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‘To be or not to be’: ©opyright compliant

Copyright laws give to the creators of original artistic, literary, musical or dramatic works, the exclusive right to determine who, when, where and how much of their works are used. This use includes, making copies of the work, issuing copies to the public, performing the work in public or broadcasting the work.

As a result, anyone wishing to use a work under copyright protection and that particular use is not included in the statutory exemptions specified in the Copyright Act of Jamaica, 1993, then that person must first obtain permission from the creator and in most instances, pay for the use.

Depending on the circumstances, it may be impractical or impossible for users and creators to be in direct contact with each other, especially with voluminous usage, such as a radio station playing over 1,000 different songs each week.

To facilitate an easier access, copyright societies, officially called Collective Management Organisations (CMO's), act on behalf of creators who are members of that society, to grant permission - 'licences' - to users of the creator's work and, to collect the payment fees - 'royalties' - for distribution to their member-creators.

There are currently three (3) active CMO's operating in Jamaica by virtue of sections 87 to 99 of the Jamaican Copyright Act; namely the Jamaica Association of Composers, Authors and Publishers Limited (JACAP) representing song writers, composers and music publishers; the Jamaican Copyright Licensing Agency (JAMCOPY) representing creators of works in print (e.g. writers, poets, photographers, illustrators, journalists, visual artists, etc.) and the Jamaica Music Society (JAMMS) representing record producers and/or label owners.

These societies grant licences for use of the copyrighted works within the repertoire which they administer and their repertoires comprise Jamaican and foreign works. This access to foreign works is made possible through the reciprocal agreements between the local CMO's and their

equivalent CMO's around the world. Each CMO is therefore responsible for collecting and distributing royalties to their local members and overseas affiliates.

The Jamaican CMO's are also members of their respective international umbrella organisations: JACAP is a member of the International Confederation of Societies of Authors and Composers (CISAC), JAMPCOPY is a member of the International Federation of Reproduction Rights Organisations (IFRRO) and JAMMS is a member of the International Federation of the Phonographic Industry (IFPI).

The licences by CMO's granted are generally tailored to the type of user based on such factors as type of usage, frequency of use, quantity of material used and period of time for usage. Royalty rates are also negotiated for the amount to be paid for the use of the work.

So what does this mean for a Jamaican business, whether an individual or corporate body? Simply put, any playing of live or recorded copyrighted music in a public place (radio, television, discos, restaurants, hotels, or any commercial venue), where the copyright in that music is not owned by the business, requires a licence from JACAP and JAMMS. Adaptation of a work such as changing the lyrics of a popular song still under copyright protection, for the purposes of promotion also requires a licence from the copyright owner of the song. Any reproduction of copyrighted works in print, such as photocopying, scanning or otherwise digitizing, or uploading onto a website, where the copyright in that work is not owned by the business, requires a licence from JAMCOPY.

Using copyrighted works without permission is an offence under the law and attracts civil and / or criminal liabilities. Therefore, business enterprises, be they sole trader or a larger company, should factor into the entity's budget as a recurring expense, the relevant copyright licences. Additionally, any business creating original works should protect its copyright and become a member of the relevant CMO's.

Obtaining a licence ensures proper adherence to local and international laws and importantly, demonstrates respect and support for the creative community.

For more information on copyright law and the Jamaican CMO's, contact the Jamaican Intellectual Property Office (JIPO) at 754-6360, 754-6350, 960-1852 or visit their website www.jipo.gov.jm which has hyperlinks to the home pages of JACAP, JAMCOPY, and JAMMS.

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Jamaica Intellectual Property Office