

The Beijing Treaty on Audiovisual Performances

How can the Treaty support the economic sustainability of the audiovisual sector?

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Key Features of the Treaty

- First copyright treaty since WCT and WPPT
- Updates protection of audiovisual performances
- Benefits actors and other performers (e.g. singers, musicians, dancers, performers of expressions of folklore, see Article 2)
- Protects nationals and residents in other contracting parties (Articles 3 and 4)

Key Features of the Treaty (II)

- Moral rights (Article 5)
 - Right of attribution
 - Right of integrity
- Protection of unfixed performances (Article 6)
- Right of reproduction, including digital (Article 7 and agreed statement)
- Right of distribution and rental of tangible copies (Articles 8 and 9 and agreed statement)

Key Features of the Treaty (III)

- Right of making available (Article 10)
- Right of broadcasting and communication to the public (Articles 4 and 11)
- **Transfer of rights (Article 12)**
- Limitations and exceptions (Article 13 and agreed statement)
- Term of protection (Article 14)

Key Features of the Treaty (IV)

- Obligations concerning technological measures (Article 15 and agreed statements)
- Obligations concerning rights management information (Article 16 and agreed statement)
- Formalities (Article 17)
- Administrative and other provisions (Articles 18 to 30)

Copyright and economic sustainability of the audiovisual sector

- Defines audiovisual works and relationships among authors, performers and producers
- Backbone and mechanism for financing and commercialising audiovisual works
- Balances the interests of rights holders and users
- Ensures protection at home and in export markets

Copyright and economic sustainability of the audiovisual sector (II)

- Transition to digital television and penetration of broadband interconnection bring about challenges and opportunities for the audiovisual sector
- Updating copyright protection on the internet is key to the audiovisual sector's economic sustainability and competitiveness in the global online marketplace
- The WIPO Copyright Treaty (WCT), the WIPO Performances and Phonograms Treaty (WPPT) and the Beijing Treaty on Audiovisual Performances (BTAP) provide a coherent and balanced international legal framework governing the protection of audiovisual works online

BTAP implementation for a sustainable audiovisual sector

- Be guided by and fully consider the audiovisual sector's important potential for cultural, social and economic development
- Consider the central role of the producer in assembling funding and exploiting the work through distribution contracts on various platforms and markets
- Provide incentives for online intermediaries to cooperate with rights holders

BTAP implementation for a sustainable audiovisual sector (II)

- Implement Article 12 to ensure producers can aggregate copyrights and neighbouring rights necessary to finance and exploit audiovisual works
- Consider pros and cons of various solutions, including presumption of transfer and the initial vesting of rights in the producer
- Avoid legal uncertainty by delimiting rights to be consolidated in the producer and rights subject to collective management

BTAP implementation for a sustainable audiovisual sector (III)

- Define “performers” consistent with Article 2(a) and its agreed statement while excluding so-called “extras”
- Implement Article 5 and its agreed statement faithfully thus recognising the specific nature of audiovisual works
- Implement Articles 15 and 13 in a manner that ensures audiovisual works can be commercialised on digital television and the internet through appropriate technology-enabled business models (including catch-up TV, internet TV, pay-per-view, streaming and future services)

BTAP implementation for a sustainable audiovisual sector (IV)

- Countries not party to the WCT and/or the WPPT should consider ratification and implementation of those treaties along the BTAP
- Make sure domestic copyright law is fit for the digital age and audiovisual sector interests are considered in trade discussions with third countries to secure a functioning home market and online export opportunities

Conclusions and recommendations

- Ratify and implement the BTAP, the WPPT and the WCT and encourage other countries to do so in order to protect national and resident performers' and authors' rights abroad
- Implement the BTAP faithfully while considering the specific nature of audiovisual works and ensuring an appropriate balance between the interests of performers, producers and users
- Allow the transfer of rights to, or the consolidation of rights in, the producer

Conclusions and recommendations (II)

- Consult various stakeholders, in particular audiovisual performers and producers
- Prioritise domestic interests and solutions tailored to local realities and legal traditions while ensuring the audiovisual sector's competitiveness in the global online marketplace
- Consider seeking WIPO's and third countries' technical assistance
- Consider regional assistance and coordination

Conclusions and recommendations (III)

- Ensure copyright and related rights protection at home and abroad achieves the goal of ensuring appropriate remuneration for authors and performers as well as the economic sustainability of the audiovisual sector
- Ensure the audiovisual sector reaps benefits from digital television and online services commensurate with its potential for cultural, social and economic development

Thank you!

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