for the general reader. The following are excluded: reprints (not new editions) and paperback reprints of hardbacks still in print.

¹² Most categories in the Chinese statistics are different to that in the UK statistics. For example, there is no consumer book in the Chinese statistics and it classified the books to non textbooks, textbooks and illustrating materials.

¹³ After consulting with LISU, the researcher was told that there is no national statistics on photocopying charges in UK university libraries.

between UK and China, it is clear that compared with the UK, in the Chinese universities and public libraries, there is a much smaller differential for students and other readers between the prices of copying a textbook and of buying the book, because the differential of textbook prices (24.5:1) between the UK and China is much higher than that of photocopying charges (1.4:1 to 14.3:1) in these two countries. It means that compared with the CLA's users in the UK, there is less point in Chinese students and other readers copying a textbook instead of buying one.

When the price factor is discussed in this research, one important issue should be considered as well: rampant piracy in China. According to the literature review (see Chapter 3), piracy is the most serious threat to the development of Chinese publishing. In China, not only are a large number of unauthorised copies of bestsellers sold in the consumer market, but also textbook piracy, from secondary school to university, is rampant. Pirate books are cheaper than legitimate books, especially much cheaper than the authorised version of foreign textbooks and other academic books from other countries. Moreover, because unauthorised books are common in the Chinese market, it is quite easy for readers to find pirate copies. Under those circumstances, compared to photocopying and buying authorised books, buying pirate books is the most economical way for readers, especially in developing and remote areas of the country. Readers such as students or other citizens with low incomes are used to purchasing pirate books which are just like the official version. In that case, readers cannot tell the difference, and perhaps may not realise they had purchased unauthorised copies. Hence, fewer readers will photocopy parts of the book or the whole book, because they either could afford the authorised copies of the book or can choose the pirate copies with a lower price.

The second factor resulting in the low market demand for an RRO in China is also discussed against the background of education in China. In British and American higher education institutions, pervasive systematic copying or multiple copying is

performed to prepare course packs, classroom handouts and packs of resource or support materials for students. The CLA's definition of a course pack is as follows⁶:

A compilation of materials (whether bound or loose leaf) of four or more photocopied extracts from one or more sources, totalling over 25 pages of copyright material, designed to support a module or course of study, irrespective of whether the materials are copied at the start of the course, or at intervals during the duration of the course, or are placed in the short loan reserve or equivalent for systematic copying by students at intervals throughout the course.

The CLA and CCC respectively supplied the Higher Education Photocopying Licence Agreement in the UK and the Academic Permissions Service in the USA to higher education institutions, which permit institutions to photocopy copyrighted materials for classroom use. It is one of the main RRO services in the higher education sector. In contrast to the teaching style in Western countries, which uses course packs and handouts extensively, teaching styles in Chinese universities are mostly based on textbooks. According to the researcher's own experience, teachers in Chinese universities rarely distributed handouts in the class, while they recommended one book as the textbook for the module and the content of the module mostly followed the textbook. For this reason, each student bought one book for each module. Because the teaching style in Chinese universities paid most attention to the textbooks, the researcher estimated that the Chinese teaching style does not adopt course packs for Chinese materials at all. Accordingly, because of the different teaching styles, the RRO's domestic licensing market for course packs and other educational materials in China is totally immature.

However, although these two factors resulted in a low market demand for an RRO for domestic books in China, it could not be concluded that there is no unauthorised photocopying in China at all. It is reported by the International Intellectual Property Alliance (IIPA) that the USA book publishing industry faces both significant offset printing of pirated books, primarily in translated editions, and massive commercial

photocopying of textbooks and reference books on and near university campuses in China⁷. According to the 2005 Special 301 Report from IIPA⁸, photocopying had previously taken second place to print piracy in China, but decreasing prices of photocopying paper and other necessary materials have resulted in a sharp increase in photocopying in 2004. What is worse, illegal commercial photocopying has, for the first time, become the chosen mode of book piracy in China, at least with respect to academic materials. Moreover, on some Chinese bulletin boards, some students have begun to discuss unauthorised photocopying in universities⁹. They also admitted that because of unaffordable book prices, compared with local textbooks, many entire foreign textbooks were photocopied without any permission, and some students even obtained several unauthorised photocopied textbooks every semester (sometimes they get them from teachers). It is obvious that there is a relatively high market demand for photocopying foreign textbooks.

However, two points follow from this issue. First, most of the illegal unauthorised photocopying was done made by students or teachers privately in copyshops^v. As individual reprographic behaviour, it is very difficult indeed to estimate how serious the problem is, based only on one report. Although the Chinese interviewees, who might consider political and other factors, did not mention the unauthorised photocopying of foreign textbooks at all, the UK interviewees, including experts, did not discuss it deeply either, but only mentioned it as a possibility in the RRO's market. From the results of the interviews, there is no evidence that UK publishers thought that their economic interests are damaged seriously by illegal photocopying in China now. Second, because illegal photocopying focuses on foreign textbooks, the problem will go back to Lynette Owen's assumption that considering Chinese political factors, if the Chinese Government cannot see any benefit for the domestic publishing industry, there will not be a strong incentive to the government to develop an RRO.

The Chinese Government's attitude is related closely to Chinese rights holders' attitude

^v The photocopying in copyshop is cheaper than that in libraries in China.

to the establishment of an RRO in China, and is mainly influenced by the market demand. If there is a large amount of photocopying of Chinese materials, so that market demand for the Chinese RRO grows to a high level, the Chinese rights holders will feel that their rights and economic interests are damaged by the unauthorised photocopying, and they will appeal to the government to establish an RRO in China. However, based on the above analysis, there is a very low market demand for domestic materials in China. According to the interviews, from Chinese publishers' perspective, there is either no market for an RRO for domestic books or no influence from the copyright collective administration on Chinese publishers, and thus they do not pay any attention to the establishment of either an RRO or other collecting societies. From the authors' organisation's perspective, their feedback is positive and they have paid some attention to reprographic behaviour in libraries, and even have some tentative ideas about the development of an RRO in China. However, they also admitted that there is no evidence showing that photocopying is damaging the Chinese publishing industry now. On the other hand, both authors and publishers expressed the view that rampant printing piracy in China is the most serious copyright issue which they pay most attention to. Compared with piracy, unauthorised photocopying is not very urgent for the Chinese rights holders.

It is clear from the interviews that because of the special political environment in China, the Chinese Government is highly significant for the development of an RRO. From the government's point of view, three interviewees stated coincidentally that it is too early to discuss the establishment of an RRO, because there is no urgent request from domestic rights holders for protecting their reproduction rights from unauthorised photocopying. Moreover, the government also faces the same situation as Chinese rights holders, piracy. It is one of the most serious problems for Chinese publishing industry which needed to be solved now. In broad terms, even copyright is merely one of the issues the government pays attention to. All the Chinese interviewees expressed the view that China is a developing country with a huge territory and population. At this stage, it is quite understandable that the government pays most attention to the

issues which relate to the majority of the population. As a consequence, it could be simply concluded that the Chinese Government thought it is not the right time to establish an RRO in China now and even too early to discuss it. It would be seen as a really negative attitude from Chinese Government to the establishment of an RRO.

Another obstacle is the legal aspect. The Copyright Law, Section 1, states that copyright owners own the right of reproduction, which is the right to produce one or more copies of a work by printing, photocopying, lithographing, making a sound recording or video recording, duplicating a recording or duplicating a photographic work, or by other means¹⁰. Moreover, the Regulations stipulated that reproduction rights, provided for in the Copyright Law, may be collectively administered by a copyright collective administration organisation. Under those circumstances, at a theoretical level, there is a basic legal basis for the establishment of an RRO in China. However, there are still some controversial issues which need to be identified in the law before its establishment. According to the results of the questionnaire survey, most librarians thought the incomplete copyright protection system is a major barrier preventing the development of an RRO in China now.

Most areas of an RRO's licensing activities related closely to the concept of fair dealing, such as photocopying for private or research proposes, education, public administration, library privilege, etc. Although the "fair dealing" concept varies between Western countries, and is called as "fair use" in the USA, it is clear that exceptions to copyright in each country are stipulated to encourage research and private study. Moreover, although there may be no definition of the exceptions, various publishers' groups and library associations have provided guidance on them. Furthermore, in Western countries, the copyright law has supplied a clear and strong legal basis for the establishment and operation of RROs.

In contrast, in the Copyright Law of PRC 2001, Section 4, the limitations on rights^{vi} which might relate to the market of the proposed RRO, include¹¹:

Use of copyrighted materials for purposes of the user's own personal study, research or appreciation and translation; reproduction in a small quantity of copies of a published work by teachers or scientific researchers for use in class room teaching or scientific research; use of a published work by a State organ to a justifiable extent for the purpose of fulfilling its official duties; and reproduction of a work in its collections by a library, archive, memorial hall, museum, art gallery, etc^{vi}.

In contrast to UK and the USA, the provisions of limitations on rights in the Copyright Law of PRC (the Copyright Law) are too general to give enough legal basis for the establishment of an RRO in China. In contrast, in the case of the rights of communication through information networks, which will be managed by CCALW, the NCAC has begun to draft the Regulations on the Protection of the Right of Communication through Information Networks at the end of 2005 as a legal basis for the operation of CCALW¹². Meanwhile, there is no guidance from any organisation or government department for limitations on rights in China either. It is obvious that establishment of an RRO in China requires more specific stipulations to identify and restrict private, educational, and governmental photocopying in the copyright law to increase the market demand. Only the Chinese Government is able to amend current copyright law. However, as well as the government's negative attitude to the RRO, the Chinese Government has dedicated itself to educational development since the end of the Cultural Revolutions¹³. Thus, the researcher estimated that in the next five years, the government will not make any significant amendment of copyright law to restrict fair dealing in the education sector. For public administration, based on the Chinese political environment, it would be very difficult to restrict fair dealing in the government bodies by the government itself. Under those circumstances, the legal basis would not be prepared until the government changes its attitude towards RROs entirely. Finally, at this stage, more detailed guidance on fee standards for all different

^{vi} In the Copyright Law of PRC, "limitations on rights" were used instead of "fair dealing".

^{vi} Please see more details in Appendix 14

kinds of collecting societies would be very helpful for the societies (not only RRO) to collect royalties on the behalf of rights holders.

The final factor is the general understanding of copyright and RROs among users, which is important for the establishment and operation of an RRO, especially when it has adopted a voluntary system. From Chinese libraries' perspective, lack of respect for copyright is the second main barrier to the establishment of an RRO in China now. Although the NCAC has made a lot of effort to educate citizens on respect for copyright, and there has been significant progress in understanding copyright, reprographic rights and RRO are totally new concepts for most Chinese citizens. In the research, more than two-thirds of Chinese librarians considered that either libraries or their patrons should pay for photocopying. Three of them even stated publishers should pay for photocopying. Half of the librarians cannot decide whether an RRO is the best way to protect right holders' economic interests in China. These results showed clearly that even among Chinese librarians, there are clear uncertainties and disagreement about the concept of an RRO and misunderstandings about reprographic rights. It could be estimated that among the Chinese citizens, there will be a very low degree of acceptance of reprographic rights and an RRO. According to the experience of the MCSC, and the researcher's experience, it would also appear that the citizens cannot accept the idea and would refuse to co-operate with the society at the beginning^{viii}. On the other hand, the concept is also brand new for rights holders, especially publishers. Five publishers were contacted in China for interviews. Four of them refused and expressed the view clearly that they were not familiar with this issue or even never heard of RROs before. Only one Chinese publisher was involved in this research, but he made clear at the very beginning of the interview his indifferent attitude towards RROs and copyright collective administration in China. For Chinese authors, through the interview, it is also clear that the interviewees from the authors' organisation lack knowledge about the operation of RROs.

^{viii} One of the researcher's friends said that "if I have to pay for photocopying, I think it is an overprotection of copyright."

UK publishers suggested strongly that policing and education are the most important roles of the proposed Chinese RRO. However, it is confirmed by interviewees from NCAC that the Chinese Government, especially NCAC has the main responsibility for conducting education on copyright to the mass of the population, and it is impossible to establish an RRO for purely educational purposes.

It is obvious that China is a developing country, so that Chinese organisations might lack funds and Chinese citizens are unwilling to pay remuneration to rights holders, both because of the lack of economic development. That is also the crucial reason why many Chinese students choose to photocopy foreign books instead of buying them. From the library aspect, the lending system in libraries is not as convenient as that in the developed countries, and citizens are not as used to borrowing books from libraries as in developed countries. From the cultural aspect, Chinese prefer to own a new book instead of buying a second-hand one or photocopying it. Furthermore, Chinese culture emphasises knowledge sharing and spreading. To some degree, photocopying is seen as a sound way to spread knowledge. Finally, Chinese universities produce a large number of textbooks every year and encourage students to buy textbooks. By analogy with UK publishers' worrying at the time of the CLA's establishment, Chinese universities will be unwilling to let student photocopying of textbooks damage their original sales. On the whole, from Chinese rights holders, through Chinese users to the publishing industry, the whole Chinese society is not ready for an RRO now and there is little space in the market for its establishment.

8.2.2 An RRO in the Future?

Since it is concluded that it is not the right time to establish an RRO in China at present, the next question is "Will China need an RRO in the future? If yes, how far into the future will it happen?" In a logical way, the discussion about the future will estimate the likely changes in the main obstacles and analyse how those changes will affect the feasibility of the establishment of an RRO in China. Following the previous discussion, the new discussion should begin with "Will the market demand for an RRO

for Chinese books increase to a high level in China?"

According to China Statistical Yearbook 2005, the per capita annual disposable income of urban households and per capita annual net income of rural households in 2004 were respectively RMB 9421.6 and RMB 2936.4¹⁴. On the other hand, according to the government statistics, disposable income per head in the UK was GBP12, 627 in 2003¹⁵. Hence, the average textbook price (see Section 8.2.1) is 0.25 per cent of the disposable income per head of urban households and 0.81 per cent of the net income of rural households per head in China. On the other hand, the average academic book price is 0.33 per cent of the disposable income per head in the UK. It appears that for university students from urban areas, Chinese textbooks are not as expensive as those in the UK; however, for university students from rural areas (the rural population constitutes 58 per cent of the whole Chinese population¹⁶), Chinese textbooks are much more expensive than in the UK.

In fact, a lot of Chinese readers have complained about high book prices, and Chinese publishing experts have stated that book prices are increasing abnormally fast. According to China National Press and Publishing statistics 2004¹⁷, the average prices of all kinds of new books and reprint books with China Standard Book Numbering were RMB 13.61 (GBP 0.98) and RMB 7.26 (GBP 0.52). Based on publishing and book trade statistics of the Library and Information Statistics Tables (LIST) 2004, the average price of UK consumer books¹⁸ in 2003 was GBP 7.40¹⁸. It could be calculated that the average prices of new books and reprinted books are respectively 0.13 and 0.7 per cent of the disposable income per head of urban households and 0.46 and 0.24 per cent of the net income of rural households per head in China. On the other hand, the average book price is only 0.058 per cent of the disposable income per head in the UK. With these comparisons, it is very obvious that, on average, books in China are much more expensive for Chinese readers than that for UK readers.

¹⁸ In the Chinese statistics, there is no category of consumer book.

Another point is to compare the increase speed of book price rises with that of disposable income in China. It is reported that from 1988 to 2003, the total value of books in China increased from RMB 6,222 billion to RMB 56,182 Billion, which has gone up by 803 per cent in fifteen years¹⁹. On the other hand, per capita annual disposable income of urban households and per capita annual net income of rural households between 1989 and 2003 increased respectively from RMB 1373.9 to RMB 9421.6 and RMB 601.5 to RMB 2936.4, which have increased by 585 per cent and 388 per cent²⁰. The comparison shows that in China, the increase in book prices is much faster than that of citizens' incomes, so that it could be foreseen that there will be an increasing burden of buying books for Chinese citizens, especially in rural areas.

Meanwhile, because of the decreasing costs of photocopying materials, increase of copyshops, and vicious competition between copyshops, costs of photocopying are decreasing now. Consequently, there is a tendency that the differential between the price of copying a book and that of buying the complete book in China is increasing and will catch up with that in Western countries in the future.

Secondly, a large number of unauthorised photocopied foreign textbooks in Chinese universities proved that teachers in universities now paid more attention to knowledge from abroad and have adopted more and more foreign materials in the classes. Moreover, along with an open policy and economic development, the teaching style in China may change and learn from the experience of developed countries. The UK interviewees gave an example that twenty years ago, the situation in the UK was quite similar to that in China now, and it changed a lot through twenty years. The results of the questionnaire survey also showed that besides STM materials, teaching materials are the second group of materials photocopied most. Under those circumstances, it could be estimated that teaching styles in China would change and become more similar to those in the developed countries. Combining the above two points, it appears that in the future, a large amount of photocopying of Chinese books, especially textbooks, will be done, and so that there will be a high market demand for an RRO,

not only for foreign books but also for Chinese books.

However, although a potential mature market for an RRO was proved above, it does not mean that an RRO will definitely be established in the future. Another two important factors should be considered in this case as well: the establishment of the CCALW and the Chinese Government's attitude; and the future of RRO and the development of electronic publishing. Three kinds of Chinese interviewees, authors, publishers and the government, have quite different attitudes to the establishment of CCALW. CWA's "ambitious" plan is to develop the CCALW to manage all the secondary rights which authors cannot manage themselves, and also to co-operate with Chinese publishers. However, their plan is very general at this stage and they did not supply any specific orientation of CCALW in the near future. Beside less relationship with collecting societies, the Chinese publishers considered that it is almost impossible to organise rights holders in the same national organisation in China. From the government's perspective, it is clear that the establishment of CCALW is mainly to take charge of the rights of communication through information networks in the near future. In spite of their indifferent ideas, coincidentally, CWA and NCAC both mentioned a possibility that the CCALW would take charge of the main function of the RRO in the future instead of establishing an RRO separately. Some interviewees from NCAC even thought there is a tendency that the CCALW will administer the reprographic rights in the future. There are three reasons supporting this assumption: first, when the market is not mature, it is an efficient way to merge the RRO's function into other existing collective societies. Second, the members of CCALW in the future are mainly Chinese authors, who are also the largest group of rights holders for RROs. Third, because of the development of electronic publishing, the CCALW will work closely with the rights of literary works in the digital environment. If it engages in the right of digitisation of literary works in the future, it will be easier to transfer the RRO's function from the photocopying era to the digital era.

From the literature review (see Chapter 2) and the results of the interviews, it is very

clear that there is a tendency that photocopying has been declining in recent years because of the development of electronic publishing and digital printing technology, although it is still the largest source of income for ALCS in the UK. From the UK publishers' perspective, the primary role of RROs, collecting and distributing royalties from photocopying, is surely reducing, and there is not a long future for RROs if they just stay in photocopying. The RROs such as CLA and CCC have tried to develop licences for reproducing digital materials. But the main issue in China is that although Chinese electronic publishing is also lagging behind electronic publishing in developed countries, the disparity in electronic publishing development is not as wide as that in traditional publishing between China and the developed countries. In other words, when RROs were established in the 1980s, there was no competition between photocopying and printing, and other issues brought by electronic publishing. On the contrary, before China establishes an RRO, issues related to reprographic rights in the digital environment that RROs in developed countries are facing now will also have been raised in Chinese electronic publishing, and would become more serious in the near future. For example, according to the questionnaire survey, more than one-third of libraries supplied a scanning service to their patrons, and printing materials instead of photocopying is one of the major reasons for the decline in photocopying income in the libraries. Hence, it would be estimated that the period of photocopying dominating the royalties for reprographic rights in China will be shorter than that in developed countries. In that case, it might not be a valuable idea to establish an RRO in the near future. On the whole, because of the above two reasons, developing the function of an RRO under the CCALW in the future is probably the most realistic and efficient way to protect rights holders' reprographic rights from unauthorised photocopying in the shortest period at this stage.

In this researcher's opinion, although the CCALW is the first choice to implement the function of an RRO in China in the near future, there is still some possibility for establishing an RRO in China. The main points are focused on the coverage of rights holders and work which will heavily affect the efficiency of CCALW, and the survey

of the photocopying market. The features of two initiators of CCALW, a government body and an authors' organisation, showed that at the beginning, CCALW will only supply their service to Chinese authors and protect their rights. Even in the future, the CCALW will also concentrate on protection of authors' rights, so there will be a problem when CCALW takes charge of reprographic rights: how to get publishers' involvement in CCALW to protect their rights. Moreover, the RRO's licences covered not only literary works but also illustrations as well as sheet music. Under CCALW, a semi-author's organisation, it will be an intractable problem to get all kinds of rights holders' involvement and protect their reprographic rights, and there will be a huge work flow. If an RRO were established, the coverage of rights holders and category of works will be more comprehensive than the CCALW from the beginning. Second, because no survey at all has been made of the photocopying market either of books or of journals in China, nobody knows what the real market is. Without more detailed data on photocopying and printing in China, it is impossible to conclude how fast the photocopying market will be mature and how big it will be, as well as how fast photocopying will be replaced by other technologies. As a consequence, the possibility of an RRO in China could not be excluded at this stage.

8.3 The Suggestions of the Model and the New Model

8.3.1 The Suggestions of the Model

In the previous research, the model was mainly based on the UK licensing system. However, according to the literature review and the results of the interviews, from the publishing industry to the legal system matters are totally different between China and the UK. As a result, the suggestions of the model in this research will correspond with the Chinese copyright protection system and government structure. Moreover, based on these suggestions and also the discussion, a new model will be developed at the end of this section.

The primary reference to the model is the Regulations on Copyright Collective

Management. It could identify the legal status of the RRO and other collecting societies in Chinese law, and regulate the establishment and operation of all kinds of collecting societies. First of all, in the old model, the RRO is a non-profit company jointly owned by CCALW and a proposed publishers' organisation. In response to the Regulations, two changes should be made. It stipulated that copyright collective administration organisation means a mass organisation which shall be registered as such and carry out its activities in accordance with the provisions of the administrative regulations on the registration of mass organisations and of their regulation²¹. It also stipulated that the general membership meeting of a copyright collective administration organisation is the institution of power of that organisation and it shall be convened by the board of directors, which shall announce the time and place of the meetings²². Furthermore, according to the results of the interviews, Chinese interviewees from CWA and NCAC emphasised that the CPCC and the CWA are only the imitators of the CCALW and there will be no direct relationship between those organisations and the CCALW in the model. Based on the establishment of the only existing collecting society, the MCSC, which is the only Chinese model for collecting societies in the future, the government recognised that this is an effective way to establish collecting societies by CPCC and the guild or authoritative organisation concerned in one industry as initiators. After its establishment, the collecting society would be independent of the initiators.

Second, there was a copyright tribunal running under the NCAC in the old model to mediate between the parties and help the whole system keep a balance. In accordance with the Regulations, both the copyright owner and user may make accusations to the administrative department for copyright under the State Council if they believe that a copyright collective administration organisation should involve itself in cases listed in the Regulations²³. Besides the administrative department for copyright, copyright collective administration organisations shall subject themselves to supervision by the civil administrative department under the State Council and other relevant departments²⁴. Chinese interviewees from NCAC also stated that a copyright

arbitration body such as a copyright tribunal does not exist in China, and that the NCAC is the administrative department for copyright which has the responsibility for supervision and parts of mediation. If mediation fails, disputes may be submitted for arbitration to an arbitration body. Thus, there will be no copyright tribunal in the new models.

In the Regulations, there is no article relating to the establishment of committees with representatives from in other industries such as education, business, etc. No Chinese interviewees made any comment on the two committees proposed in the model. According to the structure of the MCSC, there is no committee co-operating with it. In the HKRRLS' case (see Appendix 10), it was able to agree on terms with the Education and Manpower Bureau (EMB) to enter into licence agreements with schools councils at the beginning of licensing. Under those circumstances, these two committees are not considered in the new models temporarily, until more feedback from the Chinese Government is provided and further research can be carried out. Meanwhile, considering the operation of the HKRRLS, there might be some other kinds of specific government departments' involvement in the future.

From the functional aspect, because no matter whether the CCALW will take on the functions of an RRO or whether there will be an RRO established separately, it has to wait for the market for Chinese materials to become mature. In that case, the royalties will be divided into two parts: for Chinese rights holders, and for international rights holders. In addition, as a two-way process between China and other countries, collection and distribution of royalties from overseas for Chinese rights holders should also be included in the new model. Although Lynette Owen suggested that the RRO might initially begin with original Chinese works and only move on later to foreign works, in the researcher's opinion, it is a principle that any rights holders' copyright should be respected. Since Chinese material will be protected at the beginning, foreign materials which are heavily photocopied ought to be considered as early as possible.

Another suggestion about the function is to add "management of membership and works", because the Regulations stipulated that a copyright collective administration organisation shall develop a rights information consulting system for owners' and users' consultation²⁵. Moreover, MCSC is composed of three departments: management of membership and works, licensing and legal affairs, and distribution²⁶.

Because the categories of printed materials apply not only to text but also to illustrations, as well as musical notes and sheet music, the coverage of the repertoire needs to be re-discussed. The results of the questionnaire survey showed that illustrations were the fourth kind of material photocopied most out of six kinds of materials, and there is no photocopying of sheet music reported. For this reason, illustrations should be included in the repertoire of the RRO at the beginning. Copying the structure of CLA, which has one director from DACS, there will be one director from China Photographers Association (CPA) in the CCALW or the RRO in the future. For musical notes and sheet music, it needs a more detailed survey of photocopying to evaluate whether they should be included in the repertoire at early stage or later.

The final suggestion is about the system an RRO might adopt in China. Most of the UK interviewees suggested that they preferred a voluntary licensing system because of co-operation with the CLA, but some of them also stated that, considering the incomplete Chinese copyright system, lack of respect for copyright, and structure of the government, they thought a compulsory licensing system might be more realistic in China. Most of the Chinese interviewees provided no comment on this issue at such an early stage. Only interviewees from CWA expressed their opinion that a levy on photocopiers is the most reasonable and most convenient way to collect the fee. However, they also pointed out that because of the complicated structure of the Chinese Government, adopting levy systems will also face the problem of transferring tariffs between different government departments and the collecting society. It should be pointed that, according to the literature review, the levy system is based on the idea that remuneration is payable for all uses of copyright material and reproduction for

private and personal use can be compensated indirectly so that rights holders still receive "equitable remuneration" through levies on equipment or on the underlying material. On the contrary, the notion of limitations on rights in Copyright Law of PRC resembles "fair dealing" and "fair use" in the UK and the USA Copyright Acts, which identified in some cases that a work may be copied without permission from, or payment of remuneration to, the copyright owners²⁷. As a consequence, if a levy system on equipment was adopted in China, it would be very difficult to exclude photocopying under fair dealing from other charges for photocopying.

