

# WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
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## DIPLOMATIC CONFERENCE ON CERTAIN COPYRIGHT AND NEIGHBORING RIGHTS QUESTIONS

Geneva, December 2 to 20, 1996

AMENDMENTS TO ARTICLES 6 AND 12 OF DRAFT TREATY N° 2

*proposed by the Delegation of Switzerland*

Article 6: Economic Rights of Performers in their Unfixed Performances.

The Delegation of Switzerland considers that the economic rights of performers in their unfixed performances should be extended to apply also to rebroadcasting, retransmission by wire and communication to the public of a broadcast. It therefore proposes an Alternative C, as follows:

Alternative C: *authorizing:*

- (i) *the broadcasting and communication to the public of their unfixed performances;*  
*and*
- (ii) *the fixation of their unfixed performances.*

Article 12: Right to Remuneration for Broadcasting and Communication to the Public

Draft Treaty No. 2 generally proposes two alternatives with respect to the rights of performers. The first considers a limitation of those rights to musical performances. The second, on the other hand, extends protection of performers to the audiovisual field. However, the Swiss Delegation is of the opinion that, even if alternative B is chosen throughout the text, there remains a gap with regard to videograms, that is to say audiovisual fixations. Therefore, with a concern for coherence and to ensure that the differentiated approach is also maintained in the context of the right to remuneration for broadcasting and communication to the public, it proposes that Article 12(1) be supplemented by a second alternative.

## Alternative A:

The wording of Article 12(1) as given in the Basic Proposal.

## Alternative B:

(1) Performers shall enjoy the right to a single equitable remuneration for the direct or indirect use of phonograms *or videograms (audiovisual fixations)* published for commercial purposes or reproductions of such phonograms for broadcasting or for any communication to the public.

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