

Standing committee on Copyright and Related Rights

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

NOTE ON THE DRAFT TREATY TO PROTECT BROADCASTING ORGANIZATIONS

document presented by Argentina, Colombia and Mexico

1. In more than thirty sessions since November 1998, the Standing Committee on Copyright and Related Rights (SCCR) has, without interruption, grappled with the updating and modernization of international protection of broadcasting organizations.
2. After many years of hard work, the WIPO General Assembly decided at its September/October 2006 sessions, exactly ten years ago, to authorize the convening of a diplomatic conference, but made that decision contingent on the SCCR producing a more streamlined text for the basic proposal than document SCCR/15/2 Rev, further stipulating, as early as 2007, that the document should contain an agreement on the objective, specific scope and the object of protection, achieved through a “signal-based” approach.
3. Since then, the SCCR has made highly significant progress in its discussions, which have not been easy considering the accelerated development of the communications environment in recent years. Moreover, the digitization of the activities of traditional broadcasting organizations has infused new life in and created future opportunities for broadcasting in general, extending its effects to terrestrial and satellite broadcasting, to broadcasting by cable and – especially – to the digital world and the Internet, including transmission, simultaneous retransmission and making available. In spite of this, or rather, starting from this undeniable reality, substantial progress has been achieved in the negotiations, whose maturity would permit the convening of a diplomatic conference for the signature of this long-awaited Treaty on the Protection of Broadcasting Organizations.
4. Admittedly, there are outstanding technical and legal details to discuss, but we are not faced with the insurmountable pitfalls that explain the almost twenty years that the SCCR has devoted to its work. On the contrary, pending issues can find concrete solutions within the current Treaty framework.

For example, the solution to limit the Treaty to “traditional broadcasters” should fall within the scope of application, without affecting its effectiveness: the new Treaty can and should protect traditional broadcasts, but it should also protect transmissions by computer networks, as with simultaneous retransmissions and almost-simultaneous retransmissions made with a slight delay due to different time zones. There should also be protection for deferred retransmissions, which may also include extra material on news, additional interviews and matches played in parallel, among other possibilities. The latter should apply provided that the transmissions are closely related to broadcasting or cable broadcasting by a broadcasting organization or by a cable broadcasting organization.

Similarly, with respect to “deferred retransmission”, it could be defined as 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.

We emphasize that a reasonable solution could be found for other outstanding issues within the current drafting project.

5. Accordingly, in our view, the next meetings of the SCCR should streamline the discussion of the consolidated and revised text on the main provisions (SCCR/33/3), with a view to producing a Draft Basic Proposal for the WIPO Treaty on the Protection of Broadcasting Organizations, taking future developments into consideration. This would be with a view to convening a diplomatic conference by the spring of 2018 at the latest. If necessary, the SCCR may convene one or more special meetings in order to resolve outstanding issues.

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