In the Regulations, a copyright owner may conclude a written contract with a copyright collective administration organisation and also may, pursuant to the procedures prescribed in the statute, resign as a member from a copyright collective administration organisation by terminating the contract.²⁸ The interviewees from CWA also stated that all members of the CCALW would join voluntarily. Hence, voluntary licensing with back-up systems in legislation, Extended Collective Licence and Obligatory Collective Management, cannot be adopted in China either, because licences issued by RROs in these two systems will statutorily cover the rights of non-represented rights holders. Finally, it should be noted that the MCSC adopted voluntary licensing system with statutory provisions in the Copyright Law and other related regulations to encourage users and rights holders to enter into such voluntary agreements. Moreover, the CCALW will take charge of the right of communication through information networks of literary works in the future also with statutory provisions mainly in the Copyright Law and the Regulations on the Protection of the Right of Communication through the Information Network which will be promulgated in 2006²⁹. On the whole, from the legislative aspect, and also considering the experience of MCSC and CCALW, it could be estimated that the CCALW or the RRO will adopt a voluntary licensing system in the future.

8.3.2 The Structure of the Model for the Chinese Licensing Agency System with Brief Explanations

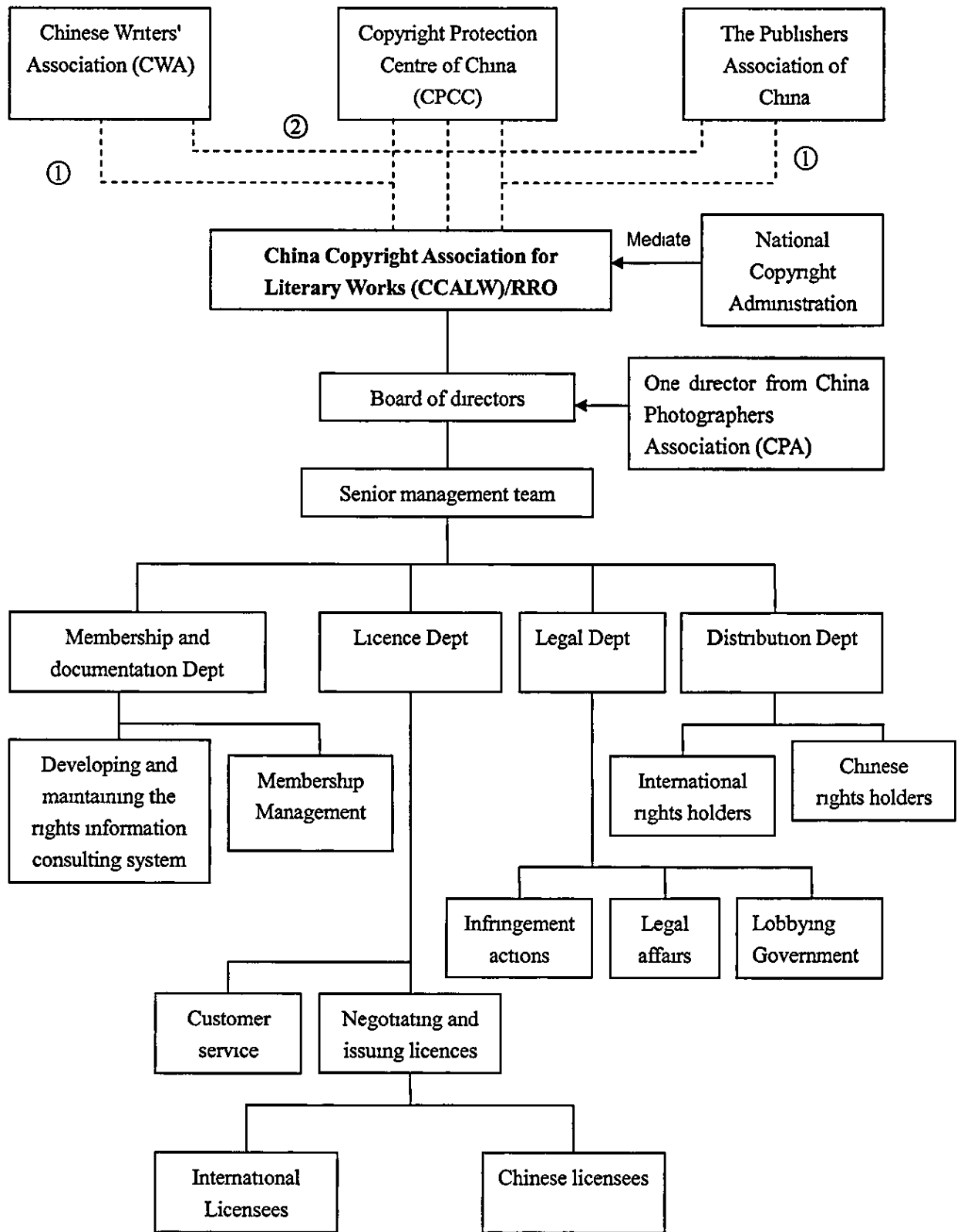


Figure 8.1 The Structure of the New Model for the Chinese Licensing Agency System

This model was developed from the old model (see Chapter 4) with the suggestions discussed in the last section. It includes two possibilities discussed at the end of Section 8.3. The most possible solution for protecting rights holders' reprographic rights in China is that the CCALW will take charge of the function of an RRO. Second, it is also possible to establish an RRO independently in China. Because both the CCALW and the proposed RRO are collecting societies for literary works, in principle their basic functions are almost the same. That is the reason why the researcher combined two models into one diagram. Under a senior management team, there will be four main departments: membership and documentation department, licence department, distribution department and legal department. All the functions of each department are provided on the diagram.

In the upper parts of the diagram of the model, red coding represents the existing bodies. The relationships between initiators and the collecting society are indicated by broken lines, because as soon as the society is established, there will be no direct relationships between them. In the case of the CCALW, currently, its initiators are the CPCC and CWA. If and when it plans to take charge of the function of an RRO, the Publishers Association of China (PAC) and the CPCC will be in effect initiators only for the function of an RRO, and will cooperate with the CCALW to complete the process of adding this function^x. In the case of an RRO, the initiators will be the CPCC, CWA and PAC together^{xi}.

8.4 Conclusions and Recommendations

8.4.1 Conclusions

Combining the literature reviews, results of interviews and questionnaire survey, it was concluded that it is not the right time to establish an RRO in China now. The main reason is that the potential market for photocopying Chinese materials proved not to be

^x See blue broken lines with 1

^{xi} See black broken lines with 2

mature at all, because the price differential between buying and copying a book is much smaller than that in developed countries, and also the teaching style in China extensively depended on textbooks, which led to a low amount of systematic copying in the Chinese higher institutions. The low domestic market demand also led to indifferent attitudes of Chinese Government and rights holders to the establishment of an RRO. In addition, an incomplete copyright protection system, insufficient legal support, and lack of the respect of copyright among rights holders and users are also obstacles likely to prevent an RRO's development currently.

Since at this stage it appears to be impossible to establish an RRO in China, the possibility of establishing an RRO in the future was analysed. Book prices in China are increasing much faster than the increase of average income of Chinese citizens. The price differential between buying and copying a book will therefore become bigger in the future. However, the price tendency is not enough to conclude that an RRO would be certainly developed in China in the future, because of two other factors. First, the interviewees from a government department estimated that the CCALW taking on the functions of an RRO is the best way to protect reprographic rights for Chinese rights holders in the near future; since the market is so small, there is no point in establishing an RRO separately. This would be seen as the kind of attitude and feedback from the Chinese Government to the establishment of an RRO in the future. Second, the future of RROs all over the world is uncertain, because of the development of electronic publishing technology as well as the trends in book price, the decline of photocopying should be considered before the establishment of an RRO in China, as the results of the questionnaire survey showed the increase of scanning and printing in Chinese libraries. It would be estimated that the period when photocopying dominates the royalties from reprographic rights in China will be shorter than in developed countries. According to the foreseeable changes in the future, there will be some way for China to protect rights holders' reprographic rights in both the traditional and the digital environment in the future, but it might not be through an independent RRO. However, the possibility of establishing an RRO in China cannot be excluded totally.

Because the old model was mainly developed referring to the UK licensing system, in this research, the model was revised to fit the specific situation in China. Based on those suggestions about the old model from the previous research and the operation of the MCSC, a new model combined with two possible solutions was developed. One is that the CCALW will take charge of the function of an RRO in China, and the other is to establish an RRO separately in the future. From this researcher's perspective, the CCALW taking the functions of an RRO is the best possible way to protect reprographic rights for Chinese rights holders in the near future, because it appears to be the most realistic way to protect rights holders' reprographic rights in a short time. And also from the beginning of the establishment of the CCALW, it has the basis of managing reprographic rights in the digital environment.

8.4.2 Limitations of the Research

Although the education system is one of the main sectors served by RROs, they also issue licences to other sectors such as the business and commerce sector, the government and public bodies, etc. However, in the research, only textbooks and photocopying in libraries were discussed and analysed. Because of lack of time, it is impossible to conduct a national survey of photocopying in business bodies and the other sectors which are alleged to copy materials heavily.

In addition, this research focused on the photocopying of textbooks. However, there is extensive photocopying of academic journals in the higher education and other sectors such as the pharmaceutical industry. The questionnaire showed that STM materials, which largely means journals, were heavily photocopied in Chinese libraries. Although in this research, there was no investigation of photocopying of academic journals in China because of the limitations of time, the photocopying market for academic journals in several sectors could not be avoided if comprehensive research on the whole photocopying market in China were carried out in the future.

In this research, copyshops are outside of the research as well. On the one hand,

copyshops do photocopying for commercial gain, especially in the case of photocopying of foreign textbooks in the copyshops around Chinese universities. For this reason, these should be a group of important potential licensees for the proposed organisation which will take charge of reprographic rights in China. On the other hand, there is no data on photocopying charges or volume of copying carried out in the copyshops. According to this researcher's experience, the photocopying fee charged by copyshops in or around Chinese universities is lower than that charged in libraries. Thus, the comparison only between average book price and photocopying charges in libraries is not enough to prove what the differential between buying a book and copying it is in China.

The low response rate of the questionnaire survey is another limitation of the research. Twenty-seven libraries out of one hundred and forty libraries in China responded to the questionnaire, which meant that more data on a broad range of Chinese libraries would be more accurate and comprehensive for the research. Meanwhile, the questionnaire in this research was intended to explore the photocopying situation in Chinese libraries and photocopying behaviour of library users from the Chinese librarians' perspective. When the data collected from questionnaire were analysed, it appeared that for some detailed questions concerning photocopying behaviour patterns of individual users, either the response rate was extraordinarily low or the answers from librarians were unclear. This was not the most effective way to investigate photocopying behaviour patterns of individual library users through librarians, but as has been noted earlier, attempts to carry out a large-scale survey of librarians at a conference were not successful.

Finally, because the previous research was mainly based on first-hand materials from UK side, and the model was developed following the UK licensing system, in this research, although the literature review (see Chapter 2) covered comprehensive background information about all kinds of RRO around the world, most first-hand information about existing RROs was collected from UK interviewees. That is the

reason why there are a lot of comparisons between China and UK in this research. However, it is obvious that in its publishing industry, legal system, economic development and culture, etc, China is quite different from the UK, especially in the legal system, which is one of the most important bases for the development of an RRO. In the UK, the Common Law system was adopted, while in China, the Civil Law system has been adopted. On the other hand, there were a small number of Chinese interviewees involved in the research, especially potential Chinese rights holders. Because of the political reasons, lack of official Chinese Government response to the establishment of an RRO should be noted as well. Even the officials from NCAC who conducted interviews have emphasised at the beginning their comments just represent their own personal opinion.

8.4.3 Recommendations and Further Research

According to the discussion, it is quite clear that establishing an RRO is a very complicated issue in China, which is not only related to rights holders and users but also to government departments. It appeared that establishing any collecting society in China would be at minimum a semi-government activity. Consequently, most of the recommendations and suggestions about further research are made mainly to the Chinese Government. Currently, no matter which method might be adopted to protect rights holders' reprographic rights, the most important preparation, not only for the development of an RRO, but also for any other collecting society, is to educate Chinese citizens about respect for copyright and the notion of copyright collective management. It is crucial to help the users and rights holders understand their rights and obligations in Copyright Law. On the one hand, better understanding of copyright among users will be essential to establish an RRO or other collecting societies. On the other hand, when Chinese rights holders know more about copyright collective management and reprographic rights, they will lobby the government to protect their rights.

The following recommendation to the government is to identify much more clearly the

notion of reprographic rights and the cases of fair dealing and other exceptions to copyright. It has been mentioned that the limitation on rights in Copyright Law is too general to provide enough support to an RRO. Although it would probably be too early to amend the Copyright Law merely for the establishment of an RRO now, more detailed explanation of fair dealing is urgently need in the Copyright Law to meet the situation in the future (see Appendix 14).

Third, the unauthorised photocopying of foreign materials in China cannot be ignored at this stage. It indicated that there is a tendency for an increase of unauthorised photocopying in the Chinese universities. Although it might not be the time to establish an RRO only for protecting overseas rights holders' rights, a large amount of unauthorised photocopying should be paid attention to by NCAC or other related government departments. Moreover, how to protect overseas rights holders' rights by other means needs to be discussed as soon as possible.

In this research, the new model was not tested or shown to the related parties in China. According to the experience of testing the old model, it is clear that the Chinese Government and rights holders' organisations could give few suggestions about the model, because they are not ready to go so far about this issue at this stage. The model would be tested in the future if further research were carried on, when the market demand is growing in China. However, as a part of the further research, it will be necessary to carry out some surveys of photocopying in China now or in the near future. Because an RRO or the CCALW will take some time from establishing at the beginning to operating well^{xiii}, it will be too late to carry out surveys or feasibility tests when the problem is really serious. There are two kinds of surveys that the researcher recommended. First, a survey of photocopying among different sectors with different kinds of materials is required to identify how serious the problem is. Second, it is necessary to carry out a survey among university students of their individual

^{xiii} The CCPC and CWA have begun to prepare the establishment of the CCALW since 2001, and it has not been established until now.

photocopying behaviour in the education sector, which needs to pay some attention to new technology and electronic publishing as well. The aim of this survey is to summarise photocopying behaviour patterns and forecast the tendency for photocopying, printing and other influences from electronic publishing in the future. Ideally, these two surveys should be comprehensive and national; however, considering the Chinese Government's attitude at present, some small scale surveys in some representative areas (especially developed areas like big cities) would be more realistic at this stage.

For comparison, the experience of the establishment of RROs from countries which also adopted the Civil Law system or countries which have the same cultural background would be more useful for developing a realistic model in this research. In the further research, a study about RROs in Asian countries, especially East Asian countries such as Japan and Singapore, should be conducted. Meanwhile, experience of RROs under the Civil Law system should be paid more attention in the future too. Some successful examples of reprographic rights protection from other developing countries whose publishing industries are similar to the Chinese publishing industry should also be collected as references to the further research.

References

- ¹ **Ma, Y.** *A possible model of a licensing agency system for publishing industry in China*. MSc dissertation, Department of Information Science, Loughborough University, 2004.
- ² **Liu, J. et al.** *Zhong guo chu ban nian jian 2004* [China Publishing and Press Statistics 2004], 2004, p. 158.
- ³ **LISU.** *Average prices of British and USA academic books*
<<http://www.lboro.ac.uk/departments/dils/lisu/pages/publications/abpi.html>>, 2005, [accessed 20.10.05].
- ⁴ **Library Association.** *Professional issues*.
<http://www.la-hq.org.uk/directory/prof_issues/dcrris_4.html>, [n.d.], [accessed 20.10.05].
- ⁵ **Pearce, G.** *Fines & Charges in public libraries in England & Wales*, 18th edn., 2005.
- ⁶ *Copyright*.
<<http://www.city.ac.uk/library/using/copyright.html>>, [n.d.], [accessed 25.10.05].
- ⁷ **Smith, E. H.** *Intellectual Property protection as economic policy: will China ever enforce its IP laws?*
<http://www.iipa.com/rbi/2005_May16_China_CECC_Testimony.pdf>, 2005, [accessed 25.10.05].
- ⁸ **International Intellectual Property Alliance,** *2005 Special 301 Report: People's Republic of China*.
<<http://www.iipa.com/rbc/2005/2005SPEC301PRCrev.pdf>>, 2005, [accessed 20.11.05].
- ⁹ *Chinese unis teach disrespect for rules of law*.
<<http://bbs.chinadaily.com.cn/viewthread.php?tid=169642&page=6&extra=page%3D4>>, 2004, [accessed 30.10.05].
- ¹⁰ **People's Republic of China.** *Copyright Law 1990*, 2003, p. 32.
- ¹¹ **Wu, H.** *Wan shan wo guo he li shi yong zhi du de li fa jian yi* [suggestions about completion limitations on rights in Copyright Law of China].
<<http://www.legalline.com.cn/2004-8/20048491833.htm>>, 2004, [accessed 30.10.05].
- ¹² **People's Republic of China.** *The Regulations on the Protection of the Right of*

-
- Communication through Information Network 2006 (draft).*
<<http://www.ncac.gov.cn/servlet/servlet.info.InfoTopicServlet?action=topiclist&id=30>>, 2005, [accessed 10.11.05].
- ¹³ *Zhong guo jiao yu gai ge yue fa zhan qing kuang* [Reformation and development of education in China].
<<http://www.edu.cn/20040107/3096922.shtml>>, [n.d.], [accessed 10.11.05].
- ¹⁴ **National Bureau of Statistics of China**, ed. *China statistical yearbook*, 2005.
- ¹⁵ *Gross disposable household income in the Tees Valley 1995-2003.*
<www.teesvalley-jsu.gov.uk/reports/i&f/athinc05.doc>, 2005, [accessed 10.11.05].
- ¹⁶ **National Bureau of Statistics of China**, ed. ref.14.
- ¹⁷ Liu, ref. 2, p. 135.
- ¹⁸ LISU. *Publishing and book trade statistics.*
<<http://www.lboro.ac.uk/departments/dils/lisu/list04/pub04.html>>, 2004, [accessed 23.07.04]
- ¹⁹ **Wo, F.** *Guan cha zhong guo tu shu chu ban ye de peng zhang xian xiang* [several problems about Chinese publishing industry].
<http://news.xinhuanet.com/book/2005-02/04/content_2543278.htm>, 2005, [accessed 10.11.05].
- ²⁰ **National Bureau of Statistics of China**, ed. ref. 14.
- ²¹ **People's Republic of China.** *The Regulations on Copyright Collective Management 2005*, 2005, p. 1.
- ²² *Ibid.*, p. 6.
- ²³ *Ibid.*, p. 11.
- ²⁴ *Ibid.*, p. 12.
- ²⁵ *Ibid.*, p. 9.
- ²⁶ *The Music Copyright Society of China.*
<<http://www.mcsc.com.cn/instro.aspx>>, [n.d.], [accessed 13.11.05].
- ²⁷ **People's Republic of China.** ref. 10, p. 41.
- ²⁸ **People's Republic of China.** ref. 21, p. 8.
- ²⁹ **People's Republic of China.** ref. 12.

Bibliography

A history of copyright.

<<http://www.intellectual-property.gov.uk/std/resources/copyright/history.htm>>, 2005, [accessed 09.06.04].

Barrow, E. New directions for CLA. *Serials*, 1998, 11(3), 242-245.

Berne Convention for the Protection of Literary and Artistic Works.

<<http://www.wipo.int/treaties/en/documents/word/e-berne.doc>>, 2004, [accessed 11.06.04].

Berne Convention for the Protection of Literary and Artistic Works.

<http://www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html>, [n.d.], [accessed 14.11.04].

Bollag, B. *Don't steal this book-text book piracy runs rampant in developing countries, costing publishers and authors millions of dollars.*

<<http://chronicle.com/free/v50/i30/30a03801.htm>>, 2004, [accessed 18.07.04].

Books and publishing in China.

<http://www.euromonitor.com/BOOKS_AND_PUBLISHING_in_CHINA>, 2003, [04.07.04].

Cain, R. *Content piracy in China: a massive problem. Is there any solution?*

<http://www.hollywoodreporter.com/thr/pwc/talking_display.jsp?vnu_content_id=1000446920>, 2004, [21.07.04].

Cao, L. Solemn Promise: China protects foreign copyrights. *Dialog File 30: AsiaPacific*, 1996, 25-26.

Caslon analytics profile: copyright collecting societies.

<<http://www.caslon.com.au/colsocietiesprofile.htm>>, 2002, [accessed 17.11.04].

Cavan, M. Digital copying: a voice from Canada. *Logos*, 2005, 16(1), 35-37.

China introduces regulations on collective copyright administration.

<<http://www.managingip.com/?Page=10&PUBID=34&ISS=14225&SID=494637&TYPE=20>>, 2005, [accessed 15.03.05].

China's market logic presents the pirate DVD player

<<http://www.smh.com.au/articles/2003/12/12/1071125653800.html?from=storyrhs&onclick=true>>, 2003, [15.07.04].

Chinese unis teach disrespect for rules of law.

<<http://bbs.chinadaily.com.cn/viewthread.php?tid=169642&page=6&extra=page%3D4>>, 2004, [accessed 30.10.05].

Chen, Q. *The marketing of electronic publishing in China*. MSc dissertation, Department of Information Science, Loughborough University, 2004.

Chynoweth, G. J. Reality bites: how the biting reality of piracy in China is working to strengthen its copyright laws. *Duke Law & Technology Review* [online], 2003. <<http://www.law.duke.edu/journals/dltr/articles/PDF/2003DLTR0003.pdf>>, [accessed 18.06.04].

Clark, C. *Collective administration of reprographic reproduction rights principles & practice: the British experience*, London: Copyright Licensing Agency, 1993.

Copyright.
<<http://www.city.ac.uk/library/using/copyright.html>>, [n.d.], [accessed 25.10.05].

Collecting societies: efficiency, monopoly, competition and regulation.
<<http://www.necg.com.au/pappub/papers-walker-collecting-mar01.pdf>>, 2001, [accessed 20.11.04].

Collective management of copyright and related rights.
<http://www.wipo.int/about-ip/en/about_collective_mngt.html>, [n.d.], [accessed 12.11.04].

Copyright guidelines.
<<http://www.smith.edu/deanoffaculty/copyright.html>>, 1999, [accessed 20.11.05].

Copyright Licensing Agency. *Annual review for 2003*.
<<http://www.cla.co.uk/about/review-03.pdf>>, 2003, [accessed 03.03.05].

Copyright Licensing Ltd (CLL).
<http://www.aut.ac.nz/student_services/PDF/Copyright%20DLE.pdf>, [n.d.], [accessed 02.02.05].

Crackdown on book piracy.
<<http://www1.china.org.cn/english/culture/56285.htm>>, 2003, [accessed 19.07.04].

Creswell, J. W., *Research design*, 2nd edn., London: Sage, 2003.

Davenport, N. *United Kingdom copyright & design protection*, Emsworth: Mason, 1993.

Davies, J. Publishers and copyright licence. *Interlending & Document Supply*, 1999, 27(2), 60-64.

Davison, P. Reprographic rights in Singapore: the story of CLASS. *Learned Publishing*, 2003, 16 (4), 243-247.

Di san ke-ni zhi dao wo guo ban quan bao hu zhi du de li shi he xian zhuang ma? [Lesson 3-Do you know the history of copyright protection system and it in current China?]

<<http://www.stcsm.gov.cn/learning/lesson/guanli/20011217/20011217-3.asp>>, [n.d.], [accessed 17.06.04].

Dietz, A. Legal regulation of collective management of copyright (collective societies law) in Western and Eastern Europe. *Journal, Copyright Society of the U.S.A.*, 2002, 49(4), 897-916.

The distribution process.

<http://www.kopinor.org/hva_gjor_kopinor/fordeling_av_vederlag/fordelingsarbeidet>, 2004, [accessed 12.12.05].

Distribution process.

<<http://www.kopiosto.fi/cgi-bin/isi3.pl?cid=kopiosto&mid=616&sid=20081>>, [n.d.], [accessed 12.12.05].

Drury, R. Publishing in China: developments since 1992. *Asian Libraries* [online], 1998, 7(5), 111-118.

<<http://www.emeraldinsight.com/Insight/ViewContentServlet?Filename=Published/EmeraldFullTextArticle/Articles/1730070501.html>>, [accessed 10.03.05].

Du, J., et al. An evaluation of the construction of information laws and regulations in China with recommendations for improvement. *Journal of Information Science*, 2004, 30(4), 321-336.

Dworkin, G. & Taylor, R. D. *Copyright, designs and patents act 1988*, London: Blackstone, 1989.

Fake Harry Potter novel hits China

<<http://news.bbc.co.uk/1/hi/entertainment/film/2092661.stm>>, 2002, [20.07.04].

Ficsor, M. *Doctrine- collective management of copyright and related rights at the triple crossroads: should it remain voluntary or may it be "extended" or made mandatory?*

<http://portal.unesco.org/culture/en/file_download.php/4393e8012f163bf14b045706188c7533Ficsor+Eng.pdf>, 2003, [accessed 17.11.04].

Fink, A. *The survey handbook*, London: Sage, 1995.

Foreign rightsholders.

<http://www.kopinor.org/hva_gjor_kopinor/fordeling_av_vederlag/utenlandske_rettighetshavere>, 2004, [accessed 10.01.05].

Franzer, L. & Lawley, M. *Questionnaire design and administration*, Chichester: Wiley, 2000.

Fraser, M. *Proposed Australia – China free trade agreement.*

<[http://www.copyright.com.au/reports%20&%20papers/China%20and%20Australia%](http://www.copyright.com.au/reports%20&%20papers/China%20and%20Australia%20)

20FTA.pdf>, 2005, [accessed 10.01.06].

Fu, X. & Fang, S. *Zhu zuo quan fa xiu zheng an de san ge zhong da tu po* [Three points of the new Copyright Law].

<<http://library.zsu.edu.cn/law/content.asp?type=1&id=16>>, 2002, [01.08.04].

Gervais, D. J. *Collective management of copyright and neighbouring rights in Canada: an international perspective.*

<http://cjlt.dal.ca/vol11_no2/pdfarticles/gervais.pdf>, [n.d.], [accessed 20.11.04].

Gervais, D. J. *Electronic rights management and digital identifier systems.* The advisory committee on management of copyright and related rights in global information networks. 14-15 December 1998, Geneva.

<<http://www.press.umich.edu/jep/04-03/gervais.html>>, [accessed 15.01.04].

