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## **WIPO-BCC 27<sup>th</sup> Advanced Training Seminar on Copyright and Related Rights**

### **Country Report**

### **BOTSWANA**

**By Mr. Letlhogonolo MAKWINJA,  
Head of Reprography,  
Copyright Society of Botswana**

# WIPO-BCC Advanced Training Course on copyright and related rights 2019

## Country Report

**Name of the participant:** Letlhogonolo Makwinja  
**Organization:** Copyright Society of Botswana  
**Title of the participant:** Head of Reprography

**Name of the country:** Botswana  
**Capital:** Gaborone  
**Population:** 2, 366, 059

### 1. Legislative framework

- 1.1. Copyright law (name and year) and pending legislative changes
  - 1.1.1 Copyright and Neighboring Rights Act Chapter 68:02 of 2000
  - 1.1.2 **Pending Changes:**
    - 1.1.2.1 The amendment intend to include and domesticate the new treaties being Beijing and the Marrakesh Treaty. It also aims to improve and fully incorporate provisions of WIPO Copyright Treaty and WIPO Performance and Phonographs Treaty
    - 1.1.2.2 Revision of clauses on collective management organizations and use of security devices
    - 1.1.2.3 Introduce; -artists resale right
      - 1.1.2.3.1 fees for voluntary registration of works
      - 1.1.2.3.2 expressions of folklore
      - 1.1.2.3.3 liability of internet service providers
      - 1.1.2.3.4 work made for hire
- 1.2. Legal system: Common or Civil Law
  - 1.2.1 Roman Dutch law (it combines both Common and Civil Law)
- 1.3. Adherence to international copyright treaties (treaty and year)
  - 1.3.1 Berne Convention for the Protection of Literary and Artistic Works (1886); Accession date: January 15th, 1998
  - 1.3.2 WIPO Copyright Treaty (WCT) (1996). Accession: October 27th, 2004
  - 1.3.3 WIPO Performances and Phonograms Treaty (WPPT), (1996). Accession date: October 27, 2004
  - 1.3.4 Beijing Treaty on Audio-visual Performances Treaty (2012). Date of ratification: November 20th, 2013
  - 1.3.5 Marrakesh Treaty: Visually Impaired Persons Treaty (2013). Accession date: 05th October 2016.
  - 1.3.6 World Trade Organization (WTO) - Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (1994). Date of ratification: May 31, 1995
- 1.4. Relevant Government body in charge of copyright legislation
  - 1.4.1 Companies and Intellectual Property Authority

### 2. Information on collective management of rights

2.1. Stipulations concerning collective management of rights in your copyright law and/or regulations

**2.1.1 36A. Establishment of Copyright Society**

( 1) There shall be established, for the various categories of works protected under this Act, a collective administration body to be known as the Copyright Society of Botswana.

( 2) The Copyright Society shall be a non-profit making company limited by guarantee, and shall be responsible for-

( a) the negotiation and granting of licences in written agreement with the owners of copyright for:

( i) the adaptation of works, performances and sound recordings,

(ii) the insertion of works, performances or sound recordings in other scopes,

( iii) the use of works for publicity purposes;

( b) setting rates for royalties in accordance with acceptable international standards; and

( c) the collection and distribution of royalties to appropriate owners of copyright.

( 3) The Copyright Society shall:

( a) represent the owners of the copyright in the various categories of works protected under this Act; and

( b) put in place rules and regulations, approved by the Copyright Office, which contain such provisions as are necessary to ensure the protection of the interests of its members.

**2.1.2 Section 36B. Duties of Copyright Society**

( 1) The Copyright Society shall, as soon as reasonably practicable after the end of each financial year, submit, to the Copyright Office-

( a) a report of its operations and performance during the year in question;

( b) a copy of its audited financial statements in respect of that year; and

( c) a copy of such other reports as may be requested by the Copyright Office.

( 2) The Copyright Society shall distribute royalties on an equitable basis, approved by the Copyright Office, to its members.

**2.1.3 Section 37. Regulations**

( 1) The Minister may make regulations providing for any matter which under this Act is to be prescribed or for the better carrying out of the purposes and provisions of this Act.

( 2) Without prejudice to the generality of the subsection (1), the Minister may make Regulations to-

( a) establish, constitute and provide the functions of a Copyright Council to administer the Act and to regulate the rights protected under the Act;

( b) provide for the setting up of a Copyright Society and such other body of persons necessary to promote the rights protected under the Act.

- 2.2. Government control, if any (establishment of a CMO and functions of a CMO)
  - 2.2.1 As addressed above in 2.1
- 2.3. Supervising Government authority (if several, specify their roles)
  - 2.3.1 The Copyright Office, a department under Companies and Intellectual Property Authority (CIPA)
  - 2.3.2 CIPA a parastatal under the Ministry of Investment Trade & Industry
  - 2.3.3 The Copyright Office:
    - 2.3.3.1 responsible for all matters affecting copyright in Botswana;
    - 2.3.3.2 supervise the activities of the Copyright Society of Botswana as provided for under section 36A of the Act;
- 2.4. Competition legislation and its applicability to collective management
  - 2.4.1 the Copyright Society of Botswana as the only CMO in the country holds a monopolistic position

### **3. Existing collective management organizations (CMOs)**

*List all*

- 3.1. Name
  - 3.1.1 the Copyright Society of Botswana
- 3.2. Year of incorporation and year when licensing begun
  - 3.2.1 COSBOTS was incorporated in 2008 and begun operations and licensing in 2011.
- 3.3. Field of operation (single category – multipurpose)
  - 3.3.1 COSBOTS is a multipurpose CMO. Having started licensing for music in 2011 and only introduced reprography in 2016. The CMO intends to introduce Audio visual and dramatic rights licensing in the second quarter of 2020.
- 3.4. Number of employees
  - 3.4.1 an employee complement of 19, 15 staff and 3 interns.
- 3.5. Categories of rights holders represented
  - 3.5.1 authors, composers, publishers and producers of music works
  - 3.5.2 literary and visual arts artists
- 3.6. Categories of rights represented
  - 3.6.1 Copyright rights
  - 3.6.2 Neighbouring rights
- 3.7. Total collection (in 2016 or 2017 in local currency and USD)
  - 3.7.1 Rate at 1 USD = BWP 10
  - 3.7.2 2016 – BWP 10, 774, 409.00 = USD 1, 077, 440.90
  - 3.7.3 2017 – BWP 10, 008, 550.00 = USD 1, 000, 855.00
  - 3.7.4 2018 – BWP 12, 152, 226.00 = USD 1, 215, 222.60
- 3.8. Cost percentage
  - 3.8.1 from 70% administrative costs in 2016 to 50% Administrative costs in 2018

- 3.9. Publicly available information (website) – [www.cocbots.co.bw](http://www.cocbots.co.bw)
- 3.9.1 Copyright & Neighbouring Rights Act
- 3.9.2 Constitution
- 3.9.3 Tariffs
- 3.9.4 Licensing forms – music and reprography
- 3.9.5 Membership notification forms
- 3.9.6 Annual reports
- 3.9.7 Publications
- 3.9.8 Tenders