

Standing Committee on Copyright and Related Rights

Twenty-First Session

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Report of the Regional Seminars for the Asia-Pacific Countries on the
Protection of Broadcasting Organizations and Audiovisual Performances

*Document prepared by the Copyright Division, Department of Higher Education,
Ministry of Human Resource Development, Government of India*

I. **Protection of Broadcasting Organizations**

1. The WIPO Regional Seminar for the Asia-Pacific Countries on the Protection of Broadcasting Organizations was held from July 12 to 13, 2010, in New Delhi. The Seminar was organized by the Copyright Office, Department of Higher Education, Ministry of Human Resource Development, Government of India, in cooperation with the World Intellectual Property Organization (WIPO). This Seminar was held following the conclusions of the Eighteenth Session of Standing Committee on Copyright and Related Rights (SCCR) of WIPO held from May 25 to 29, 2009, as well as the conclusions of the Nineteenth Session of Standing Committee on Copyright and Related Rights (SCCR) of WIPO, held from December 14 to 18, 2009, which 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.”*
2. The Regional Seminar was inaugurated by Mr. Uday Kumar Verma, Special Secretary, Ministry of Information and Broadcasting, Government of India, which was attended, from the Government of India, by Mr. Amit Khare, Joint Secretary (Copyright), Department of Higher Education, Ministry of Human Resource Development, and from WIPO, by Mr. Trevor Clarke, Assistant Director General, Culture and Creative Industries Sector, Mr. Richard Owens, Director, Copyright Law Division and other officials from WIPO and the Government of India. Representatives from Bangladesh, Brunei-Darussalam, Cambodia, Indonesia, Iran, Laos, Malaysia, Mongolia, Nepal, Philippines, Singapore, Sri Lanka, Thailand and Vietnam attended the seminar.
3. After welcoming the participants, Mr. Verma in his inaugural address mentioned that in the last two decades, the broadcasting sector in India has witnessed a growth trajectory and paradigm, which has few parallels and therefore protection of broadcasting rights is of critical significance to India. While recalling the mandate of the 33rd session of the WIPO General Assembly in 2006 on developing an international treaty for the protection of broadcasting organizations on a signal-based approach, he emphasized that India is very keen to move ahead on the basis of the above mandate. He also stated that it supports discussion on signal-based approach, the objectives, specific scope and object of protection and the issues relating to internet-based transmission (web casting including simulcasting) should be separated once a signal-based protection for the traditional broadcasting sector is finalized.
4. Mr. Trevor Clarke, Assistant Director General, welcomed the participants and explained the efforts of the SCCR in bringing the member countries to move towards a meaningful international binding agreement on the protection of broadcasting organizations.
5. The Seminar was conducted in two parts. The first part was a presentation on various topics followed by discussions, and the second part was informal discussions.
6. The first day of the Seminar consisted of a series of excellent presentations made by national and international experts in the field. Mr. Jawahar Goel, Vice Chairman, Zee TV Network and President of the Indian Broadcasting Foundation, New Delhi, made a presentation on the first topic, namely “The India Broadcasting Landscape: Trends and Challenges”. The presentation focused on the growth of broadcasting technology and television channels, digitization, distribution and economic losses due to signal piracy in India, and finally the need for signal-based protection for broadcasting organizations.

