

Standing Committee on Copyright and Related Rights

Forty-Eighth Session
Geneva, May 18 to 22, 2026

**DRAFT ELEMENTS FOR A POSSIBLE INTERNATIONAL INSTRUMENT ON THE
GOVERNANCE OF COPYRIGHT ROYALTIES IN THE DIGITAL ENVIRONMENT**

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I. Overview

1. During the forty-seventh session of the SCCR (SCCR 47), Member States and observers converged on the view that enhanced international coordination remains an important priority, with many delegations expressing constructive views on the Indonesian submission (document SCCR/47/6) and for the continued exploration of international approaches to address coordination challenges. The exchanges during the session highlighted the relevance of sustained, structured dialogue on governance mechanisms that may contribute to greater transparency, accountability, and interoperability in cross-border copyright royalty management. Building on these discussions, the present document, entitled "*Elements for a Possible International Instrument on the Governance of Copyright Royalties in the Digital Environment*," has been prepared as a follow-up to SCCR 47, informed by consultations with a range of stakeholders, including the intergovernmental organizations and representatives of composers, producers, and performers, in order to incorporate a diversity of technical, legal, and practical insights.
2. This element paper aims to contribute to ongoing SCCR discussions by identifying possible governance approaches that could facilitate improved communication, cooperation, and coordination mechanisms, while also inviting further reflection on potential governance principles in strengthening cross-border copyright royalty management within the digital music ecosystem. This paper is presented in a spirit of constructive engagement and reflects an intention to support inclusive participation among global stakeholders, including Member States and entities involved in cross-border royalty management. This paper also puts forward the possible consideration of a dedicated agenda item that could enable regular and structured deliberations on governance challenges, including, where appropriate, the exploration of international normative frameworks.
3. The operational dimensions of contemporary digital exploitation, including documentation, metadata management, data processing, discoverability, valuation, and remuneration management, have evolved into a complex cross-border ecosystem not envisaged under existing treaty frameworks. This gives rise to a governance gap in cross-border royalty management, reflected in persistent metadata fragmentation, inequitable value distribution for right holders, limited transparency in algorithmic allocation, and coordination challenges among relevant actors. While national frameworks remain essential, they face inherent limitations in addressing borderless digital platforms, where data generation, royalty flows, and algorithmic decision making transcend jurisdictions. Thus, in the absence of an international framework, this results in fragmented standards, accountability gaps, and ineffective remedies, particularly where voluntary initiatives have not ensured interoperability or reliable cross-border flows. These challenges are further compounded by emerging technologies, including artificial intelligence, underscoring the need for a fuller understanding of practical experiences to inform effective, proportionate, and responsive cooperative mechanisms.
4. The ultimate goal of a governance framework, including possible instruments, should be to strengthen the effective enjoyment of rights already recognized under existing international treaties by establishing **common governance principles and minimum international coordination standards** relating to transparency, accountability, interoperability of metadata systems, and institutional cooperation in the governance of copyright royalties in the digital music ecosystem.

II. Background

5. At its forty-seventh session (SCCR 47), the Standing Committee on Copyright and Related Rights considered a proposal submitted by Indonesia concerning the governance of cross-border copyright royalty management in the digital environment.

6. The Indonesian submission highlighted structural challenges arising from the rapid development of digital technologies, which have enabled the expansion and scaling of transnational digital platforms across jurisdictions, subsequently leading to challenges such as metadata fragmentation, transparency deficits, and inequitable remuneration for authors, performers, producers, and other right holders.

7. Several delegations and observers expressed constructive support and welcomed continued discussion for further examination of these issues and structured dialogue on possible governance mechanisms to address challenges in cross-border royalty management.

8. The preparation of this document benefited from consultations with various stakeholders, including intergovernmental organizations and representatives of authors, producers, performers, and Collective Management Organizations (CMOs). These consultations aimed to incorporate diverse technical, legal, and practical perspectives, taking into account different levels of development in accordance with Recommendation 15 of WIPO Development Agenda.

9. The Indonesian initiative builds upon and complements earlier proposals advanced by other Member States and regional groups. It aligns with the proposals submitted by the Group of Latin American and Caribbean Countries (GRULAC) (SCCR 31/4), which have called for a deeper examination of copyright in the digital environment, including questions of transparency, asymmetries in negotiation, fair remuneration, cross-border enforcement, and the impact of emerging technologies such as artificial intelligence. This initiative is also aligned with the African Group's proposal for a Study on the Rights of Audiovisual Performers and Their Payment Mechanisms for the Exploitation of Their Performances (SCCR/47/4), which emphasizes the need to examine the strategies to strengthen the economic position of audiovisual performers and to ensure that they are adequately remunerated for the use of their creative contributions.

