

## **Standing Committee on Copyright and Related Rights**

### **Twenty-First Session**

**Geneva, November 8 to 12, 2010**

Report of the Regional Seminar for African Countries on the Protection of  
Broadcasting Organizations and Audiovisual Performances

*Document prepared by the Nigerian Copyright Commission,  
Federal Ministry of Justice, Government of Nigeria, Abuja, Nigeria*

## I. INTRODUCTION

1. The Regional Seminar for African Countries on the Protection of Broadcasting Organizations and the the Regional Seminar for African Countries on the Protection of Audiovisual Performances were held from October 18 to 20, 2010, in Abuja, Nigeria. The Seminars were organized by the Nigerian Copyright Commission (NCC), in collaboration with the World Intellectual Property Organization (WIPO).
2. The seminars were held following the conclusions of the 18<sup>th</sup> Session of the WIPO Standing Committee on Copyright and Related Rights (SCCR) held from May 25 to 29, 2009, as well as the conclusions of the 19<sup>th</sup> Session of the SCCR held in Geneva from December 14 to 18, 2009, wherein it was stated that *“the secretariat will organize regional seminars upon requests from Member States to ascertain views on the objectives, specific scope and object of protection of a possible draft treaty following a signal-based approach”*.
3. The event was formally declared opened by the Honorable Attorney General of the Federation and Minister of Justice, Federal Republic of Nigeria, Mr. Mohammed Bello Adoke (SAN), represented by Dr. Adebambo Adewopo, Director-General, Nigerian Copyright Commission. The opening ceremony was attended by Mr. Richard Owens, Director, Ms. Carole Croella, Counsellor, Copyright Law Division of WIPO, officials of the Government of Nigeria, industry players and academics. Delegates from 19 African Countries, namely Angola, Burkina Faso, Cameroon, Central African Republic, Cote d’Ivoire, Ethiopia, Ghana, Kenya, Madagascar, Malawi, Mali, Namibia, Niger, Nigeria, Rwanda, Senegal, South Africa, Togo, and Zambia, representatives of the African Broadcasters Union (ABU) and Broadcasting Organisation of Nigeria (BON), participated in the seminar.
4. Mr. Mohammed Bello Adoke, (SAN), the Attorney-General and Minister of Justice, Federal Republic of Nigeria commended WIPO’s initiatives towards reinforcing the intellectual property regimes for the protection of broadcasting organizations and audiovisual performances. He urged the SCCR to expedite action on the process with a view to convening a diplomatic conference to conclusively determine the issues.
5. Mr. Richard Owens, Director, Copyright Law Division, welcomed delegates to the seminar. He traced the history of the evolution of international instruments and underscored the need to globally address the crucial challenges, especially piracy, facing broadcasters and audiovisual performers. He reminded delegates that both subjects had remained on the SCCR agenda for a decade and called for the injection of new energy, creative thinking and a timetable for its conclusion.

## II. PRESENTATIONS ON THE PROPOSED TREATY FOR THE PROTECTION OF BROADCASTING ORGANIZATIONS

6. The first day of the Seminar consisted of a total of eight stimulating presentations and a roundtable session by expert academics and industry practitioners from the continent and some international organizations. Papers presented include: (i) *The Draft WIPO Treaty on the Protection of Broadcasting Organizations: Protection of the Public Interest* by Engr. Yomi Bolarinwa,(Nigeria); (ii) *Broadcasting for Development* by Kwan Ansah (Ghana); (iii) *Digital Sports in Africa* by Mr. Rotimi Pedro (Nigeria); (iv) *The Need for an International Instrument for the Protection of Broadcasting Organizations and the Consequences* by Mr. Joseph Fometeu (Cameroon); (v) *Public Interest and*

*Broadcasting* by Ms. Marisella Ouma (Kenya); and (vi) *Broadcast Infringements in Africa: Case Studies* by Messrs. Efere Ozako, (Nigeria), Oira Hezekiel (Africa Broadcasters Union, Nairobi) and Toyin Subair, (Nigeria).

**1. Informal Sessions on the Proposed Treaty on the Protection of Broadcasting Organizations**

7. Country delegates held an informal session for the broadcast segment during which country positions were presented. At the end of presentations and discussions, consensus emerged on the following issues.