Giavarra, E. *Preliminary analysis of legal aspects in current business models*

<<http://egd.zsub.uni-goettingen.de/tecup/d4-2a4fv.pdf>>, 2000, [accessed 21.11.04].

Gillham, B. *Developing a questionnaire*, London: Continuum, 2000.

Gorman, G. E. *Qualitative research for the information professional*, 2nd edn., London: Facet, 2005.

Gross disposable household income in the Tees Valley 1995-2003.

<www.teesvalley-jsu.gov.uk/reports/1&f/athinc05.doc>, 2005, [accessed 10.11.05].

Guibault, L. *The reprography levies across the European Union.*

<http://www.ivir.nl/publications/guibault/reprography_levies.doc>, 2003, [accessed 23.01.05].

Hadley, C. & Barrow, E. Licensed document supply: the role of IFRRO. *Interlending & Document Supply*, 1997, 25(2), 73-74.

Hane, P. J. Copyright Clearance Centre unveils digital-rights-management services, signs Dow Jones as first customer. *Information Today* [online], 2000, 17(6), 55-56.

<<http://proquest.umi.com/pqdweb?did=55274131&sid=1&Fmt=4&clientId=5238&RQT=309&VName=PQD>>, [accessed 10.01.06].

Hardy, R. L. *The future of UK university presses in the electronic environment.* PhD thesis, Department of Information Science, Loughborough University.

Hill, K. CIS-a collective solution for copyright management in the digital age. *Copyright World*, 1998, PT76, 18-25.

How does CAL collect and distribute funds.

<http://www.copyright.com.au/info%20sheets/CR07_collect%20&%20distribute.pdf>, [n.d.], [accessed 20.01.05].

IFRRO newsletter.

<http://intranet.ifro.org/news/2005_2_news.pdf>, 2005, [12.01.05]

IFRRO newsletter.

<<http://intranet.ifro.org/news/news12000.html>>, 2000, [10.12.05].

IFRRO newsletter.

<<http://intranet.ifro.org/news/news199.html>>, 1999, [accessed 10.12.05].

IFRRO statement on the digitisation of printed materials supported by the Authors' Coalition.

<http://intranet.ifro.org/papers/ifro_ac_joint_2004.pdf>, [n.d.], [accessed 12.01.05].

Intellectual property rights policy and the Internet.

<<http://europa.eu.int/ISPO/legal/en/access/saxby/ch4/doc2.html>>, 1999, [accessed 27.03.05].

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations.

<http://www.wipo.int/treaties/en/ip/rome/trtdocs_wo024.html>, [n.d.], [accessed 14.11.04].

International Federation of Reproduction Rights Organisations. Members.

<<http://www.ifro.org/show.aspx?pageid=members/lfro&culture=en>>, 2005, [accessed 20.01.05]

International Intellectual Property Alliance. 2001 special 301 Report: People's Republic of China.

<<http://www.iipa.com/rbc/2001/2001SPEC301CHINA.pdf>>, 2001, [accessed 16.07.04].

International Intellectual Property Alliance. 2005 Special 301 Report: People's Republic of China.

<<http://www.iipa.com/rbc/2005/2005SPEC301PRCrev.pdf>>, 2005, [accessed 20.11.05].

Introduction to collective management of copyright and related rights.

<http://www.wipo.org/academy/en/publications/Coll_of_documents_on_IP/pdf_img/10_INTROTOCOLLMANAG.pdf>, [n.d.], [accessed 12.11.04].

Introduction to reprography in copyright legislation.

<<http://www.ifro.org/show.aspx?pageid=copyright/intro&culture=en>>, 2005, [accessed 09.01.06].

Levies: Distortion effects on trade in the single market.

<http://europa.eu.int/comm/internal_market/copyright/docs/management/consultation-rights-management/eicta_attach2_en.pdf>, 2004, [04.03.05].

Jones, H. *Publishing law*. London: Routledge, 1996.

Katz, A. *The potential demise of another natural monopoly: new technologies and the future of collective administration of copyrights.*

<http://papers.ssm.com/sol3/papers.cfm?abstract_id=547802>, 2005, [accessed 20.11.05].

Kopinor, *Annual report for 2003.*

<<http://www.kopinor.org/content/download/1021/7763/file/annual-2003.pdf>>, 2003, [accessed 07.04.05].

Koskinen-Olsson, T. & Greenwood, P. eds. *IFRRO detailed paper I different models of RRO operation in practice*

<<http://intranet.ifro.org/papers/operat.html>>, 1997, [accessed 19.01.05].

Koskinen-Olsson, T. & Greenwood, P., eds. *IFRRO general papers II reprographic reproduction.*

<<http://www.ifro.org/upload/documents/Reprographic-Reproduction-1997.pdf>>, 1997, [accessed 19.01.05].

Koskinen-Olsson, T. & Greenwood, P., eds. *IFRRO general papers III RROs and IFRRO.*

<<http://www.ifro.org/upload/documents/RROs-and-IFRRO-1997.pdf>>, 1997, [accessed 20.01.05].

Koskinen-Olsson, T. & Greenwood, P., eds. *IFRRO general papers IV emergent RROs.*

<<http://www.ifro.org/upload/documents/Emergent-RROs-1997.pdf>>, 1997, [accessed 19.01.05].

Kuang, W. *The development of electronic publication in China*

<<http://libres.curtin.edu.au/libre9n1/wenbo.htm>>, 1999, [accessed 28.06.04].

Legislation.

<<http://law-ref.org/BERN/kw-legislation.html>>, [n.d.], [accessed 14.11.04].

Li, M. *Rang fa lu wei ban quan ji ti zu zhi shuo hua* [The base of collective management of copyright in China]

<http://www.legalinfo.gov.cn/pfzx/2003-02/11/content_12919.htm>, [n.d.], [accessed 06.08.04].

Li, N. China protects Intellectual Property Rights: Part 02. *Dialog File 30: AsiaPacific*, 1995, 15-16.

Library Association. *Professional issues.*

<http://www.la-hq.org.uk/directory/prof_issues/dcrris_4.html>, [n.d.], [accessed 20.10.05].

Lie, E. *Unauthorised Reprographic reproduction copyright works – a global overview of statistical surveys etc.* National Seminar on Reprographic Rights, 12 January 1996, Blantyre Malawi.

LISU. *Average prices of British and USA academic books*

<<http://www.lboro.ac.uk/departments/dils/lisu/pages/publications/abpi.html>>, 2005, [accessed 20.10.05].

LISU. *Publishing and book trade statistics.*

<<http://www.lboro.ac.uk/departments/dils/lisu/list04/pub04.html>>, 2004, [accessed 23.07.04].

Liu, A., Zhu zuo quan shi yong shou ce [Notebook of Copyright], Beijing: People Press, 2004.

Liu, J. et al. *Zhong guo chu ban nian jian 2002-2004* [China Publishing and Press Statistics 2002-2004], 2002-2004.

Publishers Licensing Society. *Mandate handout.*

<<http://www.pls.org.uk/docimages/3.pdf>>, 2004, [accessed 28.09.04].

Ma, Y. A possible model of a licensing agency system for publishing industry in China. MSc dissertation, Department of Information Science, Loughborough University, 2004.

Managing copyright internationally.

<http://www.copyright.com.au/info%20sheets/CR23_managing%20copyright%20internationally.pdf>, [n.d.], [accessed 10.08.04].

The market for books and publishing in China.

<<http://store.justchina.com/maforboardpu.html>>, 2003, [accessed 17.07.04].

Marks, D. S. & Turnbull, B. H. *Workshop on implementation issues of the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT)*

<www.wipo.org/documents/en/meetings/1999/wct_wppt/pdf/imp99_3.pdf>, 1999, [accessed 25.11.04].

Mechanical reproduction.

<<http://www.mcsc.com.cn/english/Licensing.htm>>, [n.d.], [accessed 15.12.05].

Milliot, J. *Book export inched up in 2003.*

<<http://www.publishersweekly.com/article/CA409524.html?pubdate=4%2F12%2F2004&display=archive>>, 2004, [accessed 17.07.04].

Moore, N. *How to do research: the complete guide to designing and managing research projects*, 3rd edn., 2000, p. 121.

The Music Copyright Society of China.

<<http://www.mcsc.com.cn/english/aboutmcsc.htm>>, [n.d.], [accessed 13.11.05].

The Music Copyright Society of China.

<<http://www.mcsc.com.cn/instro.aspx>>, [n.d.], [accessed 13.11.05].

National Bureau of Statistics of China, ed. *China statistical yearbook*, Beijing: China Statistics Press, 2005.

Neigel, C. Piracy in Russia and China: a different U.S. reaction. *Law & Contemporary Problems* [online], autumn 2000, 179.

<<http://www.law.duke.edu/journals/lcp/articles/lcp63dAutumn2000p179.htm#H1N3>>, [accessed 16.06.04].

New York times co. V. Tasini (00-201) 533 U.S. 483 (2001) 206 F.3d 161, affirmed.

<<http://supct.law.cornell.edu/supct/html/00-201.ZS.html>>, [n.d.], [accessed 11.01.06].

Norman, S. *Copyright in public libraries*, London: Library Association, 1999.

Oppenheim, A. N. *Questionnaire design, interviewing and attitude measurement*, 2nd edn., Pinter Publishers.,1992.

Owen, L. *Buying and selling rights in literary works: a practical guide for publishers in the PR China*, China: Law Press, 2003.

Pearce, G. *Fines & Charges in public libraries in England & Wales*, 18th edn., 2005.

People's Republic of China. *Copyright Law 1990*, Beijing: Commercial Press, 2003.

People's Republic of China. *The Regulations on Copyright Collective Management 2005*, Beijing: China Legal System Publishing House, 2005.

People's Republic of China. *The Regulations on the Protection of the Right of Communication through Information Network 2006* (draft).

<<http://www.ncac.gov.cn/servlet/servlet.info.InfoTopicServlet?action=topicclist&id=30>>, 2005, [accessed 10.11.05].

Pirates and the paper chase.

<http://www.unesco.org/courier/2001_03/uk/culture.htm>, [n.d.], [accessed 19.07.04].

Piracy and other problems

<<http://www.caslon.com.au/ipguide25.htm>>, 2005, [accessed 17.07.04]

Policy and law.

<<http://www.tdctrade.com/alert/cba-e0211a.htm>>, 2002, [accessed 20.04.05].

Project Plan.

<http://www.lboro.ac.uk/departments/dils/disresearch/pelican/projectplan.html#_Toc499372055>, [n.d.], [accessed 24.01.06].

Publishing.

<<http://www.china.org.cn/english/features/38320.htm>>, [n.d.], [accessed 05.01.06].

Qu, S. *Zou xiang ji ti guan li de zhu zuo quan* [Collective management of copyright in China].

<<http://www.jcrb.com/n1/jcrb308/ca181220.htm>>, 2003, [07.08.04].

Radio and TV programmes.

<<http://www.kopiosto.fi/cgi-bin/iisi3.pl?cid=kopiosto&mid=590&sid=20081>>, [n.d.], [accessed 23.01.05].

Reichardt, C. S. & Rallis, S. F. *The Qualitative-Quantitative Debate: new perspectives*, San Francisco, CA: Jossey-Bass, 1994.

Reprography in copyright legislation.

<<http://www.ifro.org/laws/>>, 1999, [accessed 10.08.04].

Retti, G. LAURIN.

<<http://laurin.uibk.ac.at/>>, 2004, [accessed 15.01.06].

Review of the EC legal framework in the field of copyright and related rights commission staff working paper.

<<http://www.eicta.org/files/Simplification%20paper-144757A.pdf>>, 2004, [accessed 03.04.05].

Robson, C. *Real world research*, 2nd ed., Oxford: Blackwell Publishers, 2002.

Rochelandet, F. *Are copyright collecting societies efficient?*

<<http://www.serci.org/2002/rochelandet.pdf>>, 2002, [accessed 20.11.04].

The role of collective management.

<http://www.pch.gc.ca/progs/ac-ca/progs/pda-cpb/pubs/regime/02_e.cfm#6>, 2003, [access 17.11.04].

Rudolph, J. *The administration of reprographic rights and the establishment and role of RROs.* WIPO national seminar on copyright and collective management of copyright and neighboring rights, 29-30 October 2003, Addis Ababa.

<http://www.kopinor.org/opphavsrett/artikler_og_foredrag/the_administration_of_reprographic_rights_and_the_establishment_and_role_of_rros>, [accessed 20.01.05].

Rumpus about Karaoke use fee.

<<http://www.cpahk ltd com/cn/publications/e043mx.html>>, [n.d.], [accessed 01.08.04].

Schepens, P. *Guide to the collective administration of authors' rights.*

<<http://unesdoc.unesco.org/images/0012/001206/120677e.pdf>>, 2000, [accessed 10.01.06].

Shao, M. & Zhang, X. *Zhu zuo quan ji ti guan li de fa zhan he wan shan* [The development and completion of collective management of copyright in China].

<http://www.chinalawedu.com/news/2004_5%5C13%5C1653308035.htm>, [n.d.], [06.08.04].

Sheat, K. *Copyright licensing – the benefits of collective licensing organisation for owners and users of printed copyright works.*

<<http://www.copyright.co.nz/cllarticle.htm>>, [n.d.], [accessed 17.11.04].

Shepherd, P. Latest developments in copyright licences. *Managing Information*, 2003, 10(1), 16-17.

Shu zi zhe sheng zhong guo chu ban yin huan [The statistics of Chinese publishing industry].

<http://www.xmwb.com.cn/wxpd/ds/sjdt/t20040621_105007.htm>, 2004, [accessed 15.07.04].

Sinacore-Guinn, D. *Collective administration of copyrights and neighbouring rights.* Boston: Little, Brown, 1993.

Silverman, D. *Doing qualitative research*, London: Sage, 2000

Sivam, K. P. Thoughts for collective administration of rights through the formation of a Reproduction Rights Organisation (RRO) in Singapore. *Proceedings of IPA international conference*, 1998, 4TH, 184-186.

Smith, E. H. *Intellectual Property protection as economic policy: will China ever enforce its IP laws?*

<http://www.iipa.com/rbi/2005_May16_China_CECC_Testimony.pdf>, 2005, [accessed 25.10.05].

Sources of revenue-distribution pools.

<<http://www.mcsc.com.cn/english/Distribution.htm>>, [n.d.], [accessed 15.12.05].

State Council Information Office, Intellectual property protection in China: Part 02: China's basic position regarding the protection of intellectual property rights. *Dialog File 30: AsiaPacific*, 1994, 8-10.

Statistical surveys.

<http://www.kopinor.org/hva_gjor_kopinor/statistikk>, 2005, [accessed 15.12.05].

Stephen King offers serial novel over Internet.

<<http://archives.cnn.com/2000/books/news/07/24/stephenking.internet.ap/>>, 2000, [accessed 15.01.04].

Stewart, S. M. *International copyright and neighbouring rights*, London: Butterworths, 1993.

Stokkmo, O., ed. *IFRRO detailed papers distribution of remuneration.*

<<http://www.ifro.org/upload/documents/Distributionof-Remuneration-1998.pdf>>, 1998, [accessed 05.02.01].

Submission to the public consultation on implementation of Directive 2001/84/EC on the resale right for the benefit of the authors of an original work of art.

<http://sun.serving-host.com/dacs/pdfs/dacs_submission.pdf>, 2005, [accessed 10.01.06].

Tejan-Cole, A. *Collective management of copyright and related rights.*

<http://www.belipo.bz/e_library/articles/collectivemanagementofcopyright.pdf>, [n.d.], [access 20.11.04].

Teng, S. All together now. *Copyright World*, 2005, No.150, 8-9.

Turner, C. *Controlling your intellectual property.*

<http://www.illustratorpartnership.org/downloads/ControllingIP_03.pdf>, 2002, [accessed 14.01.2005].

United States Trade Representative. *2001 national trade estimate report on Foreign Trade Barriers*

<http://www.chinaonline.com/issues/econ_news/USTR/ustr_iprp.asp>, 2002, [accessed 18.07.04].

Universal Copyright Convention.

<http://www.unesco.org/culture/laws/copyright/html_eng/page1.shtml>, 2005, [accessed 10.01.06].

Valuing creativity in the 21st Century

<http://www.info.gov.hk/ipd/eng/information/studyaids/piracy_hk_china_c.htm>, [n.d.], [24.07.04].

Wall, R. *Copyright made easier*, London: Aslib, 1998.

What is CLA.

<<http://www.cla.co.uk/about/index.html>>, [n.d.], [accessed 15.06.04].

What is collective licensing of copyright material?

<<http://www.intellectual-property.gov.uk/faq/copyright/collective.htm>>, 2004, [accessed 17.11.04].

Who can be a member of MCSC?

<<http://www.mcsc.com.cn/english/membership.htm>>, [n.d.], [accessed 15.12.05].

Wo, F. *Guan cha zhong guo tu shu chu ban ye de peng zhang xian xiang* [several problems about Chinese publishing industry].

<http://news.xinhuanet.com/book/2005-02/04/content_2543278.htm>, 2005, [accessed 10.11.05].

Wo, N. & Wan, Y. *Zhong guo dian zi chu ban ye cun zai de wen ti* [The problems of Chinese electronic publishing].

<<http://www.people.com.cn/electric/1130/c1120.html>>, [n.d.], [accessed 10.06.04].

Wo guo dian zi tu shu fa zhan kuai si nian xiao shou zeng zhang jin qian bei [Increase of E-book sales are about one thousand times than four years before].

<<http://info.publish.hc360.com/2005/05/2409465957.shtml>>, 2005, [accessed 05.01.06].

Wu, H. *Wan shan wo guo he li shi yong zhi du de li fa jian yi* [suggestions about completion limitations on rights in Copyright Law of China].

<<http://www.legalline.com.cn/2004-8/20048491833.htm>>, 2004, [accessed 30.10.05].

Wu, H. *Zou xiang bo er ni* [Go to Berne].

<<http://www.bookhome.net/jishi/other1/zxben.html>>, [n.d.], [accessed 19.06.04].

Xiao, Q. & Hong, J. *Zhong guo chu ban ye mian lin de tiao zhan* [The challenges of Chinese publishing industry].

<http://www.usc.cuhk.edu.hk/wk_wzdetails.asp?id=2556>, 2003, [17.07.04].

Xu, C. Impact of international copyright conventions on China's copyright system.

Dialog File 30: AsiaPacific, 2000.

Xu, K. *The copyright of electronic publishing in China*. MSc dissertation, Department of Information Science, Loughborough University, 2004.

Yanan Ma interview with Anthony Watkinson, information consultant, London, 24 November 2004.

Yanan Ma interview with Bob Campbell, Blackwell President, Oxford, 17 November 2004.

Yanan Ma interview with Chao Xu, deputy director general of the NCAC, Beijing, 23 February 2005.

Yanan Ma interview with Chaoxu Zhu, the vice president of the China national publishing industry trading corporation, 05 March 2005, Beijing.

Yanan Ma interview with Richard Gedye, Sales and Marketing Director for the journals division of Oxford University Press and Fiona Bennett, Head of Rights and New Business Development of Oxford University Press, Oxford, 17 November 2004.

Yanan Ma interview with Si Gao, the director of the legal division of copyright department of the NCAC, 01 March 2005.

Zai zhong guo chu shu bu an quan [It is not safe to publish a book in China].
<<http://www.gdwh.com.cn/cultureArtist/displayTwinkleSkyDetail.jsp?>>, [n.d.], [accessed 16.07.03].

Zhang, L. *Shuo bu jin de dao bu gan su (1)* [The endless story of privacy (1)].
<<http://book.sina.com.cn/2003-04-23/3/5093.shtml>>, [n.d.], [accessed 19.07.04].

Zhang, L. *Shuo bu jin de dao bu gan su (2)* [The endless story of privacy (2)].
<<http://book.sina.com.cn/2003-04-23/3/5093.shtml>>, [n.d.], [accessed 19.07.04].

Zhang, W. Copyright rules take effect. *China update*, [online], 2005, 1-2. *China update*.
<http://www.ssd.com/files/tbl_s29Publications%5CFileUpload5689%5C9252%5Cchina.pdf>, 2005, [10.12.05].

Zhao, C. et al, eds. 2002 book publishing statistics of China (Table 1: titles). *China publishing* [online], 2004, issue No.9, 28.
< <http://www.cnpeak.com/eng/ejour/ejour9.pdf> >, [accessed 05.01.06].

Zheng, C. & Pendleton, M. *Copyright Law in China*, North Ryde, N.S.W., Aystrakua: CCH International, 1991.

Zhong guo ban quan bao hu zhong xin [China Copyright Protection Centre].
<<http://www.booktide.com/news/20030423/200304230027.html>>, 2003, [accessed 01.08.04].

Zhong guo biao zhun shu hao [China standard book numbering].
<<http://www.shdf.gov.cn/newshtml/868.jsp>>, 2003, [20.07.04].

Zhong guo jiao yu gai ge yue fa zhan qing kuang [Reformation and development of education in China].
<<http://www.edu.cn/20040107/3096922.shtml>>, [n.d.], [accessed 10.11.05].

Zhong guo wen zi zuo pin zhu zuo quan xie hui [The Literary Works Copyright Society of China]
<<http://www.ccopyright.com.cn/1centre/copyrightclub.html>>, 2001, [accessed 18.08.04].

Zhuan jia hu yu jin kuai wei zhu zuo quan ji ti guan li li fa [The law of copyright collective management].

<http://www.xwcbj.gd.gov.cn/xwfb/news_brow.asp?id=105>, 2002, [accessed 17.08.04].

Zhou, L. *Zhong guo ban quan shi yan jiu de ji ge wen ti* [Several questions about the research of Chinese copyright history].

<<http://www.people.com.cn/wsrmlt/jbzl/zhoulin/A101.html>>, [n.d.], [accessed 17.06.04].

Appendices

Appendix 1 Interview Questions for UK Publishers

1. From publishers' perspective, what is the RRO and what is its primary function?
2. Could you explain the relationship between the CLA and publishers?
 - a) How do the publishers work with authors and their organisations (i.e. ALCS) in the licensing agency system? (i.e. who represented authors and publishers to negotiate the percentage of distribution between authors and publishers)
3. Are publishers satisfied with what the CLA are doing?
 - a) Is there any improvement of CLA publishers expect or hope for in the near future?
4. Based on current situation you know in China, do you think it is the time to develop an RRO in China? If not, what is the main obstructive factors preventing its development in China today?
5. If China intends to develop a RRO, what kind of preparation should it do from now on? (The need for preparation if China developed an RRO)

Show and explain the model to the interviewee

6. Could you tell me what parts you think it will work and what are the impractical parts? And the reason why they are impractical.
 - a) Do you have any other suggestions to my model, e.g., Changes that should be made to the model?
7. There are three types of licensing system in operation: non-voluntary licensing; voluntary licensing with back-up systems in legislation; voluntary licensing systems, which one you prefer to China publishing industry? And why?
8. For the founding of a brand new licensing agency system in China, which sector you think is suitable to begin with (like the CLA began with education)?
9. What kind of role should the Chinese Government play to assist the development of such a licensing agency system?
10. Do publishers realise that only a low fee is possible for Chinese users at the beginning?
11. Do you have any suggestions to the Chinese publishers if China begins to develop a RRO in the future?

Appendix 2 Interview Questions for UK Experts

1. From publishers' perspective, what is the RRO and what is its primary function?
2. Are publishers satisfied with what the CLA are doing?
 - a) Is there any improvement of CLA publishers expect in the near future?
3. Based on current situation you know in China, do you think it is the time to develop an RRO in China? If not, what is the main obstructive factors preventing its development in China today?
4. In China, compared with other countries, the differential between the price of copying and buying the complete book is far less than in the Western countries; while foreign books are relatively expensive and difficult to get. Does it mean that Chinese Government will see less benefit to develop an RRO for the domestic publishing industry?
5. If China intends to develop a RRO, what kind of preparation should it do from now on? (The need for preparation if China developed an RRO)

Show and explain the model to the interviewee

6. Could you tell me what parts you think it will work and what are the impractical parts? And the reason why they are impractical.
 - a) Do you have any other suggestions to my model?
7. There are three types of licensing system in operation: non-voluntary licensing; voluntary licensing with back-up systems in legislation; voluntary licensing systems, which one you prefer to China publishing industry? And why?
8. For the founding of a brand new licensing agency system in China, which sector you think is suitable to begin with (like the CLA began with education)?
9. What kind of role should the Chinese Government play to assist the development of the licensing agency system?
10. Do publishers realise that only a low fee is possible for Chinese users at the beginning?
11. Do you have any suggestions to the Chinese publishers if China begins to develop a RRO in the future?

Appendix 3 Interview Questions for Chinese Rights Holders

1. Do Chinese publishers/authors know what the RRO is and what its primary function is?
2. What is the main problem the Chinese publishing facing now? Is there any evidence showing that photocopying is damaging Chinese publishing industry?
3. Do you believe that collective management of copyright is very useful way to protect their interests?
4. Are Chinese publishers/authors glad to the establishment of an RRO in China? And which kind of help or support would publishers/authors give to the proposed RRO?
5. Based on current situation you know in China, do you think it is the time to develop an RRO in China? If not, what is the main obstructive factors preventing its development in China today?
6. If China intends to develop a RRO, what kind of preparation should it do from now on?

Show and explain the model to the interviewee

7. Could you tell me what parts you think it will work and what are the impractical parts? And the reason why they are impractical.
 - a) Do you have any other suggestions to my model?
8. There are three types of licensing system in operation: non-voluntary licensing; voluntary licensing with back-up systems in legislation; voluntary licensing systems, which one you prefer to China publishing industry? And why?
9. If China decided to establish an RRO, from publishers'/authors' points of view, do you see the RRO's primary function as being policing, educating people or distributing funds?
10. For the founding of a brand new licensing agency system in China, which sector you think is suitable to begin with (like the CLA began with education)?
11. In China, compared with other countries, the differential between the price of copying and buying the complete book is far less than in the Western countries; while foreign books are relatively expensive and difficult to get. Does it mean that Chinese Government will see less benefit to develop an RRO for the domestic publishing industry?

12. What kind of role should the Chinese Government play during the development of the licensing agency system? Is it the most practical way in China to establish a sort of RRO that Chinese Government, the GAPP or the National Copyright Administration just decides to establish a new department for the reproduction rights? And why?

Appendix 4 Interview Questions for NCAC

1. Does the Chinese Government think it is the right time to develop an RRO in China and why? If not, what is the main obstructive factors preventing its development in China today?
2. What is the main problem the Chinese publishing facing now? Is there any evidence showing that photocopying is damaging Chinese publishing industry?
3. In China, compared with other countries, the differential between the price of copying and buying the complete book is far less than in the Western countries; while foreign books are relatively expensive and difficult to get. Does it mean that Chinese Government will see less benefit to develop an RRO for the domestic publishing industry?
4. Has the China government or other organisations contacted IFRRO? Is there any action or plan from China to prepare the establishment an RRO now?
5. If China intends to develop a RRO, what kind of preparation should it do from now on?

