

*Chair's Conclusions*

**Protection of Broadcasting Organizations**

1. Based on the outcome of the 26th Session of the SCCR, the Committee considered Articles 6 and 9 of the Working document for a treaty on the protection of broadcasting organizations (SCCR/27/2 Rev.), and the Proposal on a Treaty on the Protection of Broadcasting and Cablecasting Organizations (SCCR/27/6) presented by the Delegations of Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.
2. Following a proposal submitted by the Delegation of the United Kingdom contained in document SCCR/27/3, a technical presentation was made to the Committee by an expert of the British Broadcasting Corporation (BBC) on types of advanced technology being used by broadcasting organizations.
3. Technical working non-papers which addressed issues relating to the categories of platforms and activities to be included under the object and scope of protection to be granted to broadcasting organizations in the traditional sense were taken into account in informal discussions. These discussions were instrumental in helping to clarify various technical issues and delegations' positions.
4. During the discussions it was understood that broadcasting (wireless or by wire), cablecasting subject to clarification of the legal treatment of cablecasting organizations in national laws, and pre-broadcast signals should be included in the scope of application of the proposed Treaty on a signal-based approach. Some delegations were of the view that such protection should be mandatory under the Treaty.
5. Different points of view were expressed with regard to simultaneous and near simultaneous unchanged transmission of broadcasts. Some delegations considered such transmission closely connected to broadcasting, while some other delegations were of the view that such transmissions required further discussion in the Committee to consider possible inclusion in the object of protection of the proposed treaty.
6. Discussions took place in relation to the possible inclusion of deferred linear transmissions of broadcasts and on demand transmissions of broadcasts (catch up) and program related material, which will be further examined at the next session of the Committee. If such protection is to be included, further discussions will be held on whether the protection would be mandatory or optional.
7. Several delegations did not agree with the possibility of including Internet originated linear transmissions in the object of protection while other delegations expressed a preference for its inclusion.
8. In relation to the protection to be granted to beneficiaries, various approaches were discussed which will be further examined at the next session of the Committee. Some

delegations expressed support in favor of rights relating to the transmission of the broadcast signal from a fixation while some delegations strongly questioned the granting of rights for activities taking place after the fixation of a broadcast signal, such as reproduction of fixations of broadcasts, distribution of fixations, and performance of a broadcast signal in places accessible to the public. A number of delegations considered that there should be exclusive rights for broadcasting organizations while others considered there should be a right to prohibit when third parties intercept signals by any means.

9. Some delegations requested presentation and further discussion with experts on some technical issues at the next session of the SCCR.

10. This item will be maintained on the agenda of the 28th session of the SCCR.

### **Limitations and exceptions: libraries and archives**

11. The Committee based its discussions on the “Working document containing comments on and textual suggestions towards an appropriate international legal instrument (in whatever form) on exceptions and limitations for libraries and archives”, adopted by the Committee, (document SCCR/26/3), and to some extent on the “Objectives and Principles for Exceptions and Limitations for Libraries and Archives”, submitted by the United States of America (document SCCR/26/8).

12. Different points of view remained in terms of the nature of an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms) referred to in the 2012 General Assembly mandate to the SCCR. Some delegations expressed their support for a binding instrument or instruments; other delegations did not support a binding instrument or instruments. The Committee continued the discussions on the pending topics in Document SCCR/26/3 in order, using a text-based approach.

13. The Secretariat informed the Committee of the state of the on-going work regarding the update of the Study on Copyright Limitations and Exceptions for Libraries and Archives (document SCCR/17/2) by Professor Kenneth Crews.

14. Several delegations proposed that the Secretariat organize regional workshops to address the challenges faced by libraries and archives in relation to the 11 issues identified in document SCCR/26/3, including the application of existing international treaties. During the preliminary discussions, some delegations expressed interest, while others were not in a position to support the proposal. The Secretariat was asked about the available resources to organize such meetings but no further action was agreed. One delegation asked for a presentation during the SCCR by technical experts on the complex issues faced by libraries and archives.

