



Copyright & licensing in Japan: Today and tomorrow

Michael Healy

Executive Director, International Relations
STM Connect Japan, November 2017



Making Copyright Work

Rightsholders



800+ million rights from:

- Publishers
- Authors
- Agents
- Creators



Licensing solutions
Rights Management
Content Delivery
Copyright Education
Service Bureau



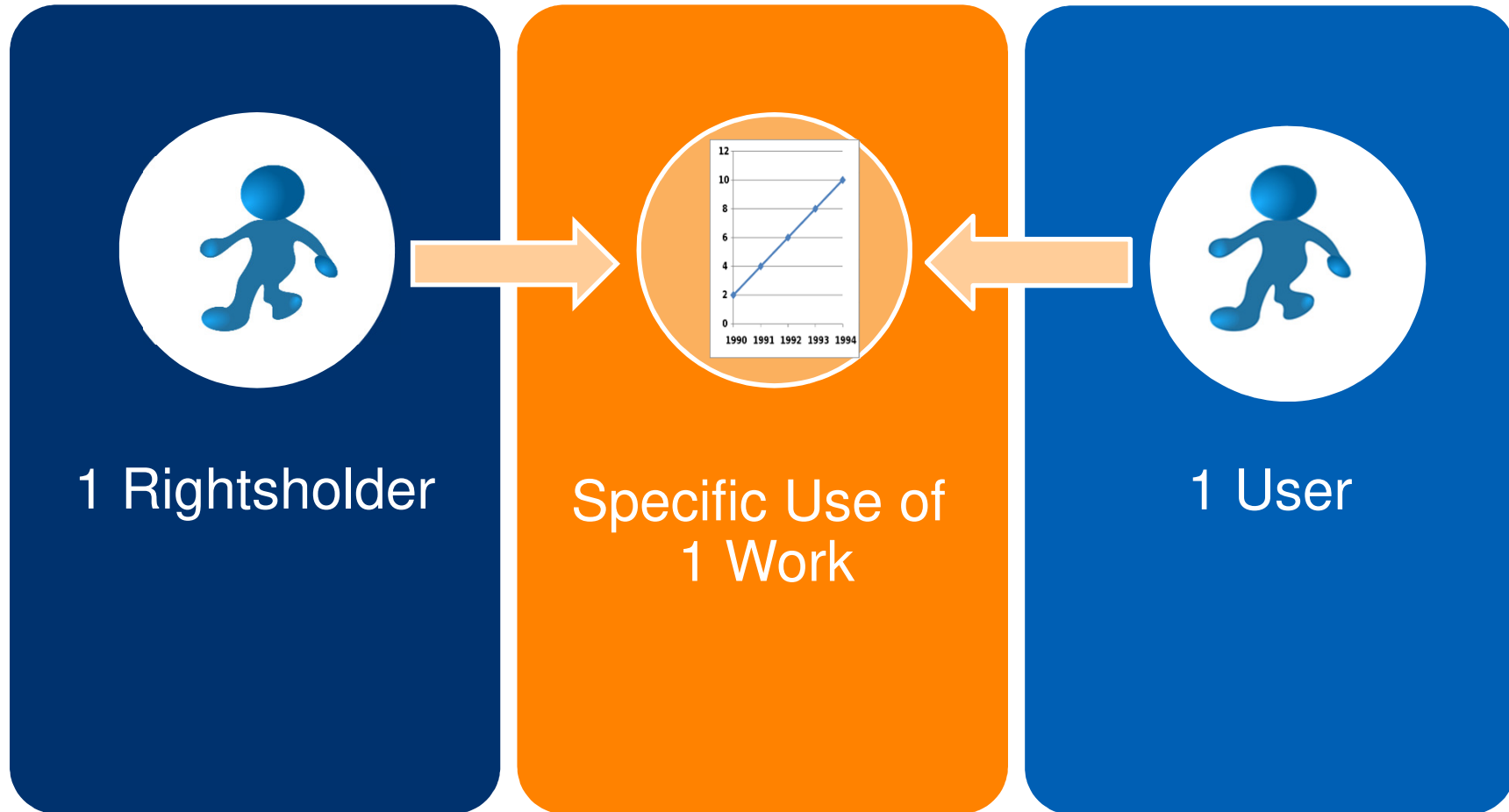
Content Users



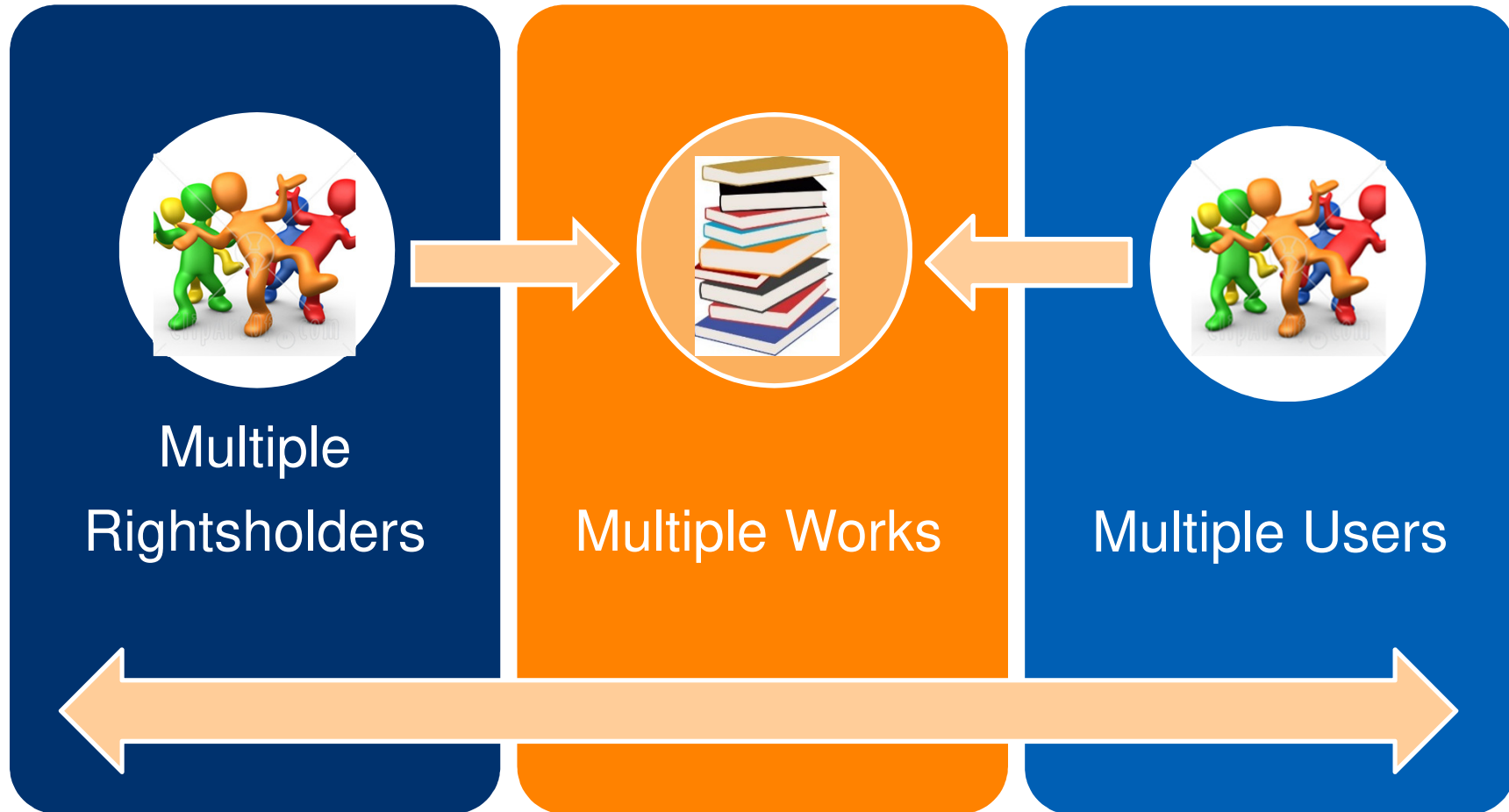
35K companies
Workers in 180 countries
1,200 colleges and
universities
Publishers and Authors