Show and explain the model to the interviewee

6. Could you tell me what parts you think it will work and what are the impractical parts? And the reason why they are impractical.
 - a) Do you have any other suggestions to my model?
7. There are three types of licensing system in operation: non-voluntary licensing; voluntary licensing with back-up systems in legislation; voluntary licensing systems, which one you prefer to China publishing industry? And why?
8. If China decided to establish an RRO, from government points of view, do it see the RRO's primary function as being policing, educating people or distributing funds?
9. For the founding of a brand new licensing agency system in China, which sector you think is suitable to be begin with (like the CLA began with education)?
10. What kind of role should the Chinese Government play during the development of the licensing agency system? Is it the most practical way in China to establish a sort of RRO that Chinese Government, the GAPP or the National Copyright Administration just decides to establish a new department for the reproduction rights? And why?

Appendix 5 Interview Questions for IFRRO

1. Does IFRRO think it is the right time to develop an RRO in China and why? If not, what is the main obstructive factors preventing its development in China today?
2. Did China government or other organisations contact IFRRO at this stage? Is there any action from China to prepare the establishment of an RRO now?
3. If China intends to establish an RRO, will IFRRO be glad to support it? And Which kind of help or support would it supply to China?
4. If China intends to develop a RRO, what kind of preparation should it do from now on?
5. If China decided to establish an RRO, from IFRRO's points of view, Whether China relevant authority see the RRO's primary function as being policing, educating people or distributing funds?

Show and explain the model to the interviewee (please see the other two attachments)

6. Could you tell me what parts you think it will work and what are the impractical parts? And the reason why they are impractical. Moreover, do you have any other suggestions to my model?
7. There are three types of licensing system in operation: non-voluntary licensing; voluntary licensing with back-up systems in legislation; voluntary licensing systems, which one IFRRO prefer to China publishing industry? And why?
8. For the founding of a brand new licensing agency system in China, which sector you think is suitable to be begin with?
9. In China, compared with other countries, the differential between the price of copying and buying the complete book is far less than in the Western countries; while foreign books are relatively expensive and difficult to get. Does it mean that Chinese Government will see less benefit to develop an RRO for the domestic publishing industry?
10. What kind of role should the Chinese Government play during the development of the licensing agency system? Did IFRRO realise that it is impossible to establish an RRO in China without the full and whole heart support from government?
11. Does IFRRO think it is a wrong way if Chinese Government, the GAPP or the National Copyright Administration just decides to establish a new department for the reproduction rights? And why?

12. Does the IFRRO or its members have any plan or ideas to cope with the changes brought by the electronic publishing, in which case, publishers would do anything by themselves and photocopying has to face the threaten from printing or digital copying?

Appendix 6 Interview Questions for HKRRLS

1. Would you like to introduce general information about the HKRRLS such as the ownership, the management structure, the size of users, turnover, etc.?
2. When the HKRRLS was founded in 1995, did it meet any difficulties? If yes, what kind of difficulties did it have and how did the HKRRLS solve them?
3. Why did the HKRRLS decide to adopt a voluntary licensing system at the beginning? Is there any legal base or back-up from the Hong Kong Copyright Ordinance to the RRO system?
4. How did the HKRRLS decide the standard charge at the beginning?
5. Whether HKRRLS see the Society's primary function as being policing, educating people or distributing funds?
6. Is there any relationship or co-operation between HKRRLS and the Hong Kong government now? Did the Hong Kong government give any support to HKRRLS at the beginning?
7. Does the HKRRLS issue any digital licences? From your perspective, would you like explain the relationship between the RRO and electronic publishing?
8. What is the main problem the HKRRLS faces now?
9. For the founding of a brand new licensing agency system in Hong Kong, which sector did it begin with (like the CLA began with education)?

Appendix 7 Interview with UK Rights Holders and Experts

Fiona Bennett and Richard Gedye

1. Background

Richard Gedye has worked in academic journals publishing since 1986 and is currently Sales and Marketing Director for the journals division of Oxford University Press. He is co-chair of the NISO/EDItEUR Joint Working Party for the Exchange of Serials Subscription Information and chair of COUNTER, an international organisation which maintains, develops, and manages a common code of practice for vendor-based online usage statistics. Fiona Bennett is the Head of Rights and New Business Development of Oxford University Press. Both of them are quite familiar with RROs. In particular, Richard has been to China several times. However, he said he was not familiar with Chinese publishing enough to evaluate the model. Accordingly, he recommended I contact Chris Paterson, Ian Taylor and Lynette Owen who had not only worked in publishing industry a long time but also know China a lot. Through the interview, nevertheless, they made some very interesting points about the future of the RROs and some suggestions for the development of the RRO in China based on the example I give to them. Apparently the IFRRO contacted the National Administration several years ago and there is experience of developing an RRO in Singapore. "Actually, I am quite excited about the RRO in China. It would be a fantastic development", Fiona said.

2. Publishers and the RROs

From the publishers' perspective, Fiona thought the key role of the RROs is providing a valuable tool to help publishers to ensure copyright compliance by users of the content of their publications. The RRO in the UK, the CLA, handles photocopying business from educational institutions, business, government, etc., and collects money on behalf of publishers in systematic way. Besides that, Richard thought it is the organisation which ensures that if people are using the publishers' content by

photocopying, publishers can get some sorts of compensation for it and also ensures everyone pays share of the advantage from the content publishers and authors worked out , on the contrary, people take more care to pay for subscription or original sales

It is true that compared with other incomes, the revenue from the CLA is really small for publishers. It is quite interesting that CLA does have a problem with both collecting revenue and also being a policing authority. From Richard's point of view, in some way, it would be nice that both roles can be more separated. In other words, clearly, if people who were using content without any kind of commission would be prosecuted by sort of separate organisation from the organisation involving in collecting money. Because if somebody is committing an offence, it is very often going to be somebody who might be publishers' customer as well. It is then not necessary a good idea to be prosecuting your own customers. The American music industry has already prosecuted people who downloaded music illegally. "There is a school of thought that it was not particularly a good idea to prosecute the people who you hope to be your customer or pay for the content."

There is a general debate in England that the development of CLA should be more focused on educating people than on prosecuting people or more on improving their mechanisms for users to pay more easily or more on making clear what they paid for are going to be better quality -"something you pay for will be guaranteed for its quality and for knowing you can do it legally". It is very good and important for the users that the RRO could go around different organisations to educate people and explain their system, especially when people in the organisations are not very clear whether what they are doing is legal or not. On the whole, the RRO should give the opportunity to the users to do photocopying legally before they do it the wrong way, which they even do not realise. Compared with UK, the notion of the RRO is brand-new in China, so that the education function of the Chinese RRO is even more important for the RRO and the users. There is a long way to go to educate Chinese citizens what they should do and why they should do it, and only then it will be possible to collect money and prevent the copyright infringement when people are clear whether what they are doing

is right or wrong.

It was said that publishers in the UK did not trust the CLA; however, Richard and Fiona both thought the relationship between publishers and the CLA has improved. The main reason why the publishers did not trust the CLA was that its system was not very good. In the past, the distributions were very sporadic and the communication between publishers and the CLA were not very good so that the process of allocating revenue from CLA was quite slow. Meanwhile, the revenue from the CLA was disappointing. Now, CLA is trying to create more organisational transparency and increase its working efficiency. Fiona also pointed that if China planned to develop a RRO, at the beginning, the proposed RRO would need to pay attention to its relationship with the publishers, trying to speak to all the parties in the community regularly and trying to gain the trust from publishers. "It should consider itself as the parts of the whole community and working with the whole area community - not work on its own". Richard pointed out that in the UK, another reason why publishers did not trust the CLA is that CLA owned by publishers and authors and sometimes, these owners have conflicts between each other. Most of time, CLA is in the middle so that it is impossible to satisfy both sides at the time. It would be interesting to know how the ownership of the RRO would work out in China. The Chinese founders might initially choose trusted people or organisations that could actually work together.

3. The RROs and electronic publishing

Richard admitted that it is true that in the UK, digital distribution may become more important than photocopying. The PLS and CLA are wondering what their future role will be. For example, there are some rights for which the CLA collects money in particular, like course pack creation making multi photocopying of articles to put into students' course packs that probably would be getting less. Meanwhile, more and more, there will be bilateral agreements between publishers and customers like libraries for online access on the terms of agreement which includes the rights such as permission to make multiple copies for certain purposes. It is increasingly likely that advanced

technology might be developed so that the publishers could declare their rights but not sell articles in advance, but involve in a preview to the users. "In other words, if you do something with the content, the little message will reach to the publishers to report that someone did this."

Richard recently had two interesting conversations with a Japanese librarian and an American publisher respectively. The Japanese librarian talked to Richard about open access journals where the authors pay for the distribution and users get the article for free. In that case, because it is free for the users, anybody can get articles from the online service. There is a problem that how the publishers know the total usage was for the particular article. The Japanese librarian told Richard that the digital rights mechanism now are getting more and more efficient so that it is possible for publishers to introduce some sort of tag or virus into the articles which can send messages to the central repository or a trusted party every time an article is downloaded by someone and to record where the article was downloaded from. At the same time, the American publisher who published very expensive and heavily researched content for its industry newsletter told to Richard that at the bottom of individual page of their PDF files, it says that "you are not allowed to download for this journal to email this page to anybody, if you do, we will know who you are and who you send it to".

From these examples, it is now recognised that the DRM has already reach a high level. Richard thought it is quite likely that in the future, the bilateral agreements between publishers and customers will take certain amount of money in advance. In that case, the publishers will be like the telephone company which can allows the user to make a phone call and then send the bill to him or her. "You can imagine it will be more and more like that". The point is that the large publishers will collect money by themselves by sending the bill. However, it could be argued that there would be some roles for intermediary third parties to receive all information about usage and send the bills on the behalf of some small publishers – "it is a little bit like the subscription agent nowadays". It might be the best role which might fit the term of the RRO if they want

to do that. On the other hand, the RRO would find that it has to compete with other commercial organisations in this area in the future like booksellers, subscription agencies or even Google if it thought it would be a good business.

Currently, there is a problem of DRM that there are lots of competing systems. As a consequence, every company hopes that majority of publishers would adopt its system and lead its criterion to become the industry standard. Alternatively, there is an opportunity for RROs to get together and design a DRM technology or system exactly for the publishing industry – “specific standard, specific metadata, specific transactional features which would be just right for publishers”. If the RRO got together to developed some kinds of software, they would be in an very interesting position for themselves either doing all collecting themselves or at least licensing the software and keep the software up to date.

It is a good question that whether the publishers are willing to cooperate with the RRO to develop the software or not. Even quite large publishers like OUP or Blackwells often want a third party to do things for them where the amount of the work is quite a lot but the revenue is quite small. However, very large publishers always prefer to do things by themselves. On the other hand, there might be tens of thousands of small communities and organisations all around world. The publishers like OUP really do not want to have bilateral relationships with them, because it would just be too expensive. Under those circumstances, publishers need some intermediary party which can establish the bilateral relationships with all these small “customers” while they establish relationship with publishers all around world. “In that case, the publishers will be glad to participate, but it would have to involve very significant trust.” Richard thought although the RRO probably have advantage about it, the publisher would perhaps be prepared to trust somebody like PLS, because it is a party owned by publishers’ organisation - PA, ALPSP, PPA. “We would trust PLS more than trust an ordinary commercial enterprise.”

Richard also indicated that the OUP would be interested to work with the CLA in developing a digital licence. It has already become a grey area to define what digital material is. From publishers' point of view, digital licences would be the online delivery agreement between itself and libraries while allowing users to scan the photocopying material would be called as digital licence as well. As mentioned before, the OUP is quite interested in bilateral online access agreements; however, it also pays attention on the digital licence which has already issued by the CCC in the America to companies who want to distribute the digital materials internally among the colleagues. In that case, the OUP do not have the bilateral agreement directly with every American corporation, although the OUP thought it would lead to a large amount of extra income. "It is quite useful to have a blanket licence and we are very glad to delegate this right to the third party".

4. Is it the right time for China to develop an RRO?

As mentioned before, if it would appear that the RRO would move from a role in traditional printing environment to a role in the electronic environment. There would be much more room for Chinese RRO living in the future. Although electronic publishing probably is not as advanced as UK publishing in China now, it will get more advanced over time. In that case, it would be the right time to develop an RRO in China to establish the principle from the ground-up. From UK publishers' point of view, because they are just on the brink of developing sale and distribution of online materials in China, if China decided to develop an RRO, the UK publishers would feel much more comfortable about expanding their sales in China -- "because we will have a feeling that there are someone else working for ensuring the specific licence and helping us pick up any other revenue, otherwise, it would be either not allow or not very efficient." The educational role of Chinese RRO is quite important as well. Because people always think the electronic material is available and free, the RRO should educate people to pay for the electronic material and supply a way for the users to pay for it.

Accordingly, it is quite interesting to make clear that the attitude of developing electronic publishers in China was – if the Chinese publishers felt strongly that as they developed electronic publishing, they might want to ensure that they got money for all the usage. Richard deemed that the support of the indigenous Chinese publishing community would be quite important during the development of the RRO in China. Richard asked that whether there is a mechanism at moment between the CLA and any Chinese organisation to transfer the revenue from UK back to Chinese publishers. After discussion, the conclusion is that even the CLA want to pay it, it cannot find who should pay. Under those circumstances, it can be argued that there would be some benefit for Chinese community in terms of collection out of China. Meanwhile, if there were an RRO in China, there would be some benefit not only for the rights holders but also for the users, especially a lot of educational institutions. From international publishers' point of view, the Chinese educational institution would have the ability to use the content they do not currently use at low cost. It will be very useful for academic research to supply a channel to pay for it otherwise they have to do it illegally. It is a kind of extra benefit to not when trying to persuade the government. Richard also mentioned an idea that when the organisations pay the fee for the content, they will try to use more material within the licence's ambit. This, it would be seen as an encouragement of user to use the content legally.

Richard was sure that any realistic UK publishers would indeed realise that only a low fee would be possible in China at the beginning. In China, a lot of people already pay for copyright fees when they buy the book. There will parts of the royalty going to the publishers and authors, although they do not know that. From a conceptual point of view, there is not a lot of different between paying some money for a book and paying some money for photocopying. If the revenue were very disappointed at the beginning, the OUP would fully understand that the new RRO would take time to get people to pay and it would be willing to wait some time. Richard and Fiona both agreed that there should be some legislation for the RRO.

Richard admitted that the publishers are really worried that if it began with a low fee, it would be difficult to increase the fee in the future. On the other hand, "low fee is better than no fee", he said. If it started with a quite high fee, nobody will pay it. Reviewing the way that the UK publishers sold their electronic journals in China, it is clear that they tended to pay more attention to force the door open and get market share instead of maximising the amount of money at the beginning. "When you starting off, it is easier for a few years to say to your customer that you are obviously finding the value of the material, because you are using it so much. At the beginning, you cannot conclude it will be going to be valuable, because it is all in the future. This is the reason why we give the free extract description to prove the value of the content." The publishers have the patience to lobby customers for increasing the revenue when the customers understand the content is valuable.

Richard pointed out that there is a basic problem that if China want to develop an RRO. Who in China would want to develop an RRO; it would need some ground support within China. "It is interesting that when you chose it as your work, were you aware whether there is any significant sector of Chinese community which would be keen to develop it to move forward." If IFRRO has already contacted with Chinese Government, it indicated that IFRRO thought it would be a good idea to develop an RRO in China. Moreover, if IFRRO plans to go ahead, it is necessary for IFRRO to convince the appropriate people in the Chinese Government who want it developed.

It is interesting that there was a lot of pressure on the Chinese Government by other countries to force China to join in the various copyright Conventions and also to solve the piracy problem. When China negotiated to join in WTO, there were some requirements to solve the copyright issues. China took certain action about copyright protection so that it could join in the WTO. After that, the overseas publishers felt they would go into the Chinese market and be protected.

Because China has now joined the WTO, there should be still plenty of pressure on

China about the copyright protection. Richard supposed that why one would be looking to see whether there was any other pressures which would be deserved on Chinese Government by either the publishing industry or by the national government to encourage the Chinese to build an RRO. Richard also imagined that from government's point of view, the concept of RRO would be probably quite obscure and would not be focused on any kind of pressures, so it would have to be done by publishers. "It is an interesting question whether Chinese publishers would be in the position to put much pressure on the Chinese Government. Without thinking much deeper and harder about it, it would be difficult to me seeing which kind of pressure would be put." Finally, Richard suggested strongly that the model should be discussed with any Chinese authority who understands the issues. It is the most important interviewee to test the feasibility of the model and find their attitude about this issue.

Bob Campbell

1. Background

Bob Campbell has been the President of Blackwell Publishing, which is the world's largest privately owned, independent, academic publishing company, since 2001. He is also a past Chairman of the International Association of Scientific, Technical and Medical Publishers; the Treasurer of CrossRef; a Board Member of the Publishers Licensing Society; the Trustee and Chairman of the International Network for the Availability of Scientific Publications; and is on the Council of the Publishers Association and the Joint Information Systems Committee. He has always been interested in new technology and copyright. This led him to being Chairman of the Adonis Consortium throughout the 1980s. The interview did not follow the question list designed before (please see Appendix) completely, because much of time, Mr Bob Campbell led the interview.

2. Publishers, copyright and CLA

When Bob was first in publishing, he thought copyright seemed very boring. And he said his thought was very typical when people started with publishing, because they did not see the significance of copyright either. When they had more experience in publishing, they would understand how important it is to create the marketing structure. On the whole, publishers are very lazy about copyright. He gave an example that if he gets a lawyer in to speak on copyright, there will be just relatively few people coming to listen, while if someone talks about open access, there will be dozens of people attending.

It is true that compared with other income, the revenue from CLA is relatively small for most publishers. However, for some journals which are heavily copied for teaching, it represents significant amount money for the publisher. For example, Blackwells has a journal called the *Journal of Advanced Nursing* and the revenue from CLA is around GBP 40,000 p.a. For the small publishers, the income form CLA can be very important as well.

In the medical publishing, there is also a big secondary income called non-subscription revenue from selling reprints of articles to the pharmaceutical industry. It is a relevant business although it is not from photocopying. Pharmaceutical companies usually want to get permission to reprint large numbers of copies of articles to give to doctors. Publishers need copyright protection to protect them from unauthorised reprinting, but they did not have good protection hitherto. The pharmaceutical company might make copies for commercial purposes without paying anything. If there were good protection, publishers would earn a lot of money from selling reprint rights. Blackwells could make GBP 8 to 10 million a year from the pharmaceutical industry.

Publishers asked the RROs to send those reprinting requests to them, but in some cases the pharmaceutical companies can get copies of articles from a document supply house commercially without the knowledge of the publishers. Blackwells discovered a document supply house in Switzerland supplying articles to pharmaceutical companies at quite low prices without paying to the publisher anything or paying a very small royalty through the RRO in Switzerland. It claimed it had the authority to sell the documents to the pharmaceutical industry through its arrangement with the RRO in Switzerland. It is undermining Blackwells' market where it is sold directly. As a result, Blackwells is taking action at the moment on it.

Publishers also worry that students can just request their department to photocopy parts of textbooks, etc. As a result publishers could lose a lot of sales. For this reason, parts of the negotiation with the CLA, and then CLA with Universities' administration is a blanket deal to cover the materials they copied. It is interesting that there is system in Holland called IPRO (International Publishing Right Organisation) which was trying to work out every little transaction of copying in Holland -"very detailed statistics", so they can pay publishers based on the amount of all the small transactions they worked out. It was so expensive to do it that no money came to publishers in the end.

Accordingly, Bob preferred the UK system that CLA and users negotiate a lump sum every year based on a survey to work out how to allocate the money. This is not a survey to work out what is universities should pay. Adopting lump sum payment can cut out huge amounts of cost and the RRO is able to pay quite a lot of money to the rights holders. "You have to compromise these different copying systems - you have to select a good solution but not necessarily the best solution." In practice, the really detailed system based on per use charging is too expensive to run.

3. The RROs and electronic publishing

The role of RROs may reduce over time, because they are both involved in policing and collecting revenue for photocopying, but in the electronic age, the publishers can sell the product themselves and collect money directly by themselves. Meanwhile, IT makes very detail surveys much easier. However, when electronic publishing systems first appeared, the publishing community got into a panic because they thought it was much easier to break copyright with the Internet and electronic delivery and digitisation. Nevertheless, it then appeared that the digital environment was better controlled.

"One of the early pioneers of copyright in the machine age, Charles Clark, pointed at that the answer to the machine lies in the machine- so the answer is the problem as you can program the machine to set up the system, register the usage and collect the fee." These days, such systems are known as DRM. A central organisation might run a database of copyright items and who owns them. "So if you want to write an essay about copyright and publishing and you find a book which is very useful, your inquiry will automatically be picked up by this central electronic database. They will find you where you can get the book but also lets you copy and tell you the copyright charge. And you may pay for the central agency that will pass the money to the publishers." Hence, Bob deemed that the RROs might be replaced by this kind of central electronic database based on DRM. He also mentioned that one of the persons who is quite active with DRM in the CLA from authors' side, Chris Barlas, called "rightscom", is trying

to develop such DRM systems to leave the RROs behind and suggested I talk with him because some of his ideas would replace the traditional RROs.

Personally, Bob believed electronic publishing will take over from traditional publishing, though there will still be hard copies around. Traditional book sales are still pretty good and important for Blackwells. Though it sells a lot of hardcopy journals, increasingly, usage is based on online delivery. "To deliver a journal in hardcopy is quite inefficient so the journal publishing's migration is suitable to online delivery".

In theory, the electronic system is very efficient. There is an example that the BLDS (British Library Document Supply Centre), at its peak before electronic publishing really developed sold 4 million articles per annum. Now, the publishers have direct arrangements and licences with major libraries and the like which allow libraries to buy the original articles from publishers and develop the electronic relationship between libraries and publishers so that those libraries do not need BLDS any more. For that reason, the volume of sales of BLDS has dropped to 2.5 million articles a year. In general, the intermediary role the RRO or BLDS has in the photocopy age is gradually being taken away by the publishers. It is still argued that there could be a smaller role of RROs helping to police the situation for publishers, developing some central database service belonging to the organisations like rightscom, dealing with photocopying of books and other hardcopy materials, but it would not be such a central role as they have at moment with photocopying. The RRO was developed in the pre-electronic publishing world, so it will be a big challenge for the RRO to survive in the electronic publishing world. For China, the question would be that if China would set up an RRO, it should look the future and plan for ten or twenty year's time. It will have an important policing role but also may become an agency to handle digital rights to help people to find how to pay and whom to pay.

4. Is it the right time to develop an RRO in China?

Western publishers would welcome an RRO in China as an agency to look after the interests of copyright holders. It would be seen as a central resource and meeting place, so if the Western publishers had copyright difficulties in China, they could go to the Chinese RRO for advice. "It will be very helpful for the Western publishers, for example, when they are negotiating with Chinese organisations about online document delivery, they could seek the advice of the Chinese RRO." It is also very good in term of public relations that overseas publishers will then feel that China is taking copyright seriously. In addition, it would be argued that parts of the reason to have an RRO in China is that in the long term, Chinese copyright would be valuable aboard because more and more people would write in English from China. Under those circumstances, China would collect revenue on the behalf of these Chinese authors – "the overseas market will eventually return revenue to China".

How difficult it is to develop an RRO in China depends on the Chinese Government – the political view should be considered in this case. "The Chinese Government could make an RRO happened overnight if they said that copyright should be respected and the universities should pay for the systemic copying to publishers." Given that China is a big country, it is too complicated for libraries and universities to find the individual rights holders. If China had one central agency for the whole country, it would be much easier for the Chinese community to obey copyright because they could find a way to pay and whom to pay. In the West, courts would certainly take into an account the practicality to paying the copyright fee, so when publishers in the USA ran a big copyright case, part of the case was that publishers had established the easy way for users to pay for copyright. "If we had not had such a successful CCC, we would have lost some legal cases, because the judge would claim that it is too difficult for the users to pay the fee."

Bob felt an important question is to consider the role of Chinese Government through the development of the RRO, because the RROs have been set up differently in

different countries. The RRO in Norway is very much dominated by authors and they have a central government simply voting amount of money every year for the RRO so it does not need do any collection. The government decided that the RRO should get 50 cent per head for the whole population. Thus, the RRO simply works out how to pay that money through. Because it is author led, it is always looking to pay the money to authors but not to publishers. In the USA, the CCC is largely controlled by publishers, so it does a very good work to collect money for publishers. Though authors still get some money from the CCC, the emphasis is on the publishers. "It is the other side of the coin from Norway". Germany's levy system is more pro-author and pro-user, but less pro- publishers. "So you see each country is different. China first of all needs to decide the balance of representation on any committee or board that controls the RRO." In the UK, ALCS representing the authors and PLS representing the publishers both have 50% ownership each of CLA. CLA collected money from all the users and then pays the money by the ALCS and PLS who pay authors and publishers. Theoretically, this structure could keep the balance of interests.

In Bob's view, the model (please see the Appendix) is very good regarding both the organisational structure and its function. Bob suggested adding one user representative respectively into the education committee and business committee to represent users' interests in those specific areas. Furthermore, considering the long term role of the Chinese RRO mentioned before, in the diagram, the function "collecting and distributing" should be divided into two – international and national. It should become a two-way process to also provide a route to collect revenue from overseas instead of one way just from Chinese users to foreign rights holders. The link between "international cooperation" and "collecting and distributing" also should be indicated in the diagram. Finally, the Copyright Tribunal is a good idea to keep the balance among all the parties. However, in the UK, the problem with this concept is that the Copyright Act has some loose areas and rather than draft very exact legislation, they simply said that some situations were too difficult to decide so they left it to the Copyright Tribunal. In the UK, when publishers and universities' administration were

negotiating what universities should pay for photocopying, they disagreed with each other. As a result, the case went to the Copyright Tribunal. The problem was that it was so expensive that the decision could not satisfy both of the sides. From Bob's perspective, it would be better to have clear legal regulation rather than just have the Copyright Tribunal. On the other hand, the law itself is always going to grey or difficult areas, so it is necessary to have the Copyright Tribunal.

