

Standing Committee on Copyright and Related Rights

Thirty-third Session
Geneva, November 14 to 18, 2016

REVISED CONSOLIDATED TEXT ON DEFINITIONS, OBJECT OF PROTECTION,
AND RIGHTS TO BE GRANTED

prepared by the Chair

“The Committee requested the Chair to prepare for its next session a consolidated text with respect to definitions, object of protection, and rights to be granted. At that session the Committee will also exchange views on and further clarify other issues in order to reach a common understanding.” Summary by the Chair, SCCR 30.

“The Committee decided to continue discussions on this document and on a revised document that will be prepared by the Chair for the next session of the Committee taking into account the proposals and clarifications discussed.” Summary by the Chair, SCCR 31.

“The Committee decided to continue discussions on a revised version of document SCCR 32/3 that will be prepared by the Chair for the next meeting of the Committee.” Summary by the Chair, SCCR 32.

I. DEFINITIONS

For the purposes of this Treaty:

- (a) “programme-carrying signal” means an electronically generated carrier carrying a programme as originally transmitted and in any subsequent technical format.
- (b) “programme” means live or recorded material consisting of images, sounds or both, or representations thereof.
- (c) “broadcasting”

Alternative A

(c) (1) “broadcasting” means the transmission of a programme-carrying signal by wireless means for reception by the public; such transmission by satellite is also “broadcasting”; transmission of encrypted signals is “broadcasting” where the means for decrypting are provided to the public by the broadcasting organization or with its consent. [Transmissions over computer networks shall not constitute "broadcasting".]

(2) “cablecasting” means the transmission of a programme-carrying signal by wire for reception by the public. Transmission by wire of encrypted signals is “cablecasting” where the means for decrypting are provided to the public by the cablecasting organization or with its consent. [Transmissions over computer networks shall not constitute "cablecasting".]

Alternative B

(c) “broadcasting” means the transmission either by wireless means or any other means for reception by the public of a programme-carrying signal; such transmission by satellite is also “broadcasting”; transmission of encrypted signals is “broadcasting” where the means for decrypting are provided to the public by the broadcasting organization or with its consent. [Transmissions over computer networks shall not constitute "broadcasting".]

(d) “broadcasting organization” [and “cablecasting organization”] means the legal entity that takes the initiative and has the editorial responsibility for broadcasting [or cablecasting], including assembling and scheduling the programming carried on the signal. [Entities that deliver their programme-carrying signal exclusively by means of a computer network do not fall under the definition of a “broadcasting organization” [or a “cablecasting organization”].]

AGREED STATEMENT REGARDING THE DEFINITION OF "BROADCASTING ORGANIZATION"

For the purpose of this Treaty, the definition of broadcasting organization does not affect the Contracting Party's national regulatory framework for broadcasting activities.

(e) "retransmission"

Alternative A

(e) "retransmission" means the transmission for the reception by the public by any means [/over any medium] of a programme-carrying signal by any other entity than the original broadcasting [/cablecasting] organization or someone authorized by it, whether simultaneous, near-simultaneous or deferred.

Alternative B

(e) "retransmission" means the simultaneous or near-simultaneous transmission for the reception by the public by any means [/over any medium] of a programme-carrying signal by any other entity than the original broadcasting [/cablecasting] organization or someone authorized by it.

(f) "near simultaneous transmission" means a transmission that is delayed only to the extent necessary to accommodate time differences or to facilitate the technical transmission of the programme-carrying signal.

[(g) "deferred retransmission"]

[(h) "pre-broadcast signal" means a programme-carrying signal transmitted to a broadcasting [/cablecasting] organization, or to an entity acting on its behalf, for the purpose of subsequent transmission to the public.]

II. OBJECT OF PROTECTION

(1) The protection granted under this Treaty extends only to programme-carrying signals [including pre-broadcast signals] transmitted by, or on behalf of, a broadcasting [or a cablecasting] organization, but not to programmes contained therein.

(2) The provisions of this Treaty shall not provide any protection in respect of mere retransmissions.

(3)

Alternative A

Notwithstanding paragraph (2) above, broadcasting [/cablecasting] organizations shall also enjoy protection for simultaneous and near simultaneous transmissions by any means [/over any medium].

Alternative B

(i) Notwithstanding paragraph (2) above, broadcasting [/cablecasting] organizations shall also enjoy protection for a simultaneous, near simultaneous [or deferred] transmission by any means [/over any medium] [including for a transmission made in such a way that members of the public may access it from a place and at the time individually chosen by them].

[(ii) Contracting Parties may limit protection of deferred transmissions including for a transmission made in such a way that members of the public may access it from a place and at the time individually chosen by them.

(iii) Contracting Parties may limit protection accorded to broadcasting [/cablecasting] organizations from another Contracting Party that chooses to apply subparagraph (ii), to those rights that its own broadcasting [/cablecasting] organizations enjoy in that other Contracting Party].

III. RIGHTS TO BE GRANTED/PROTECTION

(1)

Alternative A

(i) Broadcasting organizations shall have the right to authorize or prohibit the [simultaneous, near-simultaneous] [and deferred] retransmission of their programme-carrying signal to the public [[by any means] [/over any medium].

[(ii) Broadcasting [and cablecasting] organizations shall also enjoy the right to authorize or prohibit the making available to the public of their broadcasts [and cablecasts] in such a way that the members of the public may access them from a place and at a time individually chosen by them].

Alternative B

(i) Broadcasting organizations shall have the right to prohibit the unauthorized [simultaneous, near-simultaneous] [and deferred] retransmission of their programme-carrying signal to the public [[by any means] [/over any medium].

[(ii) Broadcasting [and cablecasting] organizations shall also enjoy the right to prohibit the making available to the public of their broadcasts [and cablecasts] in such a way that the members of the public may access them from a place and at a time individually chosen by them].

[(2)

Alternative A

Broadcasting organizations shall also enjoy the right to prohibit the unauthorized retransmission of their pre-broadcast signal [[by any means] [/over any medium]].

Alternative B

Broadcasting organizations shall enjoy adequate and effective protection for their pre-broadcast signals.].

[End of document]