Collective Licensing

Individual Licensing



Collective Licensing



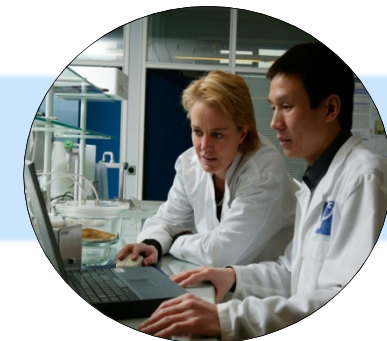
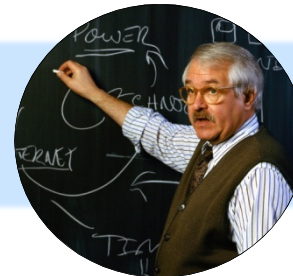
How Collective Licensing Works

Copyright holders



Rights from many sources are available in one place

Content users



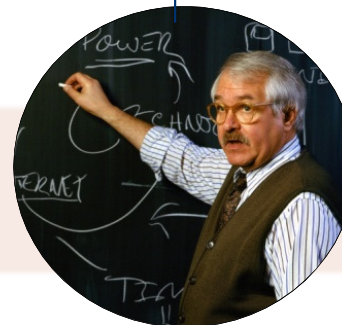
How Collective Licensing Works

Copyright holders