Bob agreed that only a low fee is possible for Chinese users at the beginning. However, he also indicated the worry from the UK publishers that if it began with a low fee, it would be very difficult to increase in the future, especially, as the Chinese are very tough negotiators. Now, Blackwells is negotiating with CALIS (China Academic Library and Information System) - "They are very very tough to negotiate with price." Moreover, parts of the role of such cooperation is "managing expectation" that is in China some organisations have to manage the expectations of the international publishing companies to explain what is possible. For the Chinese publishers, Bob suggested that they should support the development of the RRO and give the funds for its foundation - "you need a business plan for the first five years showing how to take and use the money, and you need some commitments from government for paying royalties into the RRO and a model that how the revenue comes to the RRO against initial investment from publishers and whoever".

David Croom

1. Background

David Croom used to be an academic books publisher for 30 years and quit 8 years ago. He is working for an online education company, nelsoncroom as a co-founder and director. It creates e-learning programmes for delivery on the web. Accordingly, David is very familiar with academic publishing; however, he explained that because the CLA is completely irrelevant with what he is doing now and he is not in the market place, he does not know enough about the requirements from the commercial publishing to the CLA currently. In addition, he has little sense of Chinese the publishing industry. All the discussion about the Chinese topic is based on the information and examples I gave to David. The most important example I told him was that one of my friends though if he has to pay for photocopying, it is a kind of overprotection of copyright. Meanwhile, I also explained the problem Lynette Owen mentioned.

2. What the RRO is and its future from publisher's perspective.

From David's experience, which is social science and humanities academic publishing, the RRO serves a useful intermediate role in providing a market for books and journals. In the pre-digital era, RROs were really quite important in providing a market place for chapters of books and the like, so people could buy the rights to use the chapters. Some publishers worried that photocopying would threaten their original book sales, David stated that from his time as a publisher, he did not see any evidence that photocopying was damaging the sales of hardcopy.

It has been said that the CLA was not able to recruit the most capable people because the money they paid was not very interesting. Although it is a non-profit company, it is also a commercial organisation. One of the difficulties CLA had is that they never could recruit really strong sales and marketing people. David claimed that he is skating on very thin ice that running the CLA is something that nobody is really good at publishing because "it is a backwater". The situation is that "if you are working for an

interesting organisation in Beijing, someone asks you if you are willing to work in Mongolia". Another point is that compared with hardcopy sales, the income from photocopying is really tiny for the publishers. As an economic entity, CLA is relevantly unimportant. It is a kind of rule of commercial life, even the rule of life generally, that only what is really important actually can get attention. On the other hand, in respect of copyright, CLA is necessary and has gotten its purpose. In a word, it is principally a police force rather than a source of revenue.

In the digital era, the market might be changing, because intelligent publishers should be doing this much more themselves by digitizing their products and allowing people to buy the rights for single use or multiuse from their website. Moreover, people are used to using printers more and more rather than a photocopy machine. There is a tendency like what is happening with video now which is replaced by DVD gradually; or telegraph was replaced by fax; and now fax is replaced by email. So maybe the CLA is a necessary agency during the era of mass photocopying. However, as photocopying becomes less and less important- "it becomes to a dead elephant and the CLA is just looking after the dead elephant."

David was not convinced that CLA has a long term future, but it is important to remember that although technology seems to be a revolutionary process, in fact it is only an evolutionary process now. A lot of people still want to buy traditional print rights, so it means that CLA will not be dead immediately and if it develops itself, it can find a new role. But the initial role it was created for will change, because of the ability to buy the rights directly from publishers. Another point is that although the technology has advanced so that photocopying is not quite so important but it still has its place, the financial distribution from the CLA is still important for a lot of small publishers who are unable to invest in the full electronic delivery, while the big publishers like OUP and CUP can organise it themselves.

3. Publishers, CLA and customers

PLS indicated before that CLA is in a very difficult position between the publishers and customers now. Sometimes, so as to remain the relationship between them and customers, publishers will not take any action when CLA reported that the customer is involving in copyright infringement. David mentioned a case to explain his opinion that twenty-five years ago, Taiwan is the major centre of piracy in academic publishing and then when it wanted to engage in international commerce, it tightened up the law. When David visited China in 1987, he went to a number of major universities. There were sections of these libraries he was forbidden to go to, because there was kept all the pirate stuff. And he understood that the piracy situation reduced very much in China now. It would be certainly the case that fifteen years ago, the British government did not want to get too excited with Chinese Government about piracy because both sides knew it would be going on, but the feeling was, as China develops economy and engages with the rest of world, it will solve the piracy itself – “It has to, otherwise in other parts like software which is much more important than book, it will get into the trouble in the way the Taiwanese did”.

However, David was not sure that the principles could apply to individual organisations. It became clear that a number of drug companies were not only photocopying a lot of journal articles and distributing among their researchers but also are large subscribers to STM (Science, Technology and Medical journals). Publishers will not ignore the copyright infringement in which their large subscribers involve. They are going to warn them first and if they continue to do it, publishers will make a public fuss. Because the protection of patent rights is terribly important for pharmaceutical companies, they are afraid that if their researchers are shown to be breaking the law, and then their own business will be weakened. As a result, they will obey the law. In this process, there will be a lot of negotiation between publishers and customers.

4. Is it necessary to develop an RRO in China now if the whole publishing industry is moving to electronic era?

It is probably not. But what is important to look at is what the biggest statistics on the usage of material are. David had no idea about the structure of publishing in China other than he understands now there are tens of thousands of publishers in China and large amounts of materials are being produced. He also does not know how much of the Chinese publishing industry is controlled by government while how much is private. But he guesses that the private sector, even if small, is going to be very technically aware. If that is the case, they understand about the copyright protection and they will be in the position to do it themselves. David thought normally, Chinese industries are remarkably innovative, so he assumed that even the few would be more technically aware than the equivalent in the UK.

If in China, the electronic publishing is not so advanced as it in the UK, maybe there are two roles for such an RRO. If the perception of Chinese material among the Chinese users is that the copyright is not important, then it needs an RRO for the policemen function. If from commercial points of view, photocopying is thought as a threat to the sales of book or it is thought that photocopying is a new distribution channel, then it need an RRO for its tax collector function. If the tax collector role in China is not important, the policemen role will be potentially important -“do Chinese students and academic understand they cannot abuse the copyright law?” David suggested that if the thought that paying for photocopying is overprotection of copyright is typical among Chinese citizens, it is necessary for the RRO to educate people.

5. Is it the right time to develop an RRO in China now?

Western books in China are too expensive for Chinese students to buy them. As a result, maybe there is a role for an RRO to regulate and supply the market. Because the product has a high price and it should be passed to the final customers, while the normal method does not work, so it needs an interim method not only for the

customers to obtain the knowledge but also for the publishers and authors to protect their economic interests. Its policemen role will make Chinese citizens understand that they cannot get them free and ignore the copyright law. The existence of CLA is based on the general understanding of the copyright among students and other users.

David absolutely agreed with Lynette's opinion that if Chinese Government thinks the RRO is important for the domestic Chinese market, it will take some actions about it; it will never do something about it in order to protect foreign publishers. However, it is a case that when Taiwan tried to develop its significant computer industry, U.S claimed that it would create sanctions again Taiwanese technical goods unless Taiwan would tighten up its copyright and patent protection. On the analogy of Taiwan's experience, when Chinese Government thinks it is worth to do it or is threatened fiercely from outside, it maybe will take some actions.

The answer to the question relies on how important the RRO is for the domestic publishing industry. It seems that through the discussion, it is not very important domestically because on the one hand, the Chinese book is so cheap; on the other hand, there is not yet a willingness of cultural change. If there is not a willingness of cultural change, it will be a very good economic argument for pushing the policemen role. In the terms of above reasons, it is not yet the right time to develop an RRO in China now because it is not yet necessary. However, it will eventually become necessary some time – "China will have to this in the force of time." For example, when China will develop pharmaceutical industry, it will become excited about patent protection and copyright.

The RRO cannot change either the Chinese political environment or economic situation. The only reason that putting an RRO in China is to educate the population overtime on the value of intellectual property. It is an arrangement which will be necessary maybe for 20 years. David also suggested using the term "intellectual property" instead of the term copyright, because it is the language eventually making

people understand what in people's mind is as valuable as the chicken in the market.

Sally Morris

1. Background

Sally Morris is the Chief Executive of the Association of Learned and Professional Society Publishers (ALPSP) which is the international trade association for not-for-profit publishers and those who work with them. Before that she spent 25 years as a real publisher, including 11 years running a programme of 50 medical journals, and several years in charge of copyright and licensing (during which time she played an active part in drafting the PA-JISC model licence for electronic journals). As a publisher, Sally is an ideal person to conduct interview because her opinion could present a group of publishers. On the other hand, Sally is not familiar with Chinese publishing industry. Under those circumstances, I supplied most of information related with Chinese publishing and other areas to her during our conversation.

1. From the publishers' perspective, what is an RRO and what is its primary function? For publishers, there are two primary functions. One is to provide mechanism for safeguarding rights holders in the environment where they cannot do business directly. Second is to collect distribution money for those rights holders—"copyright protection and revenue collection and distribution".

Although compared with other incomes, the income from CLA was really a small part few years ago, it has become more important revenue for publishers and has grown in the recent years. But it is not as important as their primary sales. In the situation where there is a conflict between the licensing income and primary income, it is quite understandable that publishers will always save the primary income. Meanwhile, publishers always worried that photocopying would threaten their original book sales and they were unwilling to involve in the RRO at the beginning. Sally did not think there was very much evidence about that happened. And also, it is very interesting that at beginning, people were worried about photocopying as a threat. Now, people have the exactly same worry about digital copying. Nobody knows whether that will true or whether once again – "they will be worrying unnecessarily". One of the thing that

CLA and PLS tried to do is to find out what actually happened when they license some digital copying – “see whether it does hurt primary sales”. It is very important to collect the information to see whether publishers’ worry is right or not. Compared with journal publishers, educational publishers might sell one copy to every student while a journal publisher or reference book publisher only sell one copy to library. As a result, if there is only one copy in the library and it is copied, it does not hurt the publisher, because they will only sell one copy in any case. But if it were a book, it would sell to a large amount of students. And if it were copied, it would not sell more copies to student. Thus, it is more worrying for educational publishers.

2. Are publishers satisfied with what the CLA are doing and any improvement of CLA in the near future?

Generally yes. They worried about something mentioned before like digital copying; they always think CLA could be done better: the money could be shared more fairly; things could be done more quickly-“but that’s normal, human nature”. And the publishers think CLA keeps the balance the income between publishers and authors. That is recently changed which is very interesting. There used to be a very complicated arrangement for journal between publishers and authors. According to the new agreement, authors actually will get more money from journal copying. ALPSP does think the balances are very fair.

Publishers are looking forward to improve computer system to distribution the money much faster and better, looking at more sophisticated ways of sharing the money, so it is fairer. And they are trying to find the way that CLA can have the rights to do licensing for digital materials. But it is very difficult, because of the worry mentioned before. So there are improvements and changes that publishers are hoping for and encouraging CLA to do. On the whole, the main improvement is from digital licensing, but next step from that, which Sally thought is that some publisher are interested in and some publishers are still frightened of allowing CLA to do some licensing for things that publisher publish digitally.

3. The future of the RROs

In the electronic publishing environment, publishers can sell their product and issue the licence directly to their customers, whilst CLA focuses on photocopying. Under this circumstance, it is possible that publishers will avoid using the CLA. What is very interesting is something that ALPSP heard about a CLA's meeting in the summer: the CCC, American similar organisation, has developed some licences which include some use in digital occasions. And that has turned out to be quite popular with customers. The reason seems to be, although it probably does not give many rights which they have already gained from publishers, the problem for customers is, every publisher has different licence. It is very difficult to be sure what you can do and what you cannot do. So what CCC has done which Sally thought is very good is to say if users find this licence, they can do the following things with all the digital content they chose the licence – “it provides the standard for the minimum level for all the licence you've gotten”. Customers find it useful, so it is a kind of possibility CLA might be able to do in the future.

There is another possibility that along with the development of electronic publishing, CLA maybe convert to other kind of organisation or disappear. It does not have to be CLA but it could be CLA, or CLA could turn something different. In Sally's opinion, what is certainly true is that the value of the licences CLA has now which allow photocopying and some digitisation will become less because customers are also getting those rights straight from publishers for electronic version. For example, if a university is paying a lot of money for a licence, and they say 75% of these journals they also have electronic licence from the publisher, they will want to give CLA less money. It is very difficult for CLA to argue with customer, because it is actually true. Sally believes, photocopying will not go away or replaced by printing in a short time. Although it is declining, there is still quite a lot of photocopying. However, certainly in this country, it is expected that it will be much less. Sally estimated it might be the same in China that although if someone want to build a new RRO, it could be a good idea if it could also deal with electronic copyright – “you need to do both”.

4. Is it the right time to build an RRO in China?

Yes, Sally thinks very much so. The sense UK publishers got over here is that the awareness of copyright in China has improved observably. And the RRO would be a strong way of making it possible to control UK publishers' copyright. It is an excellent time, because of the change in the attitude of copyright. Personally, Sally admitted that she did not know the Chinese situation well enough, but she supposed that it would depend how much money it is available, especially the universities to pay the licences.

A few years ago, even five years ago, Western publishers were very very worried because there was so much piracy. It has changed observably in the last few years, so UK publishers got a good impression about how the attitude has changed. There will be still a lot of education to do in the future. It is important for people to understand we are not just talking to protect Western publishers and authors, but also or even more to protect Chinese publishers and authors. As Chinese publishing become more and more independent, it needs protection.

5. Whether the UK publishers realise only a low fee is acceptable in China?

Yes, they would hope that would change over time, but it is exactly the attitude that the Western publishers have first started local editions of their publications. They were happy to give the licence at all, in many case, they started at low fee, because they wanted it to exist. And then over the years, they have made the fee more economic. Publishers from outside China would understand why the fee must be low. Increasing the fee is not impossible, it is much more possible than no fee at all. It is difficult to explain increasing the fee but therefore it is important to explain that the low fee is transitional. It is really necessary to start with low fee, it would be extraordinarily important that everybody knew it transitional fee.

6. What should government do from now on and what kind of licensing system it would choose?

It should do a lot of copyright education. In the university particularly, Sally suspected,

copyright education will be very important-writing articles, giving talks in conferences, trying to make sure that people in academic world, writers as well as readers understand what copyright is for and why just important in China as everywhere else. It would be quite difficult to develop an RRO if it did not have any legislation. If China wanted to do it, it would receive a great dealing of encouragement from IFRRO. It would try to introduce legislation to China as well

Sally would have said voluntary but from what she was told during the interview about the lack support of copyright, maybe it is necessary to be compulsory licensing agency system. Combination is a quite good idea which Sally have not realised that before the conversation-“It sounds a good idea”.

7. The suggestion of the model?

The model is very complicated, but if those organisations already exist, it perhaps has to be complicated. Sally was concerned that whether there are any connections at moment between publishers' association and CPCC and writers association and CPCC. The model is a bit like UK system and it is working well in the UK. Sally thought it is a good model to follow. According to the description, various activities the proposed Chinese RRO will do is exactly right and the structure designed is contributing to that RRO does guarantee balance between publishers and writers – “it looks a very sensible model”. In the model, so many of these government support organisations work for structure is exactly one of the things which is going to help. Perhaps this is the only way it can work. Whether educational sector which is chosen in the model doing a lot of photocopying depends on the way the teachers are teaching. Perhaps it is more common in the UK for teacher to assemble different materials to student to use. If the styles of teaching are different and use textbook all the time in China, there will be less photocopying.

At the same time, Sally supposed in the government department, quite a lot of copying happened. It would be very interesting question if they did the law then either they

could have to make any protection to government or they would have to keep them in the law. She hoped it would be second. In the way, its money is going from one hand to other hand, but it would be illogical if they did not apply the same law to government itself.

It is very important to get government interested and get government to want to do this because they believe they will look good if they do it. It is always important when someone want government to support something, he or she have to offer them the way they can look good. It is important to protect Chinese authors and publishers. The number of Chinese authors who are now having articles publishing in Western journal is quite high and it is growing all the time. That would be one thing the government should be hearing a lot in the last year. These authors' works deserve to be protected and their living is being protected. From point of view of what can influent Chinese Government opinion, it is likely to be the benefit to Chinese authors and Chinese business, and also the benefit to China as a member of international community, because they would be observing international standards. Not only UK but many countries would be very happy to put pressure on Chinese Government, because they very much want it happen. There is no doubt that there will be a lot of support and pressure from outside China.

Publishers should support the development of the RRO and get together to discuss the possibility and invite some visitors from other countries to tell them what are happening in other countries. They should get involved and it will be stronger if it has a lot of publishers are thinking about it, taking part it, and are on the committee. They should also give some funds because it will protect them in a long term. Finally, they should be patient, but not too patient because they should put pressure on the government. Not only the foreign publishers but also local publishers should put pressure on the government. It is important to let government know they are Chinese business and suffering. It will be very strong and different message from the message that non-Chinese organisation could say.

Lynette Owen

1. Background

Lynette Owen is copyright director and a rights specialist at Pearson Education in the UK and a strong supporter of the concept of RROs both as licensing bodies and as providers of education on copyright compliance whilst Pearson Education is a major beneficiary of the arrangement with CLA and the reciprocal arrangements with overseas RROs.

She has been visiting China regularly since 1982, not only to conduct licensing business but also to run training seminars for Chinese publishers on copyright and licensing matters; she is also running workshops for visiting Chinese publishers at Stirling University. Hence, Ms Owen was much more familiar with Chinese publishing industry, department policies and political environment than most other interviewees. Before the conversation, she has read my entire MSc dissertation. In this case, our conversation is already beyond a semi-structured interview but was a discussion with a few specific questions.

2. Is it the right time to develop an RRO in China?

It is a very difficult question to answer although developing an RRO in China is an interesting topic which has often arisen in copyright workshops. From Lynette's perspective, the Chinese political environment is one of the key factors which needs to be considered when discussions of the feasibility of developing an RRO in China are held. Comparison with other developing Asian countries' publishing industry and copyright protection may be very interesting and useful, however, it is a fact that China has a unique political environment. If someone were seeking to make it a reality, it would be very clear that only the Chinese Government could develop it. It follows that the next question will be – "how to persuade government to do it". In the shown model, the sectors began with the universities and pharmaceutical companies in which the majority of payments would go to foreign copyright holders, because the majority of materials universities and pharmaceutical companies copied are foreign works

published under licence in China, either in translation or in the original language. It may be very difficult to persuade government if it feels that developing an RRO will bring more benefit to foreign copyright holders instead of domestic copyright holders. As a result, Lynette suggested if a Chinese RRO were to be set up, a possibility might be for payment to be made initially for original Chinese works and only move later for foreign works. It would be a more persuasive reason for the government to develop an RRO to protect the economic interests for local authors and publishers at the first stage. "If the government finds photocopying is damaging the local publishing industry or Chinese authors are losing money because their books are copied without permission, the government would be more likely to seek to control it via an RRO."

The argument needs to be backed with some evidence whether unauthorised photocopying of domestic works is a large-scale problem or not in China at the moment and it may influence which sector would come into the scheme. Lynette also reminded me that I should distinguish between printing the unauthorised copies of book as piracy and photocopying parts of the book. Compared with original editions of foreign works which are difficult to obtain and quite expensive for Chinese citizens, domestic works are relatively easy to obtain with an acceptable price. Obviously, there is less incentive to photocopy domestic books in China where prices are currently so low. It is doubtful whether there is a large amount of need to photocopy local books and journals, given that the differential between the price of copying and buying the complete book is far less than in the Western countries. As a consequence, Lynette suggested that it would be wise to see if some kind of survey can be undertaken to get some indication of the scale of copying not only of journal articles but of parts of books or complete books in Chinese universities. The survey could be an informal one through discussions with some Chinese citizens who are studying or used to study in the universities to get some impressions about the scale of photocopying materials. If there some evidence that they do some photocopying of parts of Chinese books or even complete books, there will be a strong argument with the government that Chinese publishers and authors will be the main beneficiary of the RRO at the beginning.

Nevertheless, Lynette suspected because of the low price, photocopying Chinese books does not seem very common in China although there is evidence of unauthorised photocopying of entire foreign works. On a whole, there is a paradox that if the Chinese RRO began with original Chinese works, there could not be a justification for surviving; if it began with foreign works where there is a relatively large market, the government might not agree to develop it. Lynette mentioned that there are two factors which might affect this problem. One would be if "the Chinese political environment can be changed in the future". The other one would be if "book prices in China increase so that the differential between the price of copying and buying the complete book would be more pronounced in the future". Whether prices increase or the political environment changes in the future, this problem cannot be solved in a short time.

3. The education function of an RRO

The education function is very important for an RRO; however, it may be difficult to persuade the Chinese Government to develop it. Actually, the Chinese Government has already conducted a great deal of education on copyright, albeit not related to the establishment of an RRO. Currently, the UK does not have a government organisation which is formally responsible for copyright education. As a result, the RRO has taken over the responsibility. In contrast, in China, the government administration, National Copyright Administration (NCAC), has this responsibility. In other words, it is unnecessary to develop another purely education organisation.

Moreover, the RRO needs to be able to afford the cost of undertaking educational activities. It is impossible to develop an RRO as a purely educational organisation-it has to fund itself. CLA is able to do it now, because it is earning millions of pounds from licences and deducts a percentage of the revenue to cover its running costs.

Chris Paterson

1. Background

Chris Paterson is Chairman of the International Division of the Publishers Association (PA) and Chairman of Macmillan Education. Macmillan Education is one of the world's leading publishers of English Language Teaching materials for teachers and students of English as a foreign or second language. Its publishing operations in China are run on a joint venture basis with local Chinese publishing houses. Macmillan tends to provide authors and editorial services for joint ventures, whilst the local Chinese companies handle Education Ministry matters and sales and distribution. Macmillan Education is quite interested in Chinese publishing market.

Under these circumstances, Chris Paterson not only has a global view of the publishing industry, but also knows the Chinese publishing scene very well; he travels frequently to China. As a result, the interview with him mainly concentrated on the Chinese publishing industry and the proposed RRO. Through the conversation, Chris emphasized the importance of educating people to respect the copyright. We also discussed the paradox Lynette mentioned before - he gave me a quite different opinion about it.

2. Publishers, Authors and the RRO

Basically, publishers have both opportunity and a problem with regard to the exploitation of published works in different formats. Clearly, publishers can make things ranging from print materials to CD-ROM or to online materials. However, members of the public and libraries and other organisations want to secure rights to reproduce parts of the work for use by individuals or use by cooperation. If they are able to do that by photocopying or other reproduction methods, there is no way in which the original right holders can be rewarded for their works. In this case, many publishers created very short print rent. If someone did worldwide print run, especially for academic works. If someone did a print run of thousands of copies and individuals

photocopies without charge, then alternatively the original sale would be so low that the right holders would get much less remuneration for their works.

Hence, in the absence of being able to stop people photocopying the works, the sensible thing is to organise some forms of legitimate copying of the works which does not extend of copying the whole work but to parts of the work. It is an appropriate way in which individuals or institutions can legitimately copy parts of the work for non-commercial use. In such a way, as it does not effect the sales of whole work, and also makes it easy for the users to recompense the right holders sensibly, "in principle, publishers would think an RRO was a good thing."

In the UK, compared with other income, distribution from photocopying is really a small part. However, Chris emphasised that in other countries like Singapore, USA and Australia, authors are quite pleased with the income from RRO which recompensed them partly for people stealing their copyright.

3. Is it the right time to develop an RRO in China now?

"I think it is the right time to think about it." The Chinese Government and Chinese law are very much in favour of copyright since the introduction of copyright legislation in the early 1990's. However, UK publishers know from Chinese publisher colleagues that piracy in China is still serious. In fact, some of Macmillan Education's partners in China even employ one or two copyright protection officers on their staff to act on piracy case on their behalf. Thus, maybe it is necessary to have a greater degree of consensus between the publishing industry and the government organisation which owned the publishing industry about how to preach copyright generally. The fact that the government is against piracy is clear. There is no disagreement on the positive attitude of Chinese Government. However, there is still a lot of piracy in China currently affecting Chinese publisher rights and in some extent affecting the rights of international publishers who license copyright in China.

Because copyright legislation is relatively new in China, different provinces administer the law with different degree of seriousness. Chinese publishers hate the piracy of their books, but they have different emphases on how strongly they should be against the people who pirate their books. Hence, Chris deemed that there is a need for a bigger consensus in Chinese society that the face of piracy is wrong and Chinese publishers and authors are badly affected by it. "There really is a lot of work needed on it". The Chinese tradition over a very long time has been quite different to the Western tradition of copyright. However, now China can make money out of the copyright and there are more Chinese authors, designers, and originators who benefit from copyright. There is an understanding of importance of copyright and intellectual property in Chinese society. It will become very important for China as China grows and will find it important to have copyright protection mechanisms.

For an RRO to be succeeded there does have to be understanding by users, what copyright is and why copyright holders should be paid. This understanding is not always there in China, so more public education is needed. For the people who consider the RRO is a kind of overprotection of copyright, "if he was an author who wrote a piece of work and just sold a few copies, while a lot of people photocopied his work without charges, does he still think it is an overprotection of copyright?" Chris said. Going back to the original question on whether it is the right to develop an RRO in China, Chris deemed that better understanding is needed about the copyright before the development of the RRO.

For the question Lynette mentioned in the interview that there is less incentive to photocopy in China where local book prices are currently so low, Chris thought it is not really a question of money going out of the country. "China's attitude about money going out of the country is very funny - China is one of the richest countries in the world, but it is still considered as one of the poor countries." China's GNP per head is about a thousand dollars, although it is not like USA, Singapore or Hong Kong, compared to most of the countries in the world which do respect copyright including

Africa, Indian, and South American, China is richer.”

What is not understood is what is all about this – “China earns huge money from the copyright.” He asked two questions – “Who makes all the Nike shoes in the world, and who gets the benefit of the manufacture of Nike shoes? The answer is China. The reason why China gets such a big order of Nike shoes is the Intellectual Property in Nike shoes. Moreover, Macmillan prints all its dictionaries in China and China benefits by having an order of half million copies of Macmillan’s dictionaries. China is benefiting from copyright because if there is no copyright, the order would not be five hundred thousand, so China is getting the benefit from the systems of the copyright.” In a word, people need to be educated “because China cannot any longer on the one hand make all the Nike shoes in the world, on the other hand say they do not want to pay for trade marks and copyright”. Meanwhile, Chris admitted that although the book prices in China are quite low, it is increasing gradually now. The point of this problem, Chris insisted, is that no matter the book in China is expensive or cheap and no matter the Chinese citizens gets the book by buying or photocopying, they should respect the effort of right holders and pay for it – “if they are photocopying, they should pay”.

