

CURRENT CHALLENGES IN COLLECTIVE MANAGEMENT

*Governance, Control and Accountability  
in the light of  
Recent regulatory initiatives*

# An Academic and a Practitioner's perspective

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# Point of Departure

How has the development of Sweden's collective rights management structure impacted initiatives on governance and control?

# Structure of Presentation

1. Overview of **Swedish collective rights management** landscape
2. Presentation of study of **Swedish film market**, particular focus on the Performers' Union (**Scen&Film**)
3. Share insights on challenges with **governance** and **control**
4. Reflect on the concept of **accountability**

# Collective Management in Sweden

“First came the organisations, then the agreements,  
and after that the regulation”

# A Swedish Labour Market Norm

## “The Swedish Model”

- Negotiation rather than legislation
- Minimal interference from the Government
- Collaborative structures and mutual dependencies



# The effect on the organisational and regulatory landscape within collective management

- Development of collaborative structures – not limited to labour market, also prominent within the cultural sector (same actors)
  - Endowment of semi-public functions
  - Acceptance of administratively deductions
  - Expertise called on by the Government
- Administratively stable and strong organisations
- Large membership bases / high representativeness (all sectors covered)

# The effect of a labour market norm on the implementation of the CRM Directive

- Minimal interference “all works well”
- Absence of detailed regulation (c/r regulation of tariffs and deductions)
- Supervisory focus – procedural requirements (how rather than what)

Until 2017 no supervisory authority for the purpose of collective rights management. After 2017, still marginalised role (narrow interpretation of national competent authority).



# Current organisational landscape

Currently 28 organisations in Sweden engaged in the activity of collective rights management

- 9 Collective Management Organisations (CMOs)
- 2 larger “umbrella organisations”

Bonus (educational purposes)

Copyswede (re-transmission, private copy levy)

- 19 “other” organisations (guilds, trade unions)

# Development of roles on the film market

**Study:** contracts on the film market from the perspective of relational contract theory

- The **relational character** of contracts highly prevalent (both historically & contemporary)
- Small and “closed” industry
- Unequal bargaining positions

**Presence of varying organisations a recurring topic**





# The Swedish Union for Performing Arts & Film

- Organisation created **1894**
- Representing a diverse group of professionals (authors, technicians, administrators etc)
- High level of membership (if in the industry, you *are* a member of the applicable TU)
- Broad number of functions, including collective management of rights
- Expertise knowledge of the industry
- Position hard to challenge

# The case of the Film editors

- Film editors – members of the Union but not authors
- Individual contracts treat film editors as film workers but not as film authors (who set the terms?)
- Only admitted as a “rightsholder group” in 2022
- Decisions taken at different levels, by different organisations (but the same people?)