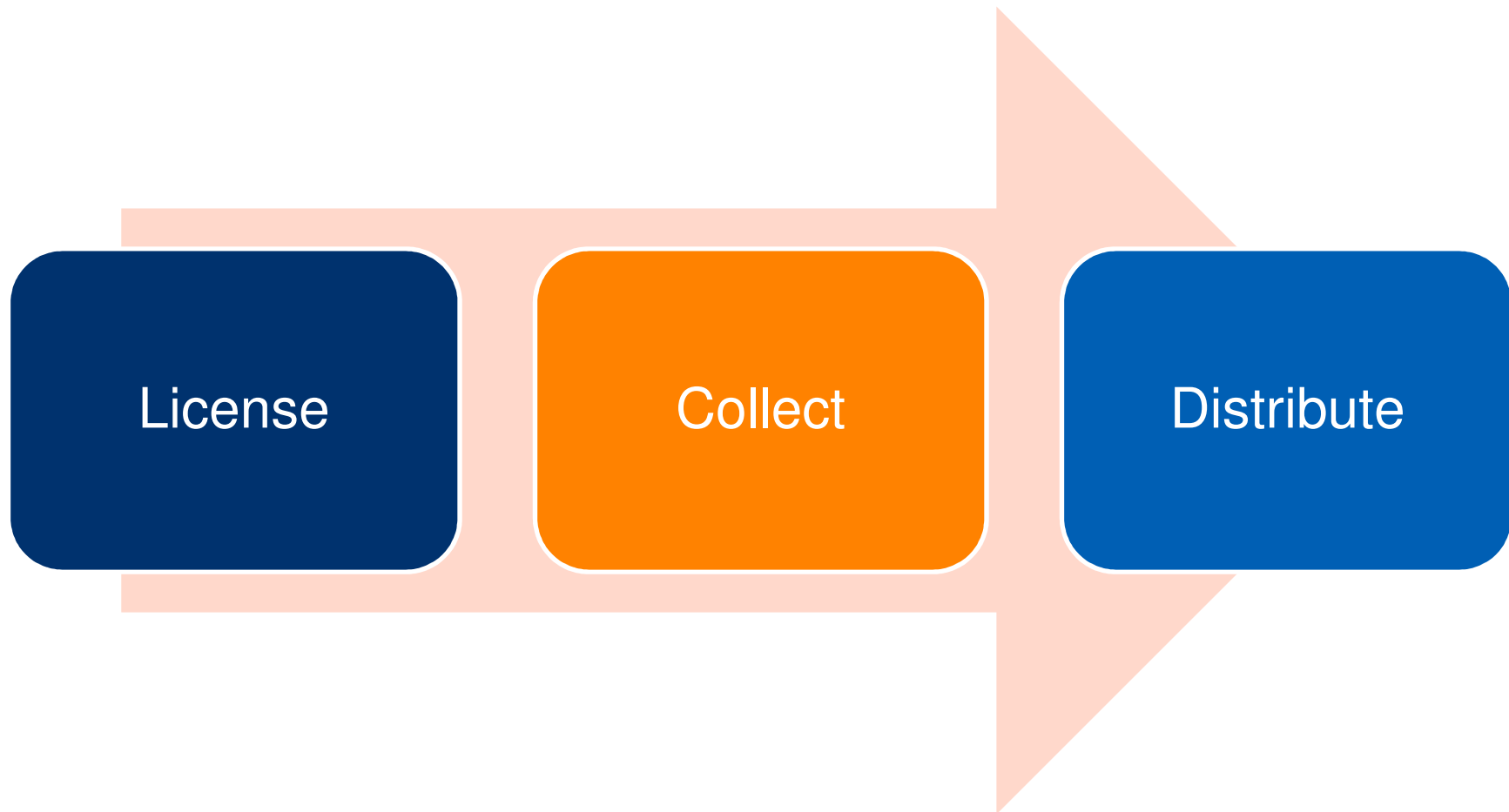


Royalties are collected from content users and distributed to rightsholders

Content users



Key duties and responsibilities



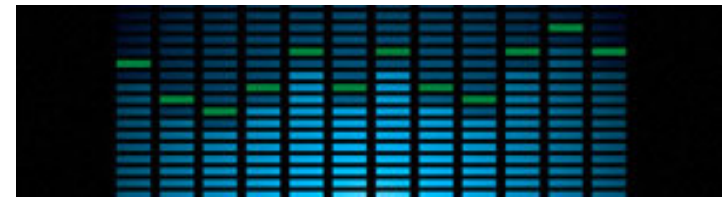
Benefits of Collective Licensing

- **Faster, more convenient** way for users to access rights & share legally
- **More efficient** way for copyright holders to license their works