China signed the Copyright Conventions couple of years ago and signed the WTO several years ago, it is getting more engaged the world. From Chris’s point of view, China had a free choice whether to join the WTO or sign the Copyright Convention. However, once China did it, it has the obligation to make it into work. “If you cannot educate people, you have the obligation to find the way to educate them - that’s what the agreements said. China can leave them tomorrow, but if China wants to sign it, it has to do what the intention is.” Chris emphasised that if China wants to engage in international trade, it cannot have the rules it wants and not have the rules it does not want – “China cannot on the one hand sign all these agreements but does not obey them.” UK publishers do realise that just a low fee is possible in China at the beginning, but it is crucial that China needs to establish the principle. However, it should have enough money to cover the cost of doing this. Another point is that the

standard charges not only should be acceptable by foreign publishers but also Chinese publishers, GAPP (General Administration of Press and Publication) and Chinese authors.

4. The suggestions of model

According to the question Lynette mentioned before, the publications involved into the model are mainly from Western world. Chris suggested that the licensing system should be for Chinese books as well because “any copyright book should be protected even the money there is very small.” The sectors which Chris thought might begin with are education, business and health, including medical research publications for hospitals and doctors.

The whole issue for the model is that “it is a very fine system, but there is just one right holder – government because the upper organisations in the system are all under the control of government.” In which case, the main problem is that government should be persuaded. It is a difficult problem for China because most of the world brands are not Chinese and most of international books are in English. Another problem for this model is that the Publishers Association of China is a governmental body but technically it represents the Chinese publishers and likewise the Chinese Writers' Association. As a result, when the individual users pay the money, it will become very complicated in the system among the users, right holders and government. What is clear is that the government has the responsibility to educate the citizens to respect the copyright. People need to know why they should pay.

5. Compulsory or voluntary?

Chris preferred the voluntary system rather than compulsory system because he deemed that it is more practical. However, Chris admitted that maybe a voluntary will system not work in China, because all the upper organisations involved into the system are governmental bodies. Under those circumstances, it is very difficult to apply the voluntary system – “it probably need compulsory system to start in China.” Secondly,

currently in China, citizens do not even know which behaviour will break the law – “That is why you need education”.

From Chris’s perspective, under the compulsory system, although the system might be developed easier and quicker, the reason why the system can work is based on the law but not based on people’s awareness. This is the substantial difference between compulsory system and voluntary system from users’ points of view. In his opinion, people need to know why they should pay and they should understand that a lot of people worked hard for the book. Irrespective of whether China will develop an RRO in the future or not, education is crucial because if China began to educate when it planned to develop an RRO, it would be too late. In Singapore’s case, the reason why they adopted the combination system is that they knew they can make compulsory system for the education but they could not do it for business sector.

Ian Taylor

1. Background

Ian Taylor was the Director of International Division at the UK Publishers Association (PA) and was their expert adviser on Chinese Publishing, bookselling, and journal distribution. He has led trade missions for British publishers around the world, and run the PA's global anti-piracy campaigns, especially achieving success in India and China. He also played a role in the founding of World Book Day and the Supply Chain Committee. He left the PA in March 2004 after 20 years to set up his own international consultancy, Ian Taylor Associates, working for the organisations like the Independent Publishers Guild (IPG). He has been going to China for nearly 25 years, two or three times a year.

Ian Taylor has the similar background to Chris Paterson. He not only has a global view of publishing industry, but also knows the Chinese publishing scene very well with frequent trips to China. As a result, the interview with him mainly concentrated on Chinese publishing industry and the proposed RRO. We also discussed the question Lynette raised.

2. Publishers and the RRO

From publishers' perspective, the RRO reforms two functions: cover the income from photocopying and more importantly to provide and control the authorised "pressure-valve", which is the name given by Ian for copying, because basically publishers prefer their works were not copied at all. On the whole, although publishers welcome the income from the RRO, the income is not specially attractive to the publishers, but it is designed to be more attractive to authors than to publishers.

However, publishers recognised that it is not reasonable and possible to completely stop photocopying, so it is necessary to have a controlled limited amount of copying permitted. Ian thought when the RRO was first established in the UK, quite a few

publishers were very glad to sign up to support it although many of them did not encourage the development of the RRO – “publishers did not think it a good idea.” Despite the fact that in some cases, publishers were surprised by the income they got from the RRO, for the most part, publishers were very suspicious that the copying which was done was much greater than that for that which they receive income. Practically it is necessary to have an RRO, as mentioned before, because the publishers know clearly it is impossible to stop photocopying now, so that they have to find a way to stop the excess or unauthorised copies. Ian considered that few publishers are entirely happy with the RRO, but at least they are trying to earn some money from it. On the other hand, authors thought the RRO more important than the publishers and quite like this idea.

Ian admitted that he was not sure whether UK publishers are satisfied what the CLA is doing, but, he suspected that most publishers are not entirely satisfied with it – “they may be partly satisfied”. The CLA is unlikely to be the most successful RRO in the world because, compared with other RROs like the Norwegian one where distribution is based on the whole population, the CLA is not the biggest producer of income per capita among the RROs. Another problem UK publishers criticised is that the way CLA allocated the money is not as sophisticated as it might be – “publishers believed sampling would be better and more sensitive than it is”. Clearly, publishers also hope the CLA would improve their work efficiency and do things better and quicker.

3. Electronic publishing and the RRO

The CLA wants to get the right to handle electronic copies, but, they have not gotten it until now because the publishers, especially the big publishers, intend to do it by themselves. Ian supposed that CLA will become less important because there will be more digital copying or printing, which CLA will not be involved in.

However, Ian emphasised that this will take quite a long time. The fact of matter is that although publishers are keen on electronic publishing, the transformation from

traditional publishing to electronic publishing is still quite a long way to go. Actually, twenty years ago, publishers already predicted books would be replaced in ten years, but they are still very important in the UK. Until now, it would be unrealistic to say that book industry will be entirely electronic in another ten years. There is evidence that, although journal publishing is quite electronic currently, educational publishing and consumers publishing are still much paper-based. At this stage, although publishers are not entirely satisfied with sampling of photocopying, at least they can manage it. Meanwhile, publishers are quite worried that they will lose control of their electronic rights. Although the trend of electronic publishing which Richard predicted might be true, Ian pointed out that in the UK or U.S. where the publishing industry is relatively advanced, the systems Richard mentioned have not happened yet. In fact, there is even not really a good media science being advanced in the UK or in the U.S. yet, so it seems that it will take some years to establish this kind of system and the publishers do not know if it will happen in the future. At the same time, large numbers of customers are still used to paper books and traditional publishing instead of electronic products.

For the Chinese publishing industry, it is a fact although China is a very specific market in some areas, in term of books and journals, Chinese publishing is behind UK and U.S, so what Richard said would happen in China probably at least ten years away or more. Although in a long-term view, it seems that RROs will become redundant in the electronic publishing era, it is quite far from now on for China, so there would be a role for RRO for quite a few years in China.

4. Is it the right time to develop an RRO in China now?

“Yes, I really do”, but Ian claimed that if China does not hurry up, it would be very difficult to do in the future – “The long they delay, the more difficult it will get.” Although China has been the member of Berne Convention for twelve years now, piracy is still so serious in China that Ian was told that 50% of local book distribution market are pirated materials. Although the situation is better than before, there is still a

long way to go, so Ian suggested that if China developed an RRO, it should generate more income to be spent in a much higher proportion for the copyright enforcement and educate Chinese citizens compared to that spent by the CLA. Ian fully agreed that policing role for the Chinese RRO is much more important than collecting revenue.

Chinese education institutions like universities need to make copies of Western academic journals or other books. However, at moment, they cannot do it legally – “obviously they do it illegally now”. Thus, there do need for an RRO in China to offer a way for users to do the photocopying legally. There is an urgent need to develop it now, because it will take a few years to make it work.

The biggest barrier Ian thought is the approval of the government, the GAPP and National Copyright Administration – “I do not understand how you or anyone else could do this without the full and whole hearted support from government”. It is the only prerequisite before the development of the Chinese RRO. It is clear that if the government wants to support it, it will work. China could do it much more easily than other countries could do it because if the National Copyright Administration would directly say to all Chinese universities “pay a licence for photocopying”, it would work. When Singapore developed an RRO, it tried very hard to start, because in that case, there was no government directive. As a result, the key question is that how to persuade government to do it – “why it would be beneficial?”

Ian assumed that the GAPP would really want to do it, maybe because, it sees it as a way to make some money to support themselves. Although at the beginning, it could not collect distribution in a short time, it can later on receive some percentage of the income from the RRO providing the administration – “the National Copyright Administration might see this as a way of financing copyright education and enforcement.” Furthermore, it would look good for the international image of China.

For the problem Lynette mentioned before, Ian supposed that the books in China

would get more expensive in the future because they are very much under-priced now, although he was not true if the Chinese Government would agree with this. The Chinese publishing industry is still in the transition from a subsidised industry to commercial industry now. Part of that change has to be increasing the book price, which would help the distribution. Nowadays, distribution in China is bad, not only because of the piracy but also because the price is so low that there is not much margin for distribution. Ian also gave an example of India. There, book price is also very cheap, but has been gradually increasing now. However, Ian thought until now, Chinese publishers could not be in front of it yet because they are nervous to do it. From Ian's perspective, it is because the Chinese publishing market is not strong enough to do it. In addition, Ian mentioned that in China, everyone can successfully prosecute the universities for copying the books; however, the publishers are reluctantly to do that.

For the UK publishers, Ian expected that they do realise that just a low fee is possible in China at the beginning. Because they all want to get some money, they will not expect full fee to begin with. On the other hand, that is a point when they would say it is not worth brothing about at that low.

Ian emphasised that in theory, there is some small percentage of photocopying in China. However, the teaching pattern in China (every student has the textbooks) is quite different to patterns in the UK (using a lot of course packs). That was the case in the UK as well twenty years ago, so Ian assumed that there would be the same situation in China that in the future, "Truly, China would not be any different".

Ian suggested that if China decided to have an RRO, it should look at the future but not just current situation, or look at the trail of other Asian countries like Japan or Singapore. Maybe the Chinese universities are using relatively small number of textbooks now, but in the future, the situation will definitely change because the course will be more specific and students want access to more information, so most

universities will need large number of titles rather than just depend on textbooks only. It is clear that Chinese education institutions will do a lot of photocopying in the future.

On the whole, Ian deemed that now is the right time to establish an RRO in China or at least carry on feasibility studies anyway because if China does not do it soon, it will not be possible to do it in the future. "It is no good just looking at the situation in China now and saying why China does not need an RRO. You have the time to look ahead."

5. If China wants to establish an RRO, what kind of preparation China should do from now on?

"Government! Government! Government!" Basically, It will be very difficult to establish an RRO without government support. In the model, the CPCC and the Publishers Association of China are two departments of the National Copyright Organisation – "they are even in the same building", and likewise the Chinese Writers' Association. As a result, what is crucial is the government attitude – "your research is in the end what the government is thinking about". Moreover, it needs international involvement to get some international experience. IFRRO will be a very good information resource to get these experiences.

Ian thought it will be a mistake if Chinese Government, the GAPP or the National Copyright Administration just decides to establish a new department for the reproduction rights – "I think it will be the wrong way to do it but it will be the way they probably will do it". Although government must be involved in this and the Chinese Government has been involved in international books much more than other countries', Ian suggested that the proposed RRO in China should certainly be an independent organisation, more like the CLA rather than a government department. For that reason, there should be some international involvement to guarantee its independence.

Ian assumed that China cannot have an voluntary system – “It would be compulsory because if it is voluntary, no one will take it seriously.” Furthermore, because of the political factors in China, Ian could not see the voluntary system getting in anywhere – “This is why I keep saying it is all depend on the GAPP.”

In the Chinese model, maybe it is advisable not to do much until the Chinese Government will support it with law, because before it is established, it has to convince from the government and it is the only way to collect money legally and quickly, and save the budget as well. China does need a law for the collective management of copyright in the future before it takes any action to establish collective licensing society and not only the RRO.

Ian supposed that it would be helpful for the Chinese proposed RRO if it could manage to cover the cost by someone else like the Norwegian RRO which get quite a lot of money and persuade it to offer an interest free loan to help the RRO start. –“You have to get a rich organisation. IFRRO does not have much money, so you have to go to one of the organisations which has money like the Norwegian one because they have to give away the money to someone and because they do have a quite big fund which is for copyright enforcement, they might.” However, Ian admitted that if the Chinese Government wanted to establish an RRO, money will not be a problem and they will not want to have anyone else’s money.

Anthony Watkinson

1. Background

Anthony Watkinson has worked in academic life as a visiting professor in information science at City University London and has been a scholarly librarian, but for thirty years he held senior management positions in a number of leading publishers including Academic Press, Oxford University Press, Chapman & Hall and Thomson Science & Professional. Since 1998, he has been an information consultant working on projects relating to intellectual property, authenticity, electronic monographs, the STM information system, document delivery, electronic course packs and a number of other topics. His clients include a number of leading publishers and intermediaries, JISC, the Publishers Association, International STM Association, the Association of American Publishers, and the Cochrane Collaboration. He is still a global dentistry publisher for Blackwell. Anthony had a very academic background for the interview; however, he stated that he was not familiar with Chinese publishing enough, although he used to work with some Chinese publishers for years. Because he does not have any connection with China now, the interview concentrated on the RRO itself instead of the proposed Chinese RRO. He also recommended someone involved in this area at the end of the interview.

2. What is the RRO for publishers

From publishers' perspective, the function of an RRO is to collect money for the use of copyright particularly in photocopying on the behalf of rights holders. It is a kind of semi-governmental organisation which was built up under the copyright legislation. Although compared with books sales or journals subscription, income from the RRO is really "tiny", it is still quite significant to rights manager whose job is looking after the secondary rights. Anthony agreed that the policemen role of the RRO is more important than the tax collector role. If the publishers are very worried about somebody undercutting their sales of books or journals, they will think that the collective licensing agency is very important to protect their investment and tax for copyright. On the other hand, most of the publishers do not even think about it at all

–“it is a very specialised area”

Because the income to publishers from the CLA varies from one to one, for example, in the Universities, quite a lot of copying are journal articles not only the textbook, Anthony emphasized that the evidence that how important CLA is for the publishers are not clear. What is important is that the collective licensing agency brought the income publisher did not get before by supplying a blanket license to users who did not pay in the past at all (they did the photocopying anyway).

Anthony suggested that keeping an eye on the independent organisation called HERON and the Pelican project would be useful for this research. The Pelican project examined the ways in which people in universities can build up course packs and pay for them without difficulties. The job of HERSON is to try to get the permissions easily by some blanket or overall system. Anthony also mentioned that among the variety of arrangement of the collective licensing agency, he preferred CCC (Copyright Clearance Centre) because it represents the right holders directly.

3. The difficulties CLA is facing now

Publishers do not entirely trust CLA, because CLA runs its commercial operation on its own terms. It is unnecessary to do what the publishers want it to do for it is owned by both publishers and authors. It is impossible to satisfy both sides all the time, because sometimes publishers and authors have conflicts. There is another problem for CLA that it is not only working for PLS and ALCS to protect copyright but it also has an important job to help users get the permission to do a lot of photocopying-“facilitation are very important from users’ point of view”. Moreover, Anthony mentioned that the management systems of the CLA are not very good and the money comes very slowly from them. Finally, until now, CLA has not obtained any mandate in agreement to exercise digital rights, because the publishers on the whole are keen to issue the digital licence themselves. However, the user population, particularly libraries want some blanket licences and the RRO should have a role in

this area. JISC is a government organisation which tends to supply the service like an RRO, actually helping users to get permission in digital environment. It seems a kind of future the RRO can move into the digital era. What is more, people are printing documents instead of photocopying more and more, so beside digitisation the CLA is facing another technology challenge currently. Printing is not only more convenient for users but also is easier than photocopying to keep statistics and monitor on the number.

4. Is it the right time for China to build an RRO?

The short answer is "yes". Anthony used to have a lot to do with Chinese publishing and trained publishers during 1970s. One of the senior Chinese publishers who worked with Anthony quite a long time told him on Chinese publishers' basis that Chinese publishers at that time are very keen on copyright law. In his case, he was an agricultural publisher and published the material about crops, and how to stop pests from eating crops. Because there was no copyright law at that time, everything he produced was copied all over the place. His problem was that he had no control over any mistake in what he published because he was unable to stop the transmission and copying. It is very bad at present that the multi-information is produced badly; it is crucial that if it will be transferred in the future, China needs a copyright law to control it. Anthony admitted that he is thinking about this issue (copyright protection) from an electronic publishing and digitisation point of view.

Another publisher told Anthony that he has to deal with all provincial administrators all the time (every province has separate administration department and publishing organisation) when other organisations taking away the book he published and then immediately making photocopies by all the provinces. In the digital environment, it will become more serious because it is easier for people to get the materials they want. It should be right that publishers should have some control on the behalf of authors of the ways by which text is transmitted. Anthony mentioned the idea repeatedly through the interview that in order for the publishing organisation to do its work, it should be protected by some way.

In China, as gradually, the publishing organisation became to different models. It used to be on the Russian model. At that time, publishers got paid to produce some books no matter if they were sold or if no one wanted them – “it did not work at all for the commercial publishers”. It changed a lot and is more commercial now. If publishers are responsible for book sales, they have to find some way to protect their product from being undermined by people photocopying anywhere. Copyright protection in China is not just a result of external factors like signing WTO or TRIPS, but also an internal requirement of domestic publishing industry. If there is no organisation to do it, it is very difficult for publishers and authors to flourish in the industry. Due to the huge amount of local piracy in China, Anthony did believe there was quite a lot of photocopying for Chinese books in the past.

Appendix 8 Interview with Chinese Rights Holders and NCAC

China national publishing industry trading corporation

1. Background

China national publishing industry trading corporation (CNPITC) was founded in October 1980, an affiliate company with China Publishing Group (CPG). CPG is a large-scale national publishing institution established in April 2002, comprising of ten large domestic publishing houses and three publications wholesalers. CNPITC is the one of largest foreign trade corporation engaged in press and publishing fields in China. It has eight departments with 188 employees and six overseas subsidiaries, and its total amount of imports and exports was over 120 million USD in 2001. The interviewee was Chaoxu Zhu, the vice president of the CNPITC. Through the conversation, he elaborated on the publishing industry in China. However, he has little sense of copyright collective management and collective licensing societies. Accordingly, this interview mainly focused on the problems of Chinese publishing industry related with photocopying and piracy.

2. Illegal photocopying and piracy

During the 1960s to 1970s, there was large-scale illegal photocopying, unauthorised reprinting, and piracy in China. A lot of publishing houses and printing factories were built wholly for those purposes, especially producing unauthorised scientific and technical journals and periodicals. There are two main reasons for the problem. On one hand, the People's Republic of China was founded in 1949 while the Copyright Law of China was adopted on 1990 and entered into force on 1991. Moreover, until 1992, China agreed to join the Berne Convention and the Universal Copyright Convention. Although there were some regulations adopted during this time, in almost 40 years, China did not have a copyright law and did not sign any international agreement – “how to break the law, when there is no law?” Additionally, the lack of economic

development was an important factor leading large scale of pirate products in China because even research institutions were unable to afford expensive foreign publications.

Until the Chinese Government began to negotiate with the WT for its WTO accession, Western countries had claimed frequently that China should improve its protection of intellectual property. Consequently, after signing the bilateral agreements with other countries, China closed all the publishing houses and printing factories committing piracy and illegal photocopying in 2000. From then on, China started to officially import licences of foreign publications from other countries and only print authorised copies of publications. Under these circumstances, illegal photocopying and piracy with indirect support of government has been eliminated. Nowadays, not only does Chinese Government pay much more attention to copyright protection, but also publishers and authors have recognised the importance of copyright protection.

However, piracy is still a serious problem in China. The main reason is that there are a lot of pirate publishers earning money by printing publications illegally. They copy a book and sell bogus versions, sell foreign books that have been translated illegally, print books ostensibly by famous authors but in fact written by clumsy imitators, or piece famous authors' works together without their permission. From the government's point of view, it is quite difficult to find out the source of piracy and prevent it – "In most cases, piracy is a kind of personal behaviour; nobody know who did it and where they did it." At present, the most serious problem is pirate CDs because, compared with books, it is much easier to be reproduced and the cost is very low.

Piracy is a global issue for the whole publishing industry, but especially in Asian countries. Mr Zhu said that from the feedback of their wholesalers in Korea, Taiwan, Thailand and Malaysia, piracy is very serious in these countries as well. Despite the piracy in China, Mr Zhu emphasised that from a publisher's perspective, Chinese Government had made a lot of effort to restrict piracy by establishment of government

departments and approval of laws and regulations, especially in recent years – “It approaches the international standard gradually.”

Furthermore, China has begun to open its publishing market. At this stage, China has opened its scientific and technical journal market and the distribution of books. At the same time, academic institutions received much more money from the government, so that they can afford the foreign publications which they could not afford before. For scientific journals, there are five or six state-owned publishing companies, which are entitled to import scientific and technical journals and buy licences from abroad – “Once there are domestic customers and foreign sellers, we will import the scientific and technical journals they want”. Currently, Chinese customer can buy electronic publications from foreign publishers directly.

At present, the Chinese publishing industry is influenced only slightly by the accession of China to the WTO. China promised to open its distribution market. However, there is little margin of profit in this sector, so foreign publishers are unwilling to enter – “it is not worth entering.” In the long term, the accession of WTO will promote the development of Chinese publishing industry by cooperating with other countries, sharing and competing with others, and learning advanced technology from others. Mr Zhu also estimated that recently (ten or twenty years), Chinese Government had not opened the publishing market because of its control of ideology.

3. Photocopying in China

From Mr Zhu’s perspective, the situation of photocopying in China is quite different with Western countries, especially in education sector. First, most of universities in China write and compile textbooks by themselves or adopt textbooks published by other universities. This is the reason why most of the famous universities in China, like Tsinghua University, Peking University and Renmin University of China, have their own publishing houses. For this reason, Universities are unwilling that students photocopy textbook, but prefer to sell thousands of textbooks to students directly.

Second, more and more universities have begun to adopt for original edition foreign textbooks in the class. They bought the licences through publishing companies such as CNPITC or contact foreign publishers straightforward. As a consequence, students can gain access to foreign books much more easily than before. Third, the price of books in China is so cheap that it is completely unnecessary to photocopy parts of the book. Mr Zhu estimated that even to the most expensive foreign textbook in China, is just one tenth the price of the same book in Western countries. Moreover, in Chinese tradition mind, compared with photocopying, books are worth reservation in a relatively long time. Fourth, the Chinese pattern of teaching is different from Western countries. Teachers always recommend one or two books as the textbooks for a module (sometimes they are the books published by this university's press) and all the students will buy the books. Teachers scarcely distribute photocopying reading materials to students or suggest that students photocopy any other reading materials. To conclude, the market of photocopying in China is not mature because photocopying the whole book or parts of book is not very common for Chinese patrons

In other sector like business or pharmacy, Mr Zhu estimated that companies in these sectors will do some photocopying. However, he also pointed that the cost of this kind of photocopying will be very high so that the volume of this sort of photocopying will be limited. The main reason he gave is that the sources to get the books the companies needed are fewer than Western countries because a lot of professional books have not been imported yet and the library system in China is still developing - "In order to photocopy a book, the company has to make a huge effort to find the book." Mr Zhu also gave an example that there is a special publishing house of the SIPO that it only prints the books that are out of print in a small number with the customers' requirements. The price of this kind of books is very expensive because the cost is high - "they have to find the book for the customer first and just print one or two copies in accordance with the requirements." On the whole, he felt that "it is not the right time to establish an RRO in China."

4. The CCALW and publishers

CNPITC has its own publishing house to publish sheet music and music book, so it has some cooperation with the MCSC, mainly for consulting about copyright issues. From Mr Zhu's perspective, at this stage, copyright collective administration would not have any influence on Chinese publishers – "It is a good idea for authors because their income will increase and generate more enthusiasm for their work".

From the publishers' perspective, it is extraordinarily difficult to implement the "ambitious" CWA's blueprint of the CCALW. At present, the legal system in China is still uncompleted and the rights holders' understanding of copyright law is not comprehensive either. In most case, rights holders do not realise how to protect their rights until someone has infringed their copyright or other rights. In addition, the structure of Chinese Government system is very complicated. There are a large degree of overlap of rights and duties in the government organisations and departments. Thus it is hardly possible to organise all the writers and publishers together just through one association. "It is really a good hope, but it is unrealistic in some degree." However, there is an advantage of Chinese Government that it has a very strong administrative capability so that if the government gives full support to the CCALW with funds and relative regulations, it will be easier to establish this kind of organisation in China than similar organisations in other countries.

Mr Zhu mentioned that the Copyright Protection Centre of China (CPCC), which is a social copyright management and social service organisation under the direct leadership of the GAPP and NCAC, has offered legal consultations, mediation of copyright disputes and attorneys for copyright litigation, and long-standing legal services for writers and publishers. From publishers' perspective, based on publishers' experience of cooperating with CPCC, it is very difficult for CPCC to protect writers and publishers' rights. For example, through the procession of investigation of piracy, one of the problems is effective cooperation with local police and judicial departments effectively. In many cases, they did not find the suspects and the whole case ended up

with nothing definite. What is worse, sometimes, the cost of this kind of resultless investigation is much higher than the loss. Mr Zhu suggested that the CCALW should take into account that it will probably face the same problem like the CPCC – “What CCALW will do if it is difficult to collect the fee or the cost of collecting fee is much high than the collection? The cost of operating this kind of organisation will be very very high.”

Accordingly, publishers are quite disappointed with CPCC and do not expect results from it any more. Publishers therefore often choose to take action by themselves to reduce the loss to minimum. They will print a great number of copies of a book, distribute them once and never reprint it again – “They do not care how many pirate copies in the market and just want to make the profit once.” In some sectors like literary works, some large publishing houses formed a kind of informal league to prevent piracy. They announced that once they found any bookshop sold pirate books, they would refuse to supply their products to that bookshop – “although it is not a juridical measure, it is a commercial measure from publishers themselves to prevent the piracy.” However, Mr Zhu emphasised that it is impossible to establish one organisation including all the publishers in China because the structure of Chinese publishing industry is too complex.

