

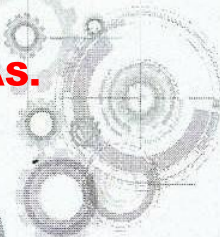


**MLA**  
MINISTRY OF LEGAL AFFAIRS



TRINIDAD & TOBAGO  
INTELLECTUAL PROPERTY OFFICE

**PLEASE READ CAREFULLY....  
ESPECIALLY, THE  
HIGHLIGHTED AREAS.**



## ADDRESSING COLLECTIVE MANAGEMENT ISSUES

The questions emerging in collective management this Carnival season have raised the same 2 major issues as in previous years. These are:

1. Which Collective Management Organizations are to be paid for musical works?
2. Which rights are administered by which Collective Management Organizations?

There are three (3) collective management organizations (CMOs) that administer rights in respect of musical works in Trinidad and Tobago. They are:-

- a) *Advancing Writers Entertainers Singers on Music Endeavours (AWESOME);*
- b) *Copyright Music Organization of Trinidad and Tobago (COTT); and*
- c) *Trinidad and Tobago Copyright Collection Organization (TTCO)*

### THE HISTORY OF THE ONGOING EFFORTS OF THE INTELLECTUAL PROPERTY OFFICE (IPO) OF THE MINISTRY OF LEGAL AFFAIRS TO RESOLVE THE PROBLEMS BETWEEN THE COLLECTING SOCIETIES:

1. An analysis of Collective Management in Trinidad and Tobago has been done by the World Intellectual Property Organization (WIPO) and in November 2010 a committee was constituted to examine the resulting recommendations.
2. Under Instructions from the Minister of Legal Affairs, Honourable Prakash Ramadhar, the IPO initiated a process of mediation among the Collecting Societies, utilizing mediators provided by WIPO.
3. In May 2011 the Director General of WIPO was informed that the local Collecting Societies (for musical works) had agreed to the WIPO mediation process and a proposed agreement to this effect was forwarded to the three (3) collecting societies. The agreement was signed and returned to WIPO.
4. In the year 2012, several issues of complaints continued to be identified by members of these collecting societies. The Ministry of Legal Affairs convened a meeting to determine the exact nature of problems which caused the mediation process not to begin and to recommend a way forward to deal with the problem.
5. In January 2013, a meeting of all copyright collecting societies was held to resolve the issues through Collective Management Organizations. At this meeting all the collective societies for musical works requested that the mediation process become effective again. The collecting societies preferred a mediation approach rather than its alternative which is legislation to regulate the industry.

6. WIPO was again approached to initiate the process.
7. Recommendation of a mediator was discussed and the place for the mediation.
8. In October 2013, two (2) WIPO experts met in Port-of-Spain with the three (3) collecting societies and a Memorandum of understanding was developed indicating the point of departure and the further steps required. The mediator and the process to be adopted were agreed upon. Dates were proposed for the mediation to begin as well as the cost to be paid to the mediator.
9. The WIPO Arbitration and Mediation center agreed to facilitate the process and agreed also that the Intellectual Property Office (IPO) will be used as the venue.
10. Collecting Societies were asked to deposit their respective contributions towards the mediator's fees by November 18th, 2013. It was estimated that the process would be completed by April, 2014.
11. Only ONE (1) of the three collecting societies honoured its financial obligation under the mediation agreement to which they consented. WIPO therefore indicated it was obliged to close the file. The mediation process was effectively abandoned by the parties' failure to pay the mediator.
12. Against the background of this failed attempt at mediation and in light of the alternative approach already having been explained to Collecting Societies, on the 20th January, 2014, the Controller, Intellectual Property Office (IPO), wrote

WIPO requesting assistance in developing a legislative framework for Trinidad and Tobago to regulate Collective Management.

This is an issue which the Ministry of Legal Affairs, through its Intellectual Property Office, has persistently dealt with, recognizing the problems which unresolved issues create for both the collecting society and their respective members.

After four (4) years of persistent trying and after a failed attempt at mediation, the Ministry of Legal Affairs intends now to recommend to the Government that it consider a legislative approach which has worked in many member states of WIPO. WIPO has again agreed to assist in drafting a proposed legislative framework. The promoter must pay the Collective Management Organization, which represents the musical works that the promoter intends to use. And as such, multiple Collective Management Organizations may have to be paid.

In the interim, the Intellectual Property Office through its professional staff has been talking to electronic media (radio and television) to clarify many of the issues which have emerged over the last few weeks in the area of Copyrights and Related Rights. The IPO has also made contact with the Ministry of Arts and Multiculturalism to work together to create better understanding and appreciation of the rights created in the area of Copyright and Related Rights. The Ministry of Legal Affairs, through its Communications Unit and the IPO, will embark upon a vigorous public information campaign to create a better understanding among all stakeholders and members of the public, of the operations of the industry.

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