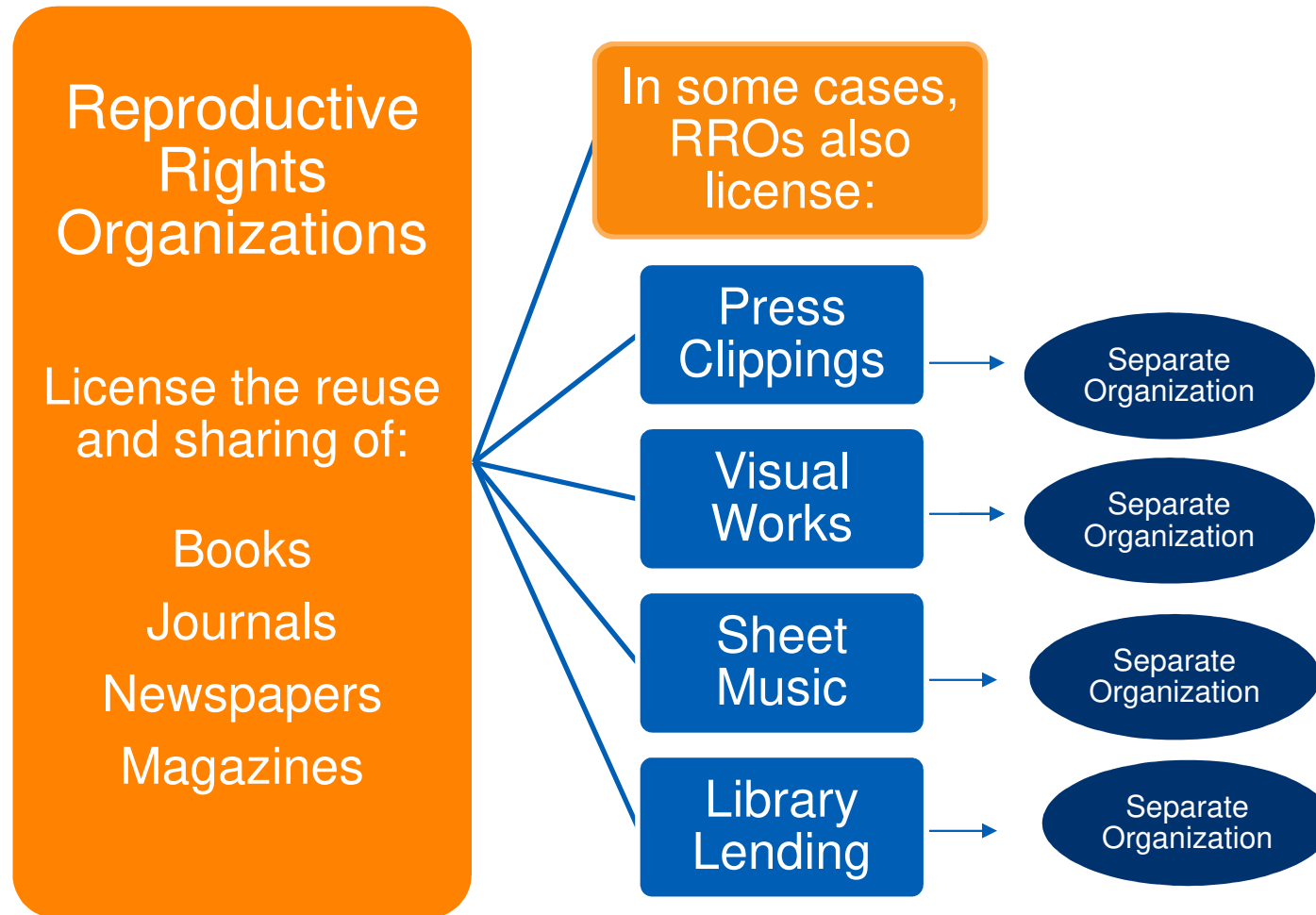
Collective Management Organizations

- Exist **in all creative sectors**
- Are usually subject to **specific legal regulations** at national level
 - Increasingly subject to government regulation



Reproduction Rights Organizations (RROs)

Some CMOs are RROs



RROs Around the World



- 84 RROs worldwide

- USA: Copyright Clearance Center (CCC)
- Japan: JAC, JCOPY, JRRC



- Most RROs belong to **IFRRO**
www.ifrro.org

Copyright Licensing in Japan

Ministry of Culture, Education, Sports, Science & Technology (MEXT)

Agency for Cultural Affairs (ACA): Copyright Division

Japan Academic
Assn. for Copyright
Clearance (JAC)

Japan Publishers
Copyright Organization
(JCOPY)

Japan Reproduction
Rights Center
(JRRC)

JAC: key data

- Japan Academic Association for Copyright Clearance
- Established in 1989; re-organized in 2003
- Registered with the ACA as a CMO in 2002
- Five member associations (scholarly societies)
- Board (Directors, Advisors & Inspectors)
- Annual collections (latest): €12.1 million
- IFRRO: full RRO member

JAC: markets and products

- Primary rights holders: academic/scholarly societies
- Key licensees: corporations (esp. pharmaceutical)
- Products:
 - Annual photocopy license (AAS)
 - Annual photocopy license (MR-AAS): medical representatives
 - Transactional photocopy license (TRS)
 - Digital Copyright License (DCL): sold by RightsDirect Japan
- RRO agreements (30+)

JRRC: key data

- Japan Reproduction Rights Centre
- Established in 1991; CMO registration in 2002
- Four member associations
 - Copyright Council of Newspaper Publishers
 - Federation of Authors Organizations
 - JAC
 - JCOPY (terminating governance role in 2017)
- Annual collections (latest): €2.4 million

JRRC: markets and products

- Primary rights holders: newspapers
- Key licensees: 6,100 corporations and libraries
- Products:
 - Annual photocopy license
 - Transactional photocopy license
- No RRO agreements (some pending)
- IFRRO: full RRO member