From the publishers’ perspective, the education function of the CPCC and the CCALW is weak, because until now, the Chinese Government has not paid much attention to educating citizens about copyright “After all, copyright is just related with a small number of people compared with the whole population in China.” There are so many more important things waiting for government to tackle such as environmental pollution, family planning, eliminating poverty, etc, which would affect the whole Chinese society – “when you have one hundred things to do and you just have one hundred yuan, what is your choice, spending one yuan on one thing or spend most money on the most influential thing? This is the government responsibility to keep the balance in the society” Although government organised training for employees in the

publishing industry every year, it lacks the people and funds to educate millions of citizens – “The people who knew copyright a lot would know more, the people who do not know copyright would never know.”

Chinese Writers' Association (CWA)

1. Background

A point which should be mentioned is that the whole report including five interviews is against a backdrop of the promulgation of the Regulations on Copyright Collective Administration of the PRC which was adopted at the 74th session of the State Council on 22 December 2004 and entered into force on 1 March 2005. The Chinese Writers' Association (CWA), founded on July 23, 1947 in Beijing, is an independent central-level organisation which claims 39 group members and 6128 individual members. As an important force in promoting China's cultural and ideological progress, it has done a lot of work in organising writers to study the Chinese Communist Party's policies, granting literary awards, conducting research on literary theories and promoting the literature of ethnic groups as well as international literary exchanges. The interviewees were two out of three staff from the Commission for Ensuring Writers' Rights & Interests, a special department of the CWA which offers a free service to writers in the whole country for protecting their rights by mediation and legal measures under the General Principles of the Civil Law of PRC and the Copyright Law of the PRC. Finally, what the interviewees said just represents their own personal opinion, and not the organisation they are working for. As their request, the respondents have not been identified.

2. Reproduction rights and some problems in China

It is recognised that reproduction rights is not only concerned with the traditional methods such as reproducing copies of a work by printing or photocopying, but also the right in the digital environment, especially transferring works in paper to digital media such as CD-ROM or other electronic media. Concentrating on photocopying, at a seminar held by a government department several years before, some experts had proposed that right holders should receive remuneration for photocopying as well. At that time, it led to an argument that whether photocopying, including reproduction for private and personal use (Copyright Law of PRC stipulates this kind of use as "limitations on right"), should be charged for. Most attendees agreed that photocopying

should be charged for because it belongs to one kind of reproduction rights. Moreover, the interviewees emphasised that they have paid attention to the reproduction behaviour in the library and they think right holders should receive remuneration for this. However, the interviewees also admitted there is no evidence showing that photocopying is damaging Chinese publishing industry at present.

Although from the interviewees' perspective, it is now generally recognised that some amount of charge for photocopying is payable, it is just a pure idea from authors' point of view and there are still a number of practical problems needed to discuss. The first problem is who has the right and responsibility to collect the fee on the behalf of writers. This issue is considered further later. The second issue was how to collect the fee. From the interviewees' point of view, a levy on photocopiers is the most reasonable and most convenient way to collect the fee (the interviewees did not mention anything about other equipments like reader printers and scanners during the conversation). The interviewees said they just knew partly how the German system works and they had never heard of the measures other countries had adopted before my descriptions. According to their experience, after my descriptions of different licensing systems, they still prefer a levy system on photocopiers. The interviewees said compared with reprinting the work, printing an abstract of it or printing it reference material by other newspaper or periodical publishers, it is quite difficult to conduct an accurate statistical survey of the frequency of use for photocopying and what materials are photocopied from every user. From the interviewees' perspective, it is very similar with the situation of music works. The MCSC, the only existing copyright collective management organisation in China, conducts surveys to decide the rates for collecting licensing fees by taking account of the time, manner and territory of using works and also the frequency of use and distribute the fee based the result of survey and the fame of the rights holders. However, the interviewees claimed that this kind of survey is inaccurate to some degree and is difficult to apply on photocopying too. For these reasons, the interviewees concluded that a levy on photocopiers would be the most practical and easiest forward in China. They also said that they do not consider

transactional licence appropriate either.

However, in the interviewees' opinion, even a levy system will have some implementation difficulties. The biggest problem is that imposing tariffs on photocopier or collecting fee from operators and protecting reproduction rights are not in the same government system – it will become a complex equation involving with a lot of facets like economy, copyright protection, customs etc. Chinese Governmental administration structure is also much more intricate than others. The interviewees explained that there is State Intellectual Property Office of PRC (SIPO), which is mainly responsible for patents and trade marks; however, it does not include any department taking charge of copyright. On the other hand, there is the National Copyright Administration out of SIPO with responsibility for copyright. As a consequence, it is quite difficult to achieve a consistency among different parties regarding a levy on photocopiers.

The interviewees emphasised that levy system is purely hypothetical at this stage, so there is no feedback of this idea from users' and operators' perspective. However, the interviewees pointed out that no matter which measure will be adopted, most users in China, especially in business sector, have not realised that they should pay remuneration to rights holders for photocopying. The interviewees suggested that it had better begin with education sector like libraries and school. Later, it ought to extend to the owners of photocopiers which serve the public commercially, like copy shop – “as long as photocopying is not free except the cost of paper, ink etc, it should pay remuneration to rights holders.” The fee will be collected with certain percentage of the income of every photocopier or the total income of copy shops every year – “it is more reasonable than charging certain amount of money to all the organisations and operators”.

3. China Copyright Association for Literary Works (CCALW)

In 2001, the CWA and the Copyright Protection Centre of China (CPCC) have initiated

the China Copyright Association for Literary Works (CCALW). According to the Regulations on Copyright Collective Administration, it will be a collecting management society covering all kinds of literary works in China. It is an independent non-profit mass organisation and after the process of foundation, there will be “no relationship” between the CWA and the CCALW, or the CPCC and the CCALW. The interviewees estimated that in the future, the CWA and the CCALW will cooperate in some areas but there is no direct relationship with each other. The CCALW will deduct, from the licensing fees which it has collected, a certain proportion as administration fees to maintain its regular activities.

As one of the initiators from writers’ side, the CWA is mainly responsible for administrative affairs between writers and other parties. For example, the Regulations states that the number of the owners who initiate copyright collective administration organisation must be not less than fifty (here, owners is the right holders.), so the CWA has the responsibility to organise potential owners and negotiate with them. On the other hand, CPCC is a company which was founded by the National Copyright Administration, so that it has the capability to run the business. From the functional aspects, these two are reciprocal. The interviewees said that the biggest problem through the initiation of the CCALW was that there was no law or regulation on copyright collective administration to follow before the promulgation of the Regulations on Copyright Collective Administration on 1 March 2005, so that it is clear that the support from Chinese Government is very important and a completed legal system is necessary for the CCALW. Meanwhile, the interviewee admitted that lack of the respect of copyright and understanding of collective administration among the citizens is another serious issue they are facing, and educating people is a long-term task for them.

The operation of the CCALW will follow the pattern of the MCSC. The membership of the CCALW is supposed to be writers registering in the CWA, including journalists and writers who published their articles in academic journals. All members of the

CCALW would join voluntarily. Writers grant the CCALW the right to administer their copyright and other relevant rights and it will work on the behalf of right holders to collect fee from users and distribute fees to the rights holders. From interviewees' point of view, they planned to extend the CCALW to all rights of copyright owners which can be managed collectively. In that case, rights holders would grant the rights which they prefer the CCALW to mandate and hold other rights themselves. In other words, the CCALW will take charge of the main function of the RRO in the future. Another function of the CCALW is to educate people to respect copyright but also explain the notion of copyright collective management; after all, it is a brand new concept for the whole country. However, the interviewees emphasised the most important function of the CCALW is to "help writers"; education is secondary.

The interviewees estimated the CCALW will be founded officially in this year. Before that, there are two principal activities: appointing the board of directors and convening the general membership meeting in accordance with the provisions of the Regulations. Furthermore, because the statute of the CCALW drawn up four years ago, it is the time to amend it based on the Regulations as well. The interviewee said there are three main departments: collecting fees, distributing the collection and legal department. There are no more details so far. The interviewees added that because of compulsory and legal licences stated in the Copyright Law of China, there is a transferring centre which helps rights holders receive remuneration from newspapers and periodicals. In the near future, the CCALW will take charge of this centre.

The interviewees expected the CCALW will cooperate with Chinese publishers as well. According to the Copyright Law of the PRC, the publishers enjoy the exclusive right of exploitation in respect of the format, layout and design of the books, newspapers and magazines he or she publishes, so beside the membership of writers, CCALW provide a kind of group-member to legal entity such as publishers and publishing companies to help them protect their rights. If just parts of the articles are used by other newspapers or magazines, only writers will receive the remuneration while if the

whole article including format, layout and other design was adopted, the remuneration will be distributed to writers and publisher separately. As mentioned before, because this idea is purely hypothetical, how to distribute the collection between writers and publishers is too far in the future to discuss.

NCAC 1

1. Background

In order to speed up the drafting of copyright legislation and to strengthen the administration of copyright throughout the country, the State Council approved the establishment of the National Copyright Administration of China (NCAC) in July 1985. Nowadays, it is the government's organ responsible for copyright administration and enforcement and is also responsible for nationwide copyright issues, including investigating infringement cases, administering foreign-related copyright issues, developing foreign-related arbitration rules and supervising administrative authorities. Actually, the GAPP, the principal supervisory organ of the press in China, and the NCAC are the same organ with two names (the Chinese Government structure is quite complex). The interviewee is working for the Department of Printing and Reprography of NCAC. Because the interviewee thought it is not the right time to establish an RRO in China now, most of my questions were not fully explored. The interviewee also admitted that it is very difficult to do the research on reprographic right and the RROs because there are few materials and references from the Chinese side. What the interviewees said just represents their own personal opinion, and not the organisation they are working for. As their request, the respondent have not been identified

2. Reprographic right in China and RROs

The interviewee pointed out that copyright in accordance with the Copyright Law of the PRC includes the right of reproduction which includes photocopying, so theoretically the writers and publishers should enjoy their reprographic right. However, until now, it is a fact that there is no copyright collecting society to help right holders protect and manage their reprographic rights in China.

There are several problems associated with establishing an RRO in China now. First, from the legislation's point of view, there were no regulations or law of copyright collective administration in a long time. The interviewee admitted that, the average level of copyright protection in China just reaches the lowest level of international

standards of copyright protection, although in some areas, it reaches a relative high level of international standard. From implementation's aspect, it is far lower than the average level of copyright protection in global scope. Second, although the Regulations on Copyright Collective Administration has been effective since 1 March 2005, there is no demand of an RRO from rights holders – “The existence of any organisation is rooted in the demand of a certain group of people.” In Western countries, where the RRO could be established, the differential between the price of copying and buying the complete book is far more than in the China. From interviewee's perspective, the cost of copying a book is very high in China, so that it is quite unusual to copy a book instead of buying one in China. From publishers' feedback, they do not require the establishment of an RRO. At this stage, to be frank, no one even considered this issue, so it is too early to discuss whether it is the right time to establish it. Third, government should consider the degree of citizens' acceptance of an RRO to collect fees for reprographic right. It is obvious that at this stage, Chinese citizens lack respect for copyright. For example, the cost of photocopying might increase if there is an RRO in China; in that case, it would be very difficult to persuade users or operators of copy shops to pay “extra” to rights holders. Most Chinese citizens know clearly that their property right of books and audio-visual products is separated with writers' copyright, however, a lot of Chinese citizens do not know they have the right to play a CD at home, but they are not allowed to play the music as the background of restaurants for free – “It is not the same case that you buy a bike. You can do anything you want to your bike but you cannot do anything to your books and CDs.” Fourth, it is clear that the lack of economic development is an important factor which means that Chinese citizens are unwilling to pay remuneration to rights holders.

3. Collecting societies in China and the CCALW from NCAC's perspective

Since the passage of a sublaw on copyright collective administration, recently, two collecting societies are being developed: China Copyright Association for Audio-Visual Works and China Copyright Association for Literary Works (the CCALW) are at the

preparatory stage of being established based on the new regulations and experience from the MCSC. It is likely that a collecting society for performance right will be established in the nearly future as well.

In China, most of guilds for each industry or a certain group of people have a semi-government background, so all of them are administrative organisations under government control. For example, besides supplying free service to writers, the CWA also undertake a lot of other tasks such as organising writers to study the Chinese Communist Party's policies, granting literary awards, conducting researches on literary theories and promoting the literature of ethnic groups as well as international literary exchanges. Under these circumstances, it is time to establish an organisation like the CCALW which purely serve writers and help them enjoy their rights. The only established collecting society in China, the MCSC, which was established by Copyright Protection Centre of China and Chinese Music Association. In this case, the government recognised that it is an effective way to establish the collecting societies by CPCC and concerning guild or authoritative organisation of one industry as two initiators of the collecting societies. However, the interviewee emphasised that although maybe there will be some cooperation between the initiative organisations and collecting societies, there will be no direct relationship between initiative organisation and collecting societies after the their establishment.

From the interviewee's perspective, it is very difficult to establish a collecting society to mandate all the rights from rights holders. In another words, the CWA's blueprint of the CCALW is impractical. The original intention to establish of the CCALW from NCAC is to help writers manage and protect their secondary rights like right of communication through information networks, because mainly when relating with secondary right of literary works, individual writers have difficulty identifying the use of copyright works and collective payments and the users have difficulties identifying the writers and getting the permission. From global scope, although every country has their own system, most countries classified their system based on the category of

works or category of rights holders. Only in Italy, there is just one society called SIAE responsible for all kinds of works and right holders. In China, NCAC planned to establish collecting societies with the category of works or category of rights or rights holders. Moreover, in accordance with the Regulations on Copyright Collective Administration, the operating scope of such organisation will not overlap or coincide with that of any copyright collective administration organisation which has been registered.

In the future, the interviewee thought that the CCALW probably will engage in the protection of reprographic rights instead of establishing an RRO separately – “There is a tendency that the CCALW will administer the reprographic right among other rights which writers are unable to manage by themselves, if there is the demand for protection of reprographic right from right holders in the future.” To put it another way, theoretically there would be a collecting society for reproduction rights including reprographic rights in the future, but “it depends on the demand, anyway.” It is quite difficult to estimate which system (Levy, compulsory, voluntary) China will adopt in the future, but he confirmed that there will be rates for collecting licensing fees which might take account of the categories of use, commercial or non-commercial, the manner and place of using works, public or private, the difference between developing area and developed area and so on. In accordance with the Regulations on Copyright Administration, a copyright collective administration organisation shall draw up the methods for collecting and distributing licensing fee and submit the draft to the administrative department for copyright (the NCAC) under the State Council for the approval. At the same time, the NCAC will draw up some standards or rules as reference for the collecting society for collecting and distributing fees.

From the interviewee’s perspective, collecting societies have an inborn feature of monopoly and it is necessary for collecting societies to have a monopoly on a certain kind of works or rights. The monopoly is one of the peculiarities of the collecting societies because the reason why they were established is that rights holders face

hundreds of thousands of users using his or her works, while each user face to a large number of right holders. On the other hand, regarding to the Regulations on Copyright Collective Administration, although it did not require collecting societies to have a monopoly, it states that the number of the owners who initiate the establishment of such an organisation is not less than fifty and these fifty owners cannot be selected randomly - they are required to be authoritative in the area they engage in. At the same time, in accordance with the Regulations, the administrative department of copyright (the NCAC) under State Council may supervise copyright collective administration organisations and they can also be subject to supervision by the civil administrative department under the State Council and other relevant departments.

Regarding education, the interviewee said that compared with collecting societies, the NCAC has the main responsibility to provide education on copyright to the mass with some help from the collecting societies in the future. One problem of education is that most of organisations like the CWA and the Chinese Music Association lack funding because most of them do not have any income except from government.

4. Piracy in China

The interviewee admitted that Chinese Government is under heavy pressure from other countries to improve IP protection. In spite of a lack of economic development, the government has made a real effort to restrict piracy in China, because it knows clearly that it is an era of global economy and China has to obey the international rules if it hopes to be involved in global economy – “you cannot say that your family is poor, so you became to a thief.”

However, from citizens' perspective, it is understandable that not all can afford the authorised books or Audio-Visual products, especially authorised software. Once, the general manager of a very famous Chinese software company said, “Even if you just buy authorised software once, I will consider you are a good guy.” The Chinese software industries have tried hard to decrease the price of authorised software and do

researches to develop good domestic software for the mass. Some film distribution companies produced a great number of copies of a film to reduce the cost and distribute them once and never reproduce it again. A lot of publishers adopted this measure as well to reduce the cost. The interviewee even said that Chinese citizens have the responsibility to support the domestic publishing, software and film industry and give them some time and patience to grow up. However, the citizens have to realise that no matter how low the authorised product's price is, it is impossible to match the price of pirate products. Finally, the power of the NCAC is not enough to control everything. For example, there is totally only 18 staff in the NCAC and GAPP together. As with Mr Zhu, the interviewee said that copyright is just related with a small number of people compared with the whole population in China. There are so many more important things waiting for government to tackle. Accordingly, for the whole country, we are a long way from restricting piracy to eliminating it, not only by the copyright protection but also by educating citizens and boosting domestic industry and economy.

The NCAC 2

1. Background

The interviewee of this interview is Si Gao, the director of the legal division of copyright department of the NCAC. Ms Gao also attended some professional training courses in German copyright collective administration organisation and engaged in international communication on copyright. Because Ms Gao is an expert on copyright law, the issues in this interview are mainly on the Regulations on Copyright Collective Administration. Finally, I found all the interviewees considered reprographic right is just related with photocopying simply.

2. Regulations on Copyright Collective Administration and collecting societies in China

Most developed countries, especially the countries adopted Civil Law system like France, Germany, and Japan, etc, have one chapter in the copyright law or separate special law to define and regulate activities of copyright collective administration. For the countries which had followed Common Law system, like UK and U.S., there is no separate regulation or special law of copyright collective administration. Meanwhile, in the developing countries, copyright collective administration is a burgeoning management pattern of copyright. Ms Gao explained that most secondary rights stipulated in Copyright Law of the PRC only can be implemented through copyright collective administration organisations, so if there is no regulation on copyright collective administration and this kind of organisation. The Copyright Law of the PRC exists in name only. Under those circumstances, it is clear that to complete the Chinese copyright protection system, specific regulations on copyright collective administration to define and regulate activities of copyright collective administration and its organisations are needed. This is why the State Council gave NCAC a task to draft the regulations on copyright collective administration after the revision of the Copyright Law of the PRC in 2001.

As of March 1, 2005, Regulations for Collective Management of Copyright will

become effective. At present, China Copyright Association for Audio-Visual Works and China Copyright Association for Literary Works are at the preparatory stage of being established. They will be respectively responsible for collective management of music works, audio-visual works and literary works. In China, the Regulations addressed that copyright collective administration organisations are non-profit mass organisations. In most countries which adopted Civil Law system, this kind of organisation could find their status in the Civil Law, however, because of the uncompleted legal system, until now, collecting societies could not find their status in the Civil Law in China-- "they just could be identified as 'other mass organisation' in the Regulations on Mass Organisation Registration." The operation pattern of collecting societies will stimulate the operation of the MCSC -- "because it is the only one we have."

In accordance with the Regulations, in each area, there will be only one copyright collective administration organisation. At the beginning of drafting the Regulations, the NCAC considered that the collecting society might have a monopoly on the area they operate in the future, so another aim of the Regulations is to regulate their activities and establish a supervision system to supervise the collecting societies. Although the NCAC does not intend to establish a copyright tribunal, it will be responsible for mediation and supervision. Beside the supervision from the NCAC, collecting societies will also receive supervision from the civil administrative department, owners and users.

In accordance with the Regulations, right holders may voluntarily conclude a written contract for copyright collective administration with a copyright collecting society and become a member of this society, authorising the latter to administer copyright or rights related to copyright which he or she enjoys, and also voluntarily resign his or her membership and terminate the contract for the society. In China, according with the Regulations, the copyright collective administration organisations have the responsibility to collect remuneration for legal licences as well. Ms Gao said that even

if China planned to protect reprographic rights, it would be included in legal licence – “It is possible that we might revise the Copyright Law some time to add reprographic right in it.”

The role of government is to administrate these organisations, give some funds and supervise them after the establishment. Furthermore, in the future, the NCAC will draft some standards or schemes of collecting fees. For example, when the MCSC negotiated with some companies about the fees of downloading mobile phone ring tones from Internet, there was a dispute between them and was finally settled by court. If there is a general standard of collecting fees, the collecting societies might collect fees and agree negotiations with users easier.

From NCAC’s perspective, the main functions of collecting societies are to serve right holders, collect fees on the behalf of them and distribute the fees. Although collecting societies might provide some education for their marketing development, the NCAC primarily has the responsibility of educating citizens on to respect copyright – “NCAC have provided a lot of education since it founded.” In China, one of the primary functions of government is to educate citizens, while in other countries, government invest their funds in other areas. For example, citizens have to spend much money on education from high school while it is free to receive education in Germany and France. At the same time, implementing the law is much more difficult than other countries. Ms Gao said that at beginning, when the MCSC collected remunerations from domestic restaurants, the owners of the restaurants thought it was a kind of government’s abuse of power, while foreign companies like MacDonal and KFC paid the fee immediately. However, currently, the situation is changed and it is easier to collect the fees.

3. The CCALW and RRO in China

The most important reason why the CCALW was prepared such a long time (four years) is that there was no regulation on copyright collective administration before.

Consequently, although the CPCC and the CWA did a lot of preparation, they could not go further, and were not able to submit the application for the establishment of the CCALW to the administrative department for copyright and go through the procedures for registration at the civil administrative department without the concerning regulation. However, the MCSC is an exception. It was established by the NCAC and the Chinese Music Association in 1992, because on one hand, Chinese Government was under heavy pressure from other countries in copyright protection for music works; on the other hand, government also treated this establishment as an experiment of copyright collective administration organisation. Since then, because the civil administrative department deemed that the establishment of this kind of organisations did not accord with the Regulations on Mass Organisation Registration, it did not approve other applications.

NCAC have a lot of contact with IFRRO. Ms Gao mentioned that the NCAC invited officials of IFRRO and Ms Lynette Owen to make some presentations in China. She also emphasised that NCAC and other government departments update their information much quicker than before and make a strong effort to keep pace with developed countries.

Until now, Copyright Law of the PRC did not states any articles on the reprographic right – “there is nothing about reprographic right from legal aspect in China now.” For example, in some countries, their copyright act provides that certain kinds of works may be photocopied without the consent of the author, but subject to an obligation to pay remuneration – “it belongs to a kind of legal licences.” In China, although the Copyright Act stipulated the legal licences, it did not mention reprographic right and photocopying. As noted before, because there is nothing about reprographic rights, it is too early to consider who should collect the fee and how to collect it. Ms Gao said that although RROs are all around world now, not all the countries have an established RRO; At this stage, Chinese Government does not have any plan to establish one in China, so it is not the right time to establish an RRO now. Whether there will be any

regulation on reprographic right in the future depends on the demand from right holders – “until now, there is no social base of reprographic right.”

There is another important reason why Chinese legislators did not draft reprographic right into the Copyright Act. This is because photocopying the whole book or parts of book is not very common for Chinese patrons. The price of books are quite cheap while the cost of photocopying is not very cheap. For Chinese users, it is really unnecessary to copy a book instead of buying a book. At the same time, regarding to Chinese tradition, “Chinese still prefer to own a book instead of photocopying parts of it”. In addition the library lending system is not as well developed as in the developed countries. Moreover, Chinese citizens are not used to getting books from libraries – “Did you find that Chinese students do not like to go to libraries? They will buy the books or find it from Internet”. However, Mr Gou added that there is a tendency that potential market of photocopying is developing now because of the increase of the price of books and the decrease of the cost of photocopying – “When publishers realised the threat from photocopying to their sale, they will appeal to establish an RRO in China”. At this stage, nobody knows clearly whether photocopying is threatening publishers’ original sales or not – “it needs a survey to show whether there is a problem and how serious the problem is, although it seems that there is a tendency of the growth of photocopying market and you can conduct interview with Chinese libraries to find out whether photocopying are more and more popular in the libraries and how many copies they made for their patrons everyday.”

From the NCAC’s perspective, the CCALW will mainly take charge of the right of communication through information networks in the near future. For literary works, the trade of copyright between authors and publishers are the main activity which does not need an intermediary organisation between them. At this stage, beside the right of communication through information network, Ms Gao estimated that it is possible that the CCALW might take charge of the right of digitalisation of literary works, like databases – “It is just related with reproduction rights but it is not the reprographic

right we are talking about.” Ms Gao said that because there is no regulation on reprographic right, it is quite difficult to predict which patterns the RRO will exist in China, “maybe it will be an independent organisation or including into the CCALW.” At this stage, she estimated that reprographic right will be included in the CCALW because “when the market is so small, it wastes money, time and manpower to establish an RRO separately.”

Ms Gao explained that the reason why publishers will receive remuneration from reprographic right is because publishers make an effort to produce the publications like typography. For journals, sometimes, because authors are working for publishers and wrote articles paid by them, publishers owned the copyright. She said that it is very fair that every party who made an effort in the publishing procession should gain profit according to what they did.

NCAC 3

1. Background

The interviewee is Chao Xu, the deputy director general of the NCAC. Because of time limitation, the interview did not follow the questions I prepared. Mr Xu told me that some foreign publishers have mentioned this issue to the NCAC; moreover, IFRRO has also contacted the NCAC and suggest that China should establish an RRO. However, he also said that it is really quite difficult to do the research on reprographic rights and RROs in China at this stage. Through the interviews with the CWA and the NCAC, I found the German system affected my Chinese interviewees a lot.

2. Suggestions of model

Because the CPCC and the CWA are just initiators of the CCALW, there will be no direct relationship between those organisations and the CCALW. Second, In China, a copyright arbitration body like copyright tribunal does not exist. The NCAC has the responsibility to settle a dispute over a copyright contract by mediation, but has no arbitration function. As an alternative, if the NCAC failed to mediate between the parties, a dispute may be submitted for arbitration to an arbitration body such as the Beijing Arbitration Committee, which arbitrates all kinds of contracts, under an arbitration clause in the contract, or under a written arbitration agreement concluded after the contract has been signed in accordance with the Arbitration Law of PRC. On the whole, my model needs some changes in respond to Chinese copyright protection system and government structure.

If China established an RRO in the future, it would be a kind of CCAO operating in accordance with the Regulations on Copyright Collective Administration. Mr Xu emphasised that it would not be an agency or company but a CCAO in China. There are two systems of copyright collective administration organisation in the world. In the countries which followed Common Law legal system like UK, the CCAOs are independent non-profit companies in accordance with the Company Law of every country. In other countries and areas which adopted Civil Law legal system like most

of continental European countries, Japan, Taiwan province and mainland China, there is one chapter in the Copyright law or one article in the copyright law with a separate special law or sub-law to define and regulate activities of copyright collective administration. In China, although it is called "Regulations on Copyright Collective Administration", it is a sub-law of Copyright Law of the PRC. Consequently, compared with Common Law legal system, the CCAOs in China are not a kind of company.

