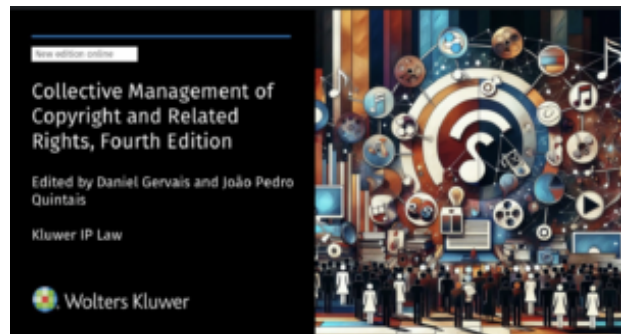


# Kluwer Copyright Blog

## Essential Economics of Collective Copyright Management in the Twenty-First Century

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*This blogpost is part of a series marking the publication of the fourth edition of the book [Collective Management of Copyright and Related Rights](#), edited by Daniel Gervais and João Pedro Quintais. The blogpost provides a short presentation of the authors' chapter with the same title.*



Given rapid and far-reaching changes due to digitalization, where do copyright management organizations (CMOs; also known as “collecting societies” or “copyright collectives”) continue to play a constructive role, and how should they evolve their operations? Economics provides a useful framework for related debates.

Based on the economics literature, this chapter clarifies that in the context of digitalization, some of the functions of CMOs are becoming even more important. In increasingly complex markets for copyright works, stakeholders can very much benefit from specialized suppliers of transaction services such as CMOs. Furthermore, with the emergence of highly integrated commercial platforms throughout the copyright industries, collective bargaining on behalf of creators and rightholders can help keep commercial platforms' market power in check and thus safeguard sustainable incentive to invest in creativity.

Our chapter develops four themes that will be of virtually universal interest to explain the structure of the licensing market and the conduct and performance of CMOs within it.

First, a universally acknowledged benefit of CMOs is that these organizations can reduce average transaction costs relative to direct interactions by bundling interactions and setting reliable standard terms. Thus, well-functioning CMOs can facilitate a greater number of mutually beneficial transactions between rightholders and license takers, as well as greater diversity of market participants and works supplied.

Second, the main drawback of CMOs is the market power that these organizations wield and the apparent need to patch things up with statutory regulation. A central point in related discussions is that CMOs engage in collective bargaining on behalf of rightholders, similar to trade unions. CMOs' exploitation of market power to the detriment of license takers is an obvious concern.

Third, economists have also studied the incentives of unregulated CMOs and their current members to discriminate against other rightholders, such as newcomers or rightholders based abroad.

Fourth, some economists have suggested that CMOs may be able to mitigate the excruciating risk that many rightholders face due to unpredictable and polarized demand conditions.

The economic analysis yields several general insights.

First, CMOs involve a trade-off between reducing average transaction costs in complex markets on the one hand and the negative consequences of centralized control and market power of intermediaries on the other. Arguably, there is no way around this conundrum. Therefore, the appropriate benchmark for assessing the performance of CMOs is not an imaginary, perfectly efficient competitive market, but the real-world alternatives to collective rights management: direct licensing between rightholders and users or licensing through commercial, for-profit intermediaries.

Second, copyright industries are rife with virtually all types of market failure, including market power, public good attributes and externalities, incomplete information about product quality, and demand uncertainty. In order to develop valid policy implications for CMOs and their regulation, we need a reasonable understanding of specific market conditions.

Third, the regulation and performance of CMOs vary across different aspects of the cultural and creative industries (CCI) and across different territories. There is much scope for empirical research to identify best practices. Unfortunately, to our knowledge, systematic empirical research is scarce. In any case, there is little empirical indication that technological change would have rendered CMOs obsolete so far. Although digital information and communication technologies probably lowers average transaction costs in copyright licensing markets, these markets have also become more complex, driving up the aggregate number of transactions. In this context, CMOs' function of reducing average transaction costs by bundling and standardization appears to remain useful.

The chapter also discusses the main aspects of CMO regulation, including transparency, universal service obligation and non-discriminating conduct.

In addition, the chapter discusses CMOs in the context of the increasing role of commercial online platforms in contemporary CCI and the specific and timely case of generative artificial intelligence (AI).

CMOs and some commercial platforms in the CCI fulfil similar functions, but with different incentives and distinct strengths and weaknesses. Commercial platforms are much better able to innovate and develop more efficient processes, and new complementary goods and services for the copyright industries. However, CMOs are needed to reduce asymmetric information problems and excessive exploitation of market power by large commercial platforms.

Regarding generative AI, a major problem is that these novel services seldom attribute creators of input works. That not only undermines creators' ability to learn how much value they have generated for others. It also hinders creators in developing a reputation and benefit from increased demand for more excludable, complementary goods and services they supply.

Overall, CMOs are a fascinating type of organization. Few not-for-profit collectives play such a central role in contemporary market economies. Arguably, the apparent need for the functions CMOs supply in contemporary copyright industries is as great as ever. Whether specific CMOs are capable of rising to novel challenges, for instance with generative AI, is yet another question. Our chapter should equip readers with a good overview of the essential economics of CMOs and thus enable more informed debates on current challenges in copyright industries.

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