15. During the discussions on Document SCCR/26/3 there was a rich exchange of information on national practices and practical experiences, including detailed information and figures, as well as proposals to merge the different texts on various topics. The proponents of texts agreed to work on their proposals for each of the topics discussed, taking into account other suggestions on those texts made during the 27th Session. This time, the Committee discussed Topics 5, 6, 7, 8, and 9, and started discussion of Topic 10.

16. As to topic 5, on parallel importations, some delegations recognized that it was a cross-cutting sensitive issue. Some delegations emphasized that the choice for international,

regional or national exhaustion was left to national law by international copyright treaties. A number of aspects of the topic were explored by delegations and observers.

17. As to topic 6, on cross-border uses, a number of delegations expressed different views on how to enable libraries and archives to exchange works and copies of works across borders as part of their public service mission, particularly for education and research. A number of aspects of the topic were explored by delegations and observers.

18. As to topic 7, on orphan works, retracted and withdrawn works, and works out of commerce, the importance of addressing this issue was discussed, as that subject matter was under development and consideration in many countries. Some delegations were of the view that these categories of works should be treated separately bearing in mind their own particularities. A number of aspects of the topic were explored by delegations and observers.

19. As to topic 8, on liability of libraries and archives, several delegations stated this was a complex topic that needed further consideration. Some were of the view that a limitation on liability would empower libraries and archives to fulfill their mission. A number of aspects of the topic were explored by delegations and observers. Some delegations expressed their concerns about cross-cutting principles of civil law and international obligations on that matter.

20. As to topic 9, technological protection measures (TPMs), a number of delegations recognized that technological measures of protection should not represent barriers for libraries and archives in fulfilling their missions. Other delegations believed that the existing international treaties already provided a flexible framework enabling appropriate solutions at the national level. Various approaches were discussed on how to address the relationship between TPMs and limitations and exceptions for libraries and archives. A number of aspects of the topic were explored by delegations and observers.

21. As to topic 10, on contracts, a number of delegations expressed views as to whether contractual practices should override the operation of exceptions and limitations at the national level. Different views were expressed regarding the need for international norms regulating the issue. Legal and practical implications of the relationship between licensing schemes and new technologies and services were also discussed.

22. There was no agreement in relation to the preparation of a new document by the Secretariat and on the basis for the future work of the Committee on this agenda item.

23. This item will be maintained on the agenda of the 28<sup>th</sup> session of the SCCR.

### **Limitations and Exceptions: educational and research institutions and persons with other disabilities**

24. The Committee based its discussions on the “Provisional Working Document Towards an Appropriate International Legal Instrument (in whatever form) on Limitations and Exceptions for Educational, Teaching and Research Institutions and Persons with Other Disabilities Containing Comments and Textual Suggestions” (document SCCR/26/4/Prov).

25. The importance of the subject of limitations and exceptions for educational, teaching, and research institutions and persons with other disabilities was discussed and recognized. The Delegation of the United States of America introduced a document entitled “Objectives and Principles for Exceptions and Limitations for Educational, Teaching and Research Institutions” for future consideration by the Committee.

26. There was no agreement in relation to the preparation of a new document by the Secretariat and on the basis for the future work of the Committee on this agenda item.

27. This item will be maintained on the agenda of the 28th session of the SCCR.

### **Other Matters**

28. Two delegations suggested the inclusion of a new topic on the resale royalty right in the future work of the SCCR.

29. The Committee took note of the Eighth Interim Report of the Stakeholders' Platform (SCCR/27/4).

### **Next Session of the SCCR**

30. Chair's proposal for the future work to be considered at the 28<sup>th</sup> Session of the SCCR: At SCCR/28 the first half of the session will be devoted to the agenda item on the Protection of Broadcasting Organizations, and the second half of the session will be devoted to the agenda item on Limitations and Exceptions. It is understood that the SCCR/28 session will start and finish with the standard procedural agenda items<sup>1</sup>.

[End of conclusions]

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<sup>1</sup> Namely opening of the session, adoption of the agenda, possible accreditation of observers, adoption of the report of the 27<sup>th</sup> session of the SCCR, and respectively all other matters and closing of the session.