Second, it is necessary to have some analysis for the reasons of the establishment of RROs all over the world. Mr Xu claimed that comprehensive survey and convincing data is the only way to persuade legislators. The first reason Mr Xu mentioned is in response to the need to license wide-scale photocopying of printed works which led the decrease of the original sale of books and other publications. Generally speak, the appeal of the establishment of RROs were mainly from publishers not authors, because although authors' right were hurt, after all, their works were spread wider, especially for the individual authors writing the academic articles. On the other hand, publishers pay more attention to profit, so they appealed establishing the RRO at first and their organisation have the capability to afford the survey to find out how much photocopying threatened their original sale. However, in China, because all the publishing houses are state-owned, they are not as keen as Western publishing companies which are all private-owned on the market and profit – "No matter in which country, all the state-owned enterprises are same. They are lazy and ineffective because they think government and state is their backup." Under these circumstances, Chinese publishers lack incentive and passion to do the survey while it is impossible for government to spend a lot of money on doing the survey for publishers' benefit – "From other countries' experience, publishers always conducted the survey first and then lobby to concerning government departments and legislators with the enough evidence."

Appendix 9 Interview with IFRRO

1. Does IFRRO think it is the right time to develop an RRO in China and why? If not, what is the main obstructive factors preventing its development in China today?

IFRRO would favour the development of an RRO in China. RROs provide legal access to copyright works and there is a need for such access in the Chinese society. Moreover, the work of RROs is an efficient means to combat piracy and reduces the need for pirate copies of works protected by copyright.

To our understanding, the current legislation needs some modifications to allow the development of an efficient RRO in China. It may also be necessary to undertake copyright education and awareness programs with both rights holder and user groups to promote a wider understanding of the immediate and long term benefits of collective copyright management, particularly to the national publishing industry.

2. Did China government or other organisations contact IFRRO at this stage? Is there any action from China to prepare the establishment of an RRO now?

Over the years there has been contact between IFRRO and the Chinese government for the purpose of exchanging information. New legislation on collective management of rights approved by the State Council on December 22nd last year entered into force on March 1st 2005. This is an important step to enable the development of a Chinese RRO.

However, IFRRO would be pleased to engage in more detailed discussions both with the Chinese government and with other stakeholders to explore the areas where IFRRO can assist with the establishment of a self-sustainable RRO.

3. If China intends to establish an RRO, will IFRRO be glad to support it? And Which kind of help or support would it supply to China?

IFRRO is ready to assist the Chinese rights holders, their representative organisations and the government in setting up and developing the work of a Chinese RRO. IFRRO support typically takes the form of appointing a mentor RRO operating under a model similar to the one established in the country of the newly established RRO. This mentor RRO will be responsible for the providing of assistance required by the RRO. This would normally include training of personnel, information on licensing and distribution models. Assistance could also take the form of grants or loans. IFRRO could also assist in providing information on modifications that would be needed in the current legislation.

4. If China intends to develop a RRO, what kind of preparation should it do from now on?

There might be a need for specific stipulations on reprography and private copying in the legislation, and to review the current copyright exceptions. Moreover, the China Centre for Literary Works, which has been approved by NCAC would need to seek approval by the Civil Administrative Council.

5. If China decided to establish an RRO, from IFRRO's points of view, Whether China relevant authority see the RRO's primary function as being policing, educating people or distributing funds?

In addition to all these aspects, which are highly relevant, the RRO would also provide legal access to copyright works and assist in fighting illegal reproduction and piracy or printed material.

Show and explain the model to the interviewee (please see the other two attachments)

6. Could you tell me what parts you think it will work and what are the impractical parts? And the reason why they are impractical. Moreover, do you have any other suggestions to my model?

It is important that the Chinese adopt their own model to respond to their concrete needs. Technically, the model presented in Chapter 6.1 could work, but it is too early to tell whether this would be the appropriate model for China.

Certainly, IFRRO considers that involvement of copyright owner groups, copyright users [e.g. the Ministry of Education] and government representatives is essential in the establishment of an effective RRO.

Photocopying of printed material does not only apply to text. Illustrations as well as musical notes, sheet music should also be included in the repertoire of the RRO. It is unclear if this is the case in the suggested model.

7. There are three types of licensing system in operation: non-voluntary licensing; voluntary licensing with back-up systems in legislation; voluntary licensing systems, which one IFRRO prefer to China publishing industry? And why?

IFRRO does not favour one model to another. The model chosen to be the appropriate one in China by the Chinese will be supported by IFRRO. Support will be provided and a mentor RRO appointed in a way that will respect the choice of model by the Chinese.

However, irrespective of the model chosen, it is essential that the Chinese copyright

law acknowledge the type of licensing system chosen, provide the necessary legal and administrative infrastructure to support that model [e.g., legal indemnities if a voluntary system with legislative back-up is chosen] and restrict the operation of copyright exceptions so that there is space in the market for the selected system to operate.

8. For the founding of a brand new licensing agency system in China, which sector you think is suitable to be begin with?

Most RROs have started by licensing the educational sector. This would probably be the relevant approach also in China.

9. In China, compared with other countries, the differential between the price of copying and buying the complete book is far less than in the western countries; while foreign books are relatively expensive and difficult to get. Does it mean that Chinese government will see less benefit to develop an RRO for the domestic publishing industry?

A major role of the RRO is to provide legal access to works and to reduce the need for pirate copies. This applies to national and international works alike.

Where the price difference between authorised copies and pirate copies is low, this may make it all the more desirable to establish a strong effective system for collective copyright licensing, so as to support the “legal” national publishing industry.

10. What kind of role should the Chinese government play during the development of the licensing agency system? Did IFRRO realise that it is impossible to establish an RRO in China without the full and whole heart support from government?

In most, if not all countries it has proven difficult to set up an RRO without the support of the government. One important role of the government is to provide an adequate legal framework. A first important step has already been taken by the Chinese government in adopting a new legislation on collective management of rights that enters into force on March 1st 2005. Government approval is a prerequisite for RRO operation in many countries.

11. Does IFRRO think it is a wrong way if Chinese government, the GAPP or the National Copyright Administration just decides to establish a new department for the reproduction right? And why?

An RRO needs the support of the rights holders, i.e. authors and publishers – both the national and international ones. This is the preferred approach in any country, and also a condition for IFRRO membership.

12. Does the IFRRO or its members have any plan or ideas to cope with the changes brought by the electronic publishing, in which case, publishers would do anything by themselves and photocopying has to face the threaten from printing or digital copying?

RROs are already involved in digital licensing, some on a purely voluntary basis, e.g. in USA and in France, some on the basis of legal back up systems, such as in Denmark and some on the basis of a legal or compulsory licence, e.g. Australia. A digital licence would typically allow for the dissemination of material in internal digital networks. The use of digital material is very much parallel to the analogue world, including the need for the licensing of (electronically) published material in internal networks. RROs (may) also act as agents for authors and publishers in providing access to electronic works and/or administering licensing systems.

Appendix 10 Interview with HKRRLS

1. Would you like to introduce general information about the HKRRLS such as the ownership, the management structure, the size of users, turnover, etc?

We are formed by local authors and publishers in 1995. We have 4 categories of members: Association Member (publishers associations), Corporate Member (publishers), Individual Member (authors), and Honorary Member (The Hong Kong Publishing Federation Limited). We now have over 60 members. The business and operations of the Society are conducted and managed by the Board. The Board shall consist of maximum 12 directors elected by members in general meeting.

We have licence agreements with over 1,000 primary and secondary schools, universities, and other educational establishments, as well as government departments, some public bodies, corporate bodies, and copy shops.

2. When the HKRRLS was founded in 1995, did it meet any difficulties? If yes, what kind of difficulties did it have and how did the HKRRLS solve them?

We issued our first licence in 2000. At that time, RRO was something new to people. Many user groups refused to discuss. Also the suspension of the Copyright (Amendment) Bill (for more information, see the consultation document issued by CITB in December 2004).

We gained government support by signing a licence with us. Also we were able to agree on terms with the Education and Manpower Bureau (EMB) to enter into licence agreements with schools councils...

3. Why did the HKRRLS decide to adopt a voluntary licensing system at the beginning? Is there any legal base or back-up from the Hong Kong Copyright Ordinance to the RRO system?

See s.145... of the Ordinance at www.justice.gov.hk

4. How did the HKRRLS decide the standard charge at the beginning?

After negotiation with user groups

5. Whether HKRRLS see the Society's primary function as being policing, educating people or distributing funds?

See our mission statement at www.hkrrls.org

6. Is there any relationship or co-operation between HKRRLS and the Hong Kong government now? Did the Hong Kong government give any support to HKRRLS at the beginning?

Educational campaigns – EMB, IPD (Intellectual Property Department)

Also see point 2 on licence agreements and suspension of end-user criminal liability.

7. Does the HKRRLS issue any digital licences? From your perspective, would you like explain the relationship between the RRO and electronic publishing?

Not yet. Will do so later.

8. What is the main problem the HKRRLS faces now?

Copyright law related issued

9. For the founding of a brand new licensing agency system in Hong Kong, which sector did it begin with (like the CLA began with education)?

Education and government

Appendix 11 Questionnaire (English version)

RRO and Copyright protection

Questionnaire

Organisation:

Word definition: RRO, Reproduction Rights Organisation, licenses reproduction of copyright-protected material whenever it is impractical for rights holders to act individually

Basic Information

1. What kind of library do you work for? []
 - a Public library
 - b University library
 - c Others, e.g., industrial library

2. How many members are registered in the library? []
 - a below 5000
 - b 5000-10000
 - c 10000-20000
 - d 20000-30000
 - e 30000-40000
 - f More than 50000

Section 2

3. How many photocopiers in the library supplied to patrons? _____

4. Are these photocopies in the library also for commercial use or just supplied to members? []
 - a All of them both for commercial use and members
 - b Some of them are for commercial use
 - c None of them for commercial use but only supplied to members
 - d There is no distinguish between commercial use and member use

If choose a or b, please go on to Question 5, if choose c or d, please go on to Question 6.

5. How much does library charge photocopying for commercial use?

A4 _____ B5 _____

6. How much does library charge members for photocopying?

A4 _____ B5 _____

7. Do you know or are you willing to answer the total income of these photocopiers p.a.? []

a YES

b NO

If YES, please go on to Question 8, if NO go on to Question 9

8. What is the total income for these photocopiers last year? _____

9. How do you describe the incomes of these photocopiers in recent five years? []

a Continuously increase every year

b Stable

c Unstable, some years increase, some years decrease

d Continuously decrease every year

If choose a, b or c, please go on to Question 11, if choose the last one, please go on to Question 10.

10. What are the reasons for the income decline? (You can choose more than one option.) []

a Increase of photocopying shops

b Vicious competition

c Price Reduction of photocopying materials

d Users choose printing instead of photocopying

11. Please choose THREE kinds of materials you think are copied most often? []

a STM materials

b Fiction and drama materials

c Non-fiction materials (including teaching materials)

d Sheet music

e Illustrations (including photographs)

f Newspaper, press etc.

12. Is there any scanning service in the library at the moment? []

a Yes

b No

13. Please select one statement you think it is true. []
- a There is no Chinese student in the university making photocopying textbooks instead of buying ones.
 - b There are few Chinese students (less than 5%) in the university making photocopying textbooks instead of buying ones.
 - c There are some Chinese students (more than 5%) in the university making photocopying textbooks instead of buying ones.
 - d It is unclear about this issue because there is no survey about photocopying in the universities.

Section 3

14. Do you think either libraries or your patrons should pay for copying to authors and publishers? []
- a YES
 - b NO

If YES, please go on to Question 15, if NO go on to Question 17

15. Who do you think should pay for copying carried out by your patrons? []
- a Library pays
 - b Patrons themselves should pay
 - c Other (please specify): _____

If choose "library pays", please go on to Question 16, if choose the other two please go on to Question 17.

16. What annual fee per users for such copying do you think would be acceptable to your library? []
- a Below RMB 10 (below GBP 0.7)
 - b RMB 11-20 (GBP 0.73 -1.33)
 - c RMB 21-30 (GBP 1.4-2.0)
 - d RMB 31-40 (GBP 2.07-2.67)
 - e RMB 41-50 (GBP 2.7-3.3)
 - f Above RMB 50 (above GBP 3.3)

17. What kind of barriers do you think are preventing the development of an RRO in China now? (You can choose more than one option.) []
- a Lack of respects for copyright among the citizens
 - b Incomplete copyright protection system (including law, department regulation, regional codes etc.)
 - c Unwillingness to pay the fee
 - d Lack of funds
 - e Photocopying the whole book or parts of book is not very common for Chinese patrons
 - f Publication prices are very low compared to those in Western Countries
 - g Other: _____

18. Please state your agreement with the following statement:

An RRO is the best way to help publishers and authors to protect their economic interests in China. []

- a Strongly agree
- b Agree
- c Undecided
- d Disagree
- e Strongly disagree

Many thanks for your cooperation. Your reply will be treated as confidential. Thanks for your help. If you have any question about the questionnaire, please contact me by Y.Ma@lboro.ac.uk

Yanan Ma

Loughborough University

08.2005.

Appendix 12 Questionnaire (Chinese version)

版权保护与复制权组织调查问卷

所在单位:

词汇定义: 复制权组织 (RRO, Reproduction Rights Organisation) 通过集体管理以实现代表享有版权的创作者 (包括作者、出版商、译者、摄影师、记者等) 向一些使用方 (如大学、图书馆以及复印机、扫描仪等复制设备的购买者等) 收取一定比例的复制补偿费用, 再根据一定的比例将之分配给相关的版权享有者。

基本信息

1. 您在下列哪类图书馆中工作? []
 - a 公共图书馆
 - b 大学图书馆
 - c 其他类型图书馆, 如企业或组织内部图书馆

2. 目前您所在的图书馆有多少注册会员 (包括固定使用图书馆的非在籍学生; 不包括临时用户)? []
 - a 5000 人以下
 - b 5000-10000 人
 - c 10000-20000 人
 - d 20000-30000 人
 - e 30000-40000 人
 - f 50000 人以上

第一部分

3. 您所在的图书馆有多少台对用户 (包括注册会员与非会员) 开放的复印机? _____

4. 在这些复印机当中, 是否有对外开放 (即用于商业用途, 以营利为目的) 的复印机? []
 - a 全部对外开放
 - b 部分对外开放
 - c 全部只面向注册会员
 - d 本馆对于复印机的使用, 并不区分会员与非会员若您选择第一项或第二项, 请继续问题 5; 如您选择第三项或第四项, 请直接回答问题 6。

5. 请问对于商业用途, 您所在的图书馆复印一页资料 (即一面 A4 或 B5 纸张) 收取多少费用? A4 _____ B5 _____

6. 请问对于注册会员, 您所在的图书馆复印一页资料 (即一面 A4 或 B5 纸张) 收取多少费用? A4 _____ B5 _____

7. 您是否了解上述所有复印机去年一年的总收入是多少? []

a 是

b 否

若选择“是”，请继续回答问题 8；若选择“否”，请直接回答问题 9。

8. 上述提到的所有复印机，去年一年的总收入是多少? _____

9. 请您选择下列对于最近五年内上述复印机年收入最为接近的描述: []

a 成递增趋势

b 每年基本持平

c 不稳定，没有规律

d 成递减趋势

若您选择前三项中的任意一项，请直接回答问题 11；若选择第四项，请继续回答问题 10。

10. 请问哪些因素导致上述复印机年收入的减少? (多选) []

a 复印机构的增多

b 复印机构出现恶性竞争

c 耗材费用的降低

d 用户选择直接打印电子资料，以取代复印

e 其他因素: _____

11. 请选择，下列资料种类(资料包括书籍，期刊，杂志，报纸等)中您认为复印最为频繁的三种。 []

a 科学，技术，医药类资料

b 小说以及戏剧类资料

c 乐谱

d 教育资料等，如课本，教科书

e 图示(包括图片，图表，以及复印文字作品时无意中复印的插图等)

f 报纸，新闻类资料

12. 请问您所在的图书馆，是否向用户提供将文本资料(纸介质)扫描为电子文本的服务[]

a 是

b 否

13. 根据您的工作经验以及您所在的图书馆为蓝本，请您选择您认为最正确的描述: []

a 中国在校大学生几乎不会复印教科书中的部分章节以代替购买教科书

b 中国在校大学生有很少一部分(低于百分之五)会复印教科书中的部分章节以代替购买教科书

c 中国在校大学生有一部分(高于百分之五)会复印教科书中的部分章节以代替购买教科书

d 中国目前没有这方面的统计，很难说

第二部分

14. 您是否认为图书馆或图书馆使用者应向版权享有者支付一定比例的复制补偿费用? []

- a 是
- b 否

若您回答“是”，请继续问题 15；如您回答“否”，请直接回答问题 17。

15. 您认为谁应向版权享有者付费? []

- a 图书馆
- b 图书馆用户
- c 其他方（请给出具体解释）：_____

如果您选择第一项，请继续问题 16；如果您选择其他两项，请直接回答问题 17。

16. 您认为下列复印补偿收费标准（一个用户一年应付的费用）哪项是您所在图书馆可以接受的? []

- a 人民币 10 元以下
- b 人民币 11-20 元
- c 人民币 21-30 元
- d 人民币 31-40 元
- e 人民币 41-50 元
- f 人民币 50 元以上

17. 您认为下列哪些因素制约了复制权组织在中国的建立?（多选） []

- a 国民缺乏版权保护意识
- b 不完善的版权保护系统（包括法律，各部门法规，地方法规等）
- c 使用方不愿意付费
- d 图书馆及其他组织缺乏经费
- e 中国用户没有复印图书中部分章节，以及复印期刊杂志中文章的习惯，此用户行为不存在普遍性。
- f 图书，期刊，杂志价格相对发达国家过低
- g 其他因素：_____

18. 请选择最接近您的想法的一项: []

复制权组织是帮助作者及出版商保护其经济利益的最好方式之一。

- a 非常同意
- b 同意
- c 不清楚, 应将其权力与义务罗列才能知道是否为最好方式
- d 不同意
- e 非常不同意

非常感谢您的回答和帮助，如果您有任何意见或问题，请和我联系：Y.Ma@lboro.ac.uk

以上所有回答及任何个人资料都将保密。

马亚男，英国拉夫堡大学

2005 年 8 月

Appendix 13 Questionnaire (Internet version)

版权保护与影印复制权组织调查问卷
作者 马亚男

[浏览](#) | [保存](#) | [复卷](#)

词汇定义：影印复制权组织 (RRO, Reproduction Right Organsiation) 通过集体管理以实现代表享有版权的创作者 (包括作者、出版商、译者、摄影师、记者等) 向一些使用方 (如大学、图书馆以及复印机、扫描仪等复制设备的购买者等) 收取一定比例的复制补偿费用, 再根据一定的比例将之分配给相关的版权享有者 (权利人)。如您想进一步了解影印复制权组织, 请访问网站: www.1frro.org。

本问卷分为三部分, 共19道问题, 非常感谢您的耐心回答。

[下一页 >>](#)

必须回答有 * 记号的问题

[提交](#) [储存](#) [复卷](#)

版权保护与影印复制权组织调查问卷
作者 马亚男

[浏览](#) | [保存](#) | [复卷](#)

第一部分: 基本信息

1* 请写出您的所在单位:

2* 您的所在单位为下列哪类图书馆?

公共图书馆

大学图书馆

其他类型图书馆, 如企业或组织内部图书馆

3* 您当前所在的图书馆有多少注册会员 (对于大学图书馆, 包括固定使用图书馆的非在校学生; 但不包括临时用户)?

5000人以下 5000-10000人

10000-20000人 20000-30000人

30000-40000人 50000人以上

[<< 上一页](#) [下一分题 >>](#)

必须回答有 * 记号的问题

[提交](#) [储存](#) [复卷](#)

第二部分

4* 您所在的图书馆有多少台对用户（包括注册会员与非会员）开放的复印机？

台

5* 在这些复印机当中，是否有对外开放（即用于商业用途，以营利为目的）的复印机？

- 全部对外开放
- 部分对外开放
- 全部只面向注册会员
- 本馆对于复印机的使用，并不区分会员与非会员

若您选择第一项或第二项，请继续回答问题6。若您选择第三项或第四项，请直接回答问题7。

6 对于商业用途，请分别写出您所在的图书馆复印一面A4以及B5纸张的资料所收取的费用？
例：A4, 0.20元/张, B5, 0.15元/张

7 对于注册会员，请分别写出您所在的图书馆复印一面A4以及B5纸张的资料所收取的费用？
例：A4, 0.20元/张, B5, 0.15元/张

8* 您是否了解或愿意回答本馆上述所有复印机去年一年的总收入是多少？

- 是 否

若您选择“是”，请继续回答问题9。若您选择“否”，请直接回答问题10。

9 上述提到的所有复印机，去年一年的总收入是多少？

元

10* 请您选择下列对于最近五年内上述复印机年收入最为接近的描述：

- 成递增趋势 每年基本持平
- 不稳定，没有规律 成递减趋势

若您选择前三项中的任意一项，请直接回答问题11。若您选择第四项，请继续回答问题11。

11 请问哪些因素导致上述复印机年收入的减少？（多选）

- 复印机构的增多
- 复印机构出现恶性竞争
- 耗材费用的降低
- 用户选择直接打印电子资料，以取代复印
- 其他因素，请注明

12* 请选择下列资料种类（资料包括书籍、期刊、杂志、报纸等）中您认为复印最为频繁的三种。

- 科学、技术、医药类资料
- 小说以及戏剧类资料
- 教育资料等，如课本、教科书
- 图示（包括图片、图表，以及复印文字作品时无意中复印的插图等）
- 报纸、新闻类资料
- 乐谱

13* 请问您所在的图书馆，是否向用户提供将文本资料（纸介质）扫描为电子文本的服务？

- 是 否

14* 根据您的工作经验以及您所在的图书馆为样本，请您选择您认为最正确的描述：

- 中国在校大学生几乎不会复印教科书中的部分章节以代替购买教科书
- 中国在校大学生有很少一部分（低于百分之五）会复印教科书中的部分章节以代替购买教科书
- 中国在校大学生有一部分（高于百分之五）会复印教科书中的部分章节以代替购买教科书
- 中国目前没有这方面的统计，很难说

<< 上一分段

下一分段 >>

必须回答有* 记号的题目

第三部分

15* 您是否认为图书馆或图书馆使用者应向版权所有人（权利人）支付一定比例的复制补偿费用？

是 否

图书馆

若您回答“是”，请填写

bibliotheca

继续回答问题16。

16 您认为谁应向版权所有人

library

图书馆 图书馆用户

其他方，请注明

若您选择第一项，请继续问题17。若您选择其他两项，请直接回答问题18。

17 您认为下列复印补偿收费标准（一个用户一年应付的费用），哪项是您所在图书馆可以接受的？

人民币10元以下 人民币11-20元

人民币21-30元 人民币31-40元

人民币41-50元 人民币50元以上

18* 您认为下列哪些因素制约了影印复制权组织在中国的建立？（多选）

国民缺乏版权保护意识

不完善的版权保护系统（包括法律，各部门法规，地方法规等）

使用者不愿支付费

图书馆及其他组织缺乏经费

中国用户没有复印图书中部分章节，以及复印期刊杂志中文卷的习惯，此用户行为不存在普遍性

图书、期刊、杂志价格相对发达国家过低

其他因素，请注明

19* 请选择最能接近您的想法的一项：

影印复制权组织是帮助作者及出版商保护其经济利益的最好方式之一。

非常同意

同意

不清楚，应将其权力与义务罗列才能知道是否为最好方式

不同意

非常不同意

<< 上一页

必须回答有*号记号的问题

非常感谢您的回答和帮助，如果您有任何意见或问题，请和我联系：Y.Me@lboro.ac.uk
以上所有回答及任何个人资料都将保密。

马亚男，英国拉夫堡大学
2005年8月

全卷完

Appendix 14 Section 4, Limitations on Rights, Copyright Law of PRC 2001

Article 22 In the following cases, a work may be exploited without permission from, and without payment of remuneration to, the copyright owner, provided that the name of the author and the title of the work shall be mentioned and the other rights enjoyed by the copyright owner by virtue of this Law shall not be prejudiced:

- (1) use of a published work for the purposes of the user's own private study, research or self-entertainment;
- (2) appropriate quotation from a published work in one's own work for the purposes of introduction to, or comments on, a work, or demonstration of a point;
- (3) reuse or citation, for any unavoidable reason, of a published work in newspapers, periodicals, at radio stations, television stations or any other media for the purpose of reporting current events;
- (4) reprinting by newspapers or periodicals, or rebroadcasting by radio stations, television stations, or any other media, of articles on current issues relating to politics, economics or religion published by other newspapers, periodicals, or broadcast by other radio stations, television stations or any other media except where the author has declared that the reprinting and rebroadcasting is not permitted;
- (5) publication in newspapers or periodicals, or broadcasting by radio stations, television stations or any other media, of a speech delivered at a public gathering, except where the author has declared that the publication or broadcasting is not permitted;
- (6) translation, or reproduction in a small quantity of copies, of a published work for use by teachers or scientific researchers, in classroom teaching or scientific research, provided that the translation or reproduction shall not be published or distributed;
- (7) use of a published work, within proper scope, by a State organ for the purpose of fulfilling its official duties;
- (8) reproduction of a work in its collections by a library, archive, memorial hall, museum, art gallery or any similar institution, for the purposes of the display, or preservation of a copy, of the work;
- (9) free-of-charge live performance of a published work and said performance neither collects any fees from the members of the public nor pays remuneration to the performers;

(10) copying, drawing, photographing or video recording of an artistic work located or on display in an outdoor public place;

(11) translation of a published work of a Chinese citizen, legal entity or any other organisation from the Han language into any minority nationality language for publication and distribution within the country; and

(12) transliteration of a published work into Braille and publication of the work so transliterated.

The above limitations on rights shall be applicable also to the rights of publishers, performers, producers of sound recordings and video recordings, radio stations and television stations.

Article 23 In compiling and publishing textbooks for implementing the nine-year compulsory education and the national educational programmes, parts of published works, short written works, music works or single copies of works of painting or photographic works may be compiled into textbooks without the authorization from the authors, except where the authors have declared in advance the use thereof is not permitted, with remuneration paid according to the regulations, the name of the author and the title of the work indicated and without prejudice to other rights enjoyed by the copyright owners according to this Law.

The above limitations on rights shall be applicable also to the rights of publishers, performers, producers of sound recordings and video recordings, radio stations and television stations.