General Issues:

- (i) Africa should continue to support the on-going steps towards adopting an international treaty for the protection of Broadcasting Organizations in view of the need to provide updated protection under an international framework, for broadcasting organizations and cable operators;
- (ii) Delegates agreed to follow the signal based approach as mandated by the General Assembly;
- (iii) Delegates agreed that it has become expedient to accelerate the pace of work on the treaty and urged the SCCR to set a time frame on its agenda, for the conclusion of work on the treaty;
- (iv) Delegates urged the SCCR to work towards the development of a new text of the Treaty to enable the 2011 General Assembly to decide on the convening of a Diplomatic Conference;
- (v) Delegates recognized the fast pace of global technological development and their implications for the rights of broadcasting organizations and urged that the emerging treaty should be technology neutral;
- (vi) Delegates agreed that the successful adoption of the treaty on the protection of broadcasting organizations remains critical to the region (Africa) in the areas of:
  - (a) facilitating the global competitiveness of African broadcasting organizations;
  - (b) promoting access to knowledge & information;
  - (c) development and dissemination of diverse African culture;
  - (d) development and dissemination of African broadcast content;
  - (e) education;
  - (f) employment; and
  - (g) poverty reduction.

**8. 2. Object and Scope:**

- (i) Delegates agreed on the need to stipulate very clear parameters for identifying the target beneficiaries, preferably taking into account the existing international framework, and to define the rights to be granted;
- (ii) Delegates agreed that rights to be granted under the treaty should be without prejudice to rights in any underlying works incorporated in a broadcast;
- (iii) Delegates agreed that the treaty should contain specific provisions on exceptions and limitations, to accommodate public interests for the purpose of access to information and knowledge; and
- (iv) Delegates recognized the challenge in the area of compliance and enforcement and urged that provisions for an enforcement and compliance mechanism be inserted as a component of the treaty.

### III. SESSION ON THE PROPOSED TREATY FOR THE PROTECTION OF AUDIOVISUAL PERFORMANCES

9. The session on the proposed treaty for the protection of audiovisual performances consisted of presentations, roundtable and an informal meeting for country delegates.
10. Presentations included: (i) *Legal and Policy Considerations for the Protection of Audiovisual Performances in Africa* by Mr. John Asein (Nigeria); (ii) *Contracts, Collective Management and Social Infrastructures: Improving the Protection of Audiovisual Performances in Africa: Viewpoint of Musicians* by Thomas Dayan, Assistant General Secretary; International Federation of Musicians, Paris, France; and (iii) Roundtable on *Contracts, Collective Management and Social Infrastructures: Improving the Protection of Audiovisual Performances in Africa* by Mr. Dominick Luquer, Secretary General, International Federation of Actors (FIA), London; Mr. Bertrand Moullier, International Federation of Film Producers Association (FIAPF); Mr. Madu Chikwendu; and Chief Tony Okoroji, Chairman, COSON (Nigeria).

#### 1. Informal Session for Country Delegates on the Proposed Treaty on the Protection of Audiovisual Performances

11. Country delegates held an informal session on the proposed treaty for the protection of Audiovisual Performances during which country positions were presented and discussed. At the end of discussions, consensus emerged in the following areas:
  - (i) Delegates agreed to renew their commitment to focus on the objectives of the treaty which is aimed at providing protection for the benefit of performers, especially African performers;
  - (ii) Delegates recognized the potential benefits of the provisions of the treaty to the international community of performers;
  - (iii) Delegates agreed that all the 19 articles agreed to, under the proposed treaty, represent a good frame for adopting the treaty and urged the SCCR not to reopen discussions on them as advocated by some delegations;
  - (iv) With regard to Article 12, delegates expressed concern that any provision for the presumption of transfer of rights will negate a fundamental objective of the treaty. Consequently, delegates recommended that Article 12 should provide that National Laws should determine the issue of Transfer of Rights.

### IV. APPRECIATION

12. Delegates expressed their deep appreciation to the Government and people of Nigeria for hosting the meeting, for the hospitality and for facilitating immigration logistics for the delegates.
13. Delegates similarly thanked WIPO for arranging the seminar and for the excellent documentation it has provided on both subjects.

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