10. Over the years, studies and reports submitted to the SCCR have consistently identified structural challenges in the governance of copyright royalties in the digital environment. Document SCCR/41 /2 highlights persistent deficiencies in the digital music market, including limited transparency in revenue flows and deficiencies in metadata accuracy and interoperability, which undermine the proper identification of rights holders and the distribution of royalties across jurisdictions. These concerns are echoed in SCCR/41 /3, which points to the limited effectiveness of performers' rights in ensuring ongoing remuneration and structural imbalances in bargaining power that often result in lump-sum compensation models. Meanwhile, SCCR/41/6 reflects broader systemic fragmentation, revealing differing views among Member States on international norm-setting and highlighting the absence of coordinated global approaches to address cross-border issues. Complementing these findings, SCCR/41/7 illustrates how the evolution of digital music markets, including the rise of streaming platforms, complex licensing arrangements, and the growing role of intermediaries such as aggregators, has disrupted traditional value chains and intensified challenges in royalty tracking, data management, and cross-border royalty flows.

III. Introduction

11. Existing international copyright and related rights treaties, including the Berne Convention for the Protection of Literary and Artistic Works, the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty, and the Beijing Treaty on Audiovisual

Performances, alongside Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement, establish a robust and technologically neutral foundation for the protection of exclusive rights of authors, performers, producers, and broadcasting organizations.

12. At the same time, the operational dimensions of modern digital exploitation, including documentation, metadata management, data processing, discoverability, valuation, and cross-border distribution of remuneration, have evolved into a complex cross border ecosystem not envisaged under existing treaty frameworks. The central issue is therefore not a deficiency of substantive rights, but rather a distinct governance gap in the cross-border management of royalties. This gap manifests in persistent metadata fragmentation, disparities in valuation affecting right holders, opacity in algorithmic royalties' allocation, and coordination difficulties among entities involved in cross-border royalty management.

13. National regulatory frameworks, while indispensable for domestic implementation, face inherent limitations when confronted with the borderless nature of the digital music ecosystem. Usage data is generated and processed globally, royalty flows involve multiple jurisdictions simultaneously, and algorithmic decision-making occurs at scales that transcend any single territory. The absence of an international legal framework leads to fragmented standards, gaps in accountability, and ineffective remedies; particularly where voluntary, industry-led initiatives have proven insufficient to ensure consistent metadata interoperability or reliable cross-border royalty flows.

14. These challenges are further compounded by the rapid emergence of new technologies, including artificial intelligence, which introduce additional complexities in the identification, attribution, and remuneration of works in the digital environment. A fuller understanding of practical national and regional experiences, as well as ongoing stakeholder practices, will be essential to ensure that any cooperative mechanism is effective, proportionate, and responsive to real-world needs.

15. Accordingly, this document identifies possible elements that could be considered should Member States decide to pursue further work in this area. Any such framework would be strictly complementary to existing treaties, would not redefine substantive rights, regulate technologies, and taking into account legitimate business models and contractual freedom. Its sole focus would be on minimum governance principles and coordination mechanisms capable of strengthening transparency, accountability, interoperability, and equitable remuneration in the digital environment.

IV. Rationale

16. The desirability and specific form of any possible international governance framework for cross-border copyright royalty management will depend heavily on the objectives it is intended to serve. These objectives include: enhancing the legal certainty of cross-border royalty governance for all parties, including but not limited to, right holders and entities involved in cross-border royalty management; reducing inefficiencies associated with cross-border royalty flows; promoting more equitable remuneration for right holders; enhancing transparency and algorithmic accountability in royalty distribution and allocation mechanisms; preventing unallocated and misallocated royalties; building sustainable institutional capacity in developing countries and least developed countries (LDCs); and supporting the long-term vitality and growth of creative economies worldwide.

17. The first rationale is to enhance the legal certainty in cross-border royalty governance. Clear, transparent, and interoperable governance standards would improve reliability for all parties, including authors, performers, producers, and right holders seeking to verify and receive their remuneration, entities managing cross-border distributions, and digital service providers

processing usage data at scale, thereby creating a more stable environment for platform-mediated exploitation.