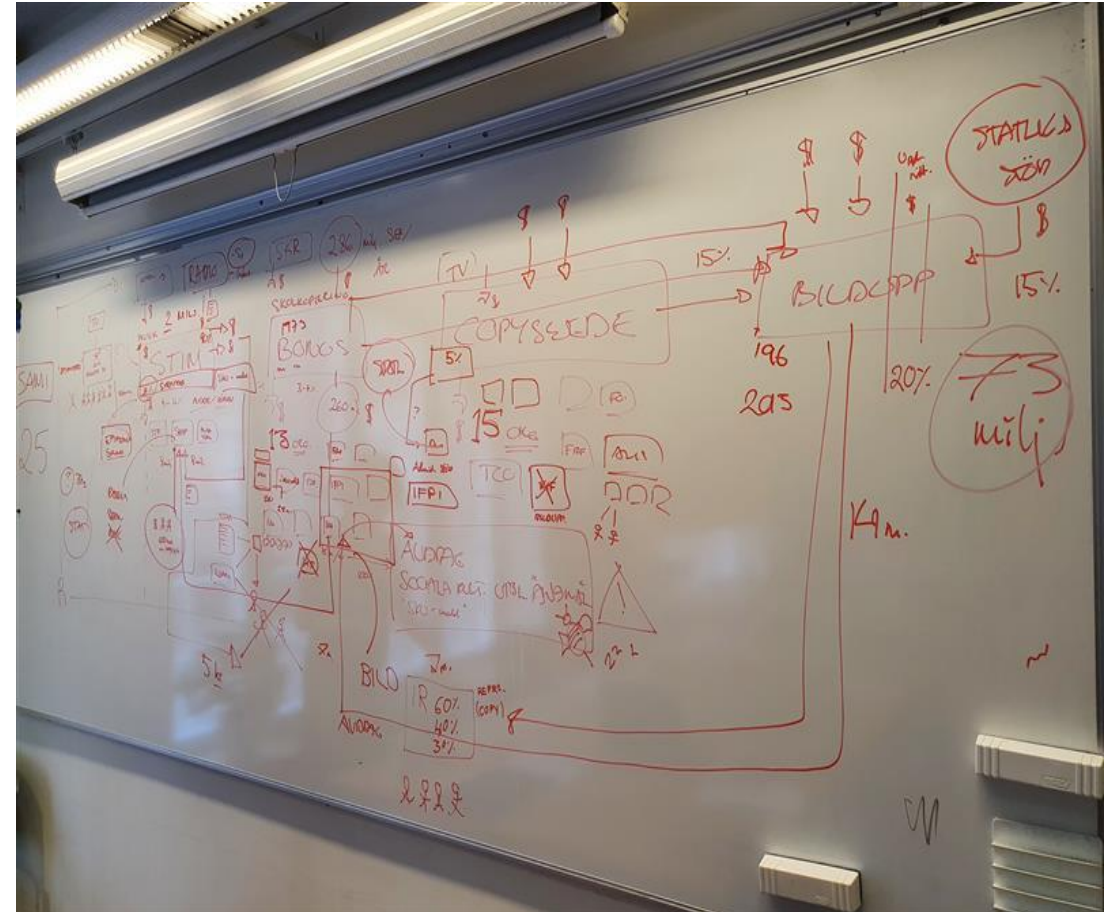


# Organically developed structures

Sweden's approach shaped by historical preference for

- **self-regulation** and
- **limited state** intervention and
- deeply embedded role of **trade unions**

Gradual evolution and hybrid organisations – efficient in terms of representativeness but at times challenge to transparency.



# Reflections on governance

## **Closed loops**

- How do we prevent internal governance structures from becoming self-perpetuating systems (where decision-making is controlled by a limited set of institutional actors)?
- How do we ensure that (new) rightsholder groups, from less represented sectors, such as the film editors, have a meaningful voice?

## **Institutional legacy and path dependence**

- How do we deal with resistance to change, often present in governance structures built on historical precedent?

# Reflections on government control

Traditional regulatory frameworks often assume a clear division between the State and non-public actors.

Swedish collective rights management system useful to illustrate:

- Shift from top-down control to governance networks
- Concept of **collaborative governance**
- Necessity to re-assess exercise of regulatory authority with a flexible approach governance (“clear on the goals, flexible on the way”)

# Summarising points

**Swedish Collective Rights Management:** Sweden's approach to collective rights management is characterised by self-regulation, minimal state intervention, and a strong role for trade unions, leading to efficient but sometimes opaque structures.

**Governance Challenges:** The historical development of the organisations raises the issue of closed loops, and institutional path dependency: Issues which arguably contribute to resistance to change.

**Control Mechanisms:** The historical lack of traditional top-down control and existence of collaborative governance networks requires a flexible regulatory approach to accountability.

**Accountability Considerations:** Collaborative governance introduces complexity due to overlapping arrangements, mutual dependencies and the risk of competing organisational norms, necessitating a nuanced approach to accountability.

**Case Study Reflections:** Insights from the Swedish film market, particularly the case of film editors, illustrate the complexity navigating and regulating an organically developed market – both from an individual rightsholders' perspective and a government perspective.



# Thank you!

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