7. Mr. Fernand Alberto, Broadcast Media Consultant, New Jersey, made a presentation on the topic "Broadcast Infringements in Asia: Case Studies". He explained several case studies from the region and highlighted the extent of unauthorized cable distribution of signals, unauthorized deferred rebroadcasts, unauthorized distribution of recordings of broadcasts and unauthorized use of pre-broadcast signals in his presentation. He also emphasized on the urgent need for an international treaty to protect the rights of broadcasting organizations. Mr. Anjan Mitra, Executive Director, Cable and Satellite Broadcasting Association of Asia (CASBAA), Hong Kong, SAR made a presentation on "Unauthorized Use of Signals and Broadcast Infringements in Asia: Case Studies". This presentation explained various types of unauthorized distribution of content and case studies from the region.
8. Mr. Jagdish Sagar, Consultant, Anand & Anand, New Delhi and Mr. Axel Aguirre, Legal Counsel, Asia Pacific Broadcasting Union, Kuala Lumpur, made a presentation on "The Need for an International Instrument for the Protection of Broadcasting Organizations and the Consequences of Its Lack of Adoption". This presentation focused on the importance of protection of broadcasting signals.
9. Mr. Nandan Kamath, Chief Legal Officer, Copyright Integrity, Bangalore made a presentation on the "Digital Sports Piracy in Asia Pacific". This presentation highlighted the impact of broadcast piracy on sports business models, forms of piracy of sports content and legal responses and some interesting case studies from the region.
10. At the end of the presentations a Roundtable on "the Draft WIPO Treaty on the Protection of Broadcasting Organizations: Protecting the Public Interest" followed. Mr. Rafiei Gholamreza, Expert, Attorney At Law, Teheran and Faculty of Law, Neuchatel, Switzerland, made a presentation on the importance of protection of broadcasting organizations and informed that the proposed treaty is not against the public interest. Ms. Palati Vasanthi, Centre for Media Studies, New Delhi, explained that in India the growth of broadcasting is lopsided, especially the reach of broadcasting to remote and rural areas. Mr. Axel Aguirre, Legal Counsel, Asia Pacific Broadcasting Union, Kuala Lumpur stated in his presentation that the public interest is inherent in broadcasting, therefore he urged the member countries to move towards finalizing the treaty. Several stakeholders present in the meeting commented that public interest should not be sidelined while protecting the rights of the broadcasters. It was stressed that the broadcasting treaty should be based on the balancing of rights of both right owners and public interest.
11. The second part of the seminar was held on July 13, 2010, which focused on 'Informal Discussions on the proposed WIPO Draft Treaty on the Protection of Broadcasting Organizations' among the participating member countries. This was done as per task set by the SCCR to "*ascertain views on the objectives, specific scope and object of protection of a possible draft treaty following a signal-based approach*". The Chair requested the participants to convey their views on the objectives, the specific scope and the object of protection for the broadcasting organizations based on the WIPO documents and the two studies on the socioeconomic impact of unauthorized signal piracy.
12. The member countries, after discussing all the issues, unanimously agreed on the objectives, the specific scope and the object of protection for the broadcasting organizations, that there was an urgent need for a treaty on the Protection of Broadcasting Organizations based on a signal-based approach in traditional broadcasting sense. While appreciating the efforts of the WIPO Secretariat, the member countries opined that the open-ended informal discussions on viability of international obligations following the signal based approach should commence only after submission of the third

part of the study and also after the completion of the proposed regional seminars from all the regions.

II. Protection of Audiovisual Performances

13. The WIPO Regional Seminar for the Asia-Pacific Countries on the Protection of Audiovisual Performances was held from July 13 to 14, 2010 in New Delhi. The Seminar was organized by the Copyright Office, Department of Higher Education, Ministry of Human Resource Development, Government of India, in cooperation with the World Intellectual Property Organization (WIPO). This Seminar was attended by representatives from Bangladesh, Brunei-Darussalam, Cambodia, Indonesia, Iran, Laos, Malaysia, Mongolia, Nepal, Philippines, Singapore, Sri Lanka, Thailand and Vietnam.
14. The Seminar was conducted in two parts. The first part was a presentation on various topics, followed by discussions and the second part was informal discussions.
15. The first part of the Seminar consisted of a series of excellent presentations made by stakeholders and experts in the field. Mr. Dominick Luquer, Secretary General, International Federation of Actors (FIA), mentioned that the Diplomatic Conference in 2000 ended with a failure due to the unsolved divergence regarding the question of exercise of rights, in particular, the transfer of rights to the producers. He also informed that the provisional agreement on the 19 articles, despite the fact that some of them are far from perfect, negotiations should move forward towards the finalization of the Treaty. As for the performers' right in audiovisual performances, it should not be at the cost of producers. Mr. Bobby Bedi, Producer, Guild of Film Producers of India, Mumbai, stated that as the producer is the person who takes the initiative and responsibility for making the work, therefore, he should not be deprived of these rights in audiovisual performances. Mr. Ong Peng Chu, General Manager of the Performers CMO in Malaysia, Kuala Lumpur, and Mr. Olusegun A. Adekunle, Director, Nigerian Copyright Commission, Lagos made their presentations.
16. The second part of the Seminar was held on July 14, 2010. It focused on 'Informal Consultations among Governments and Stakeholders' on Protection of Audiovisual Performances. The Chair requested the member countries to express their views on the major issues pertaining to the draft text. Most of the member countries agreed that the provisional agreement on the 19 articles should be the basis for making progress on this matter. They have also expressed that the member countries should give their additional comments on the agreed text before the deadline of September 15, 2010, set by the WIPO Secretariat during the 20th session of the SCCR held from June 21 to 24, 2010.

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