18. A second rationale concerns the reduction of inefficiencies. Metadata fragmentation, inconsistent reporting formats, and the absence of reliable cross-border reconciliation mechanisms currently generate significant administrative burdens, delays, and unclaimed royalties. Minimum international governance principles could lower these costs and improve the efficiency of royalty flows, complementing existing initiatives.

19. A third rationale relates to enabling right holders to obtain fair remuneration by establishing practical pathways for greater transparency in royalty allocation methodologies and data verification. In this way, this framework could help address persistent disparities in valuation affecting numerous right holders, while taking into account contractual arrangements.

20. Further rationales include fostering greater institutional trust through ensuring the integrity of royalty collection and distribution systems via improved data reconciliation and cross-border cooperation, strengthened accountability of entities involved in royalty management, and supporting targeted capacity-building and financing mechanisms for CMOs in developing countries and LDCs, thereby enabling more inclusive participation in the global digital marketplace.

21. Finally, such a governance approach could contribute to the broader objective of sustaining vibrant creative economies by ensuring that remuneration reaches right holders more reliably and predictably, thereby encouraging greater cultural production, innovation, and dissemination through platforms, including Digital Services Providers in all regions.

22. Any future governance instrument should incorporate clear and appropriate safeguards for personal data protection, fair competition, and the sovereign right of the state to regulate data in accordance to their national laws and applicable international law, and it should also be designed in a practical, efficient, and non-duplicative manner, so as not to create administrative or institutional layers/burdens. In this way, it would offer a targeted, proportionate, and complementary response to the identified cross-border coordination challenges without prejudicing existing legal framework or amounting to a comprehensive regulatory overhaul.

V. Elements of a Possible Governance Framework

23. The following paragraphs set out, in systematic form, possible elements that Member States may wish to consider a governance-oriented international framework. These elements are presented as discussion points rather than as prescriptive provisions, and are grouped under the principal characteristics that would need to be addressed:

a. General Legal Framework / Relation to Previous Instruments

Any new instrument would be strictly complementary to, and would not derogate from, existing international copyright and related rights treaties (including the Berne Convention, the Rome Convention, the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty, the Beijing Treaty, and Trade-Related Aspects of Intellectual Property Rights). Nothing in the framework would modify, limit, or prejudice the rights and obligations established under those treaties. The instrument would operate exclusively at the level of governance in cross-border royalty management.

b. Policy Objectives

Possible elements could include the objective of strengthening the effective enjoyment of already-recognized rights by establishing principles relating to transparency, accountability, and interoperability in royalty management, with a view to improving reliability of cross-border royalty governance, reducing inefficiencies, and enabling right holders equitable remuneration in the digital environment.

c. Scope/ Subject Matter of the Instrument

Possible elements could include an initial focus on right holders of phonograms, given their prominent role in cross-border digital exploitation and their early exposure to technological disruption. The scope could remain open to future extension to other categories of works and related rights as experience with the framework develops and as digital convergence evolves.

d. Implementation of the Instrument

Contracting Parties would be required to adopt, in accordance with their respective legal systems and practices, the necessary measures to give effect to the provisions.

e. Beneficiaries

The primary beneficiaries would be authors, performers, producers, and other right holders whose works and related rights are exploited in the digital environment. Through improved governance mechanisms, these right holders would gain greater capacity to verify and receive fair and just remuneration. Entities involved in royalty management, including CMOs and digital service providers, would benefit from clearer governance principles and minimum international coordination standards, while Contracting Parties would gain enhanced institutional capacity to support their domestic creative economies.

f. Nature of scope of Obligations (Transparency, Interoperability, Accountability)

Possible elements could include international principles on transparency in the collection, allocation, and distribution of royalties; interoperability of metadata and usage-data systems; and accountability in circumstances where algorithmic systems influence remuneration outcomes. These principles would apply to interactions among entities involved in royalty management, including but not limited to CMOs and DSPs, while respecting applicable personal data protection, fair competition, and the sovereign right of state to regulate data.

g. Acquisition/Documentation Mechanisms (Metadata Registry, Identifiers)

Possible elements could include the promotion of reliable documentation mechanisms that support authentication and verification, including recognition of existing industry identifiers (ISRC, ISWC), principles on interoperability and data correction, and a neutral convening role

for WIPO to facilitate technical cooperation. Member States may wish to consider phased or modular approaches to implementation, potentially involving a federated or centralized registry component.

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