JCOPY: the basics

- Japan Publishers Copyright Organization
- Established in 2009
- Annual collections (latest): €5.7 million
- IFRRO: full RRO member

JCOPY: markets and products

- Primary rights holders: 350+ journal & book publishers
- Key licensees: corporations (+ universities)
- Products:
 - Annual repertory license (digital + photocopy)
 - Annual transactional license
 - Single transactional license
 - Document delivery services (in partnership)
- RRO agreements

How RROs Are Organized

- RROs usually are **non-profit associations** of rightsholders
- Aggregation of rights through voluntary or legal **mandates**
- Internal and external **control mechanisms**



What's the Value?

- Supports research
- Supports teaching
- Enables sharing
- Efficiency
- Protects rights
- Rewards creators



“

We need a global infrastructure that permits simple, global licensing. One that makes the task of licensing cultural works legally on the Internet as easy as it is to obtain such works there illegally.

”



Francis Gurry
Director General, WIPO

Copyright reform in Japan?

What do we know?

- Agency for Cultural Affairs: Copyright Subdivision
 - Interim report: 29 February 2017
 - Copyright Educational Use: 2015 study
 - Copyright Comprehensive Limitation: February 2017
 - August 2017 public notification
- Legislative timetable
 - Delayed by recent elections
 - Text available when the Diet's next session begins
 - Draft text in February or March 2018?
 - Introduction to Diet in May or June 2018?



Criteria for future exceptions

1. Exceptions that meet “the needs of the new era”
2. Facilitating technology-based teaching and learning
3. Promoting information access to those with disabilities
4. Enabling libraries’ access to orphan and out-of-commerce works



Exceptions for “the needs of the new era”

- “Multi-layered” system
 - Clarity and flexibility
- Three layers
 - “Degrees of disadvantage” incurred potentially by rights holders
- Maximizing effect through promotion and user education



Technology-based teaching & learning

- Promoting the use of ICT in the classroom
- Facilitating “on demand and interactive transmission”
- Encouraging use while protecting rightsholders
- Remunerated exceptions
- Encourages co-operation of users and rightsholders:
 - Administration of licensing & remuneration procedures
 - Copyright education for users
 - Promotion of responsible classroom uses
- Need for further research on uses



Information access for disabled users

- Proposes amendments to Article 37 (3)
 - Designated beneficiaries to include reading-disabled users
 - Email transmission to be an authorized use
 - Extension of those permitted to make reproductions (e.g. voluntary groups”)



Libraries/Archives

- Out-of-commerce “materials”
 - Extend current system to add libraries in other countries as “destination facilities” for works transmitted by National Diet Library
 - Extend current system to encompass electronic access to works using “thumbnail images”
- Remuneration of rightsholders of orphan works
 - After rightsholder comes forward
- Further discussion required on various issues:
 - Copyright clearance
 - Promoting use of works, etc.



Is Fair Use coming to Japan?

- Longstanding pro-Fair Use lobby
- Advocates contend that Fair Use would stimulate growth of Japan's IT sector
- Signals of government opposition?
- Favors introduction of specific, narrower exceptions?
- Unclear what exceptions will be prioritized and when they will be introduced
- Balancing interests of users and rightsholders

Criteria for new exceptions?

1. “Non-intrinsic uses”, not normally harmful to the interests of rightsholders, for example
 - Creation of database search and retrieval tools
 - Reverse engineering services
 - Automated translation services
2. “Non-intrinsic uses”, where harm to the interests of rightsholders is slight or insignificant
3. “Intrinsic uses” that support “the public interest”



In conclusion ...

Conclusions

- We have much more to learn
- “Diversity of views was a distinguishing feature”
- US-style Fair Use appears to have little support
- “Fair Use for machines”. Is this a risk for publishers?
- Little or no consensus on educational exceptions
 - More work required on key uses, e.g. MOOCs
 - Will any new exceptions be remunerated?



THANK YOU!



QUESTIONS?

mhealy@copyright.com