

WIPO General Assembly

Forty-Seventh (22nd Ordinary) Session
Geneva, October 5 to 14, 2015

REPORT ON THE STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (SCCR)

prepared by the Secretariat

1. The Standing Committee on Copyright and Related Rights (SCCR or Committee) met twice since the Fifty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO in September 2014, namely in December 2014 and June/July 2015. The Committee expects to hold an ordinary session in December 2015 and two ordinary sessions in 2016.
2. At its Forty-Sixth Session, which took place between September 22 and 30, 2014, the WIPO General Assembly considered the report on the status of the work of the SCCR, including discussions on the protection of broadcasting organizations and limitations and exceptions to copyright and related rights. The WIPO General Assembly did not take a decision on this item.
3. This document provides an update on the status of the work related to the above matters.

A. PROTECTION OF BROADCASTING ORGANIZATIONS

4. It is recalled that the updating of the rights of broadcasting organizations in response to technological developments has been under discussion in all SCCR sessions since 1998, including two special sessions exclusively devoted to that subject in 2007.
5. At its Forty-First Session held in 2012, the WIPO General Assembly approved the recommendation made by the SCCR that “the Committee continue its work toward a text that will enable a decision on whether to convene a diplomatic conference in 2014”. As earlier agreed, the work should remain consistent with the 2007 General Assembly mandate to develop an international treaty to update the protection of broadcasting and cablecasting organizations in the traditional sense.

6. At its Forty-Fourth Session, held in 2013, the WIPO General Assembly requested the SCCR to continue its work on the issues covered in its report, which included work toward a text that will enable a decision on whether to convene a diplomatic conference in 2014.
7. As noted above, in its Forty-Sixth Session, held in 2014, the WIPO General Assembly did not take a decision on the agenda item regarding the SCCR Report.
8. At its 29th and 30th sessions, the Committee pursued discussions on the basis of technical working non-papers prepared by the Chair addressing issues relating to the categories of platforms and activities to be included under the object and scope of protection to be granted to broadcasting and cablecasting organizations in the traditional sense, and initiated discussions on definitions. Discussions were also based on the “Working Document for a Treaty on the Protection of Broadcasting Organizations” (document SCCR/24/10/Corr.), which, as agreed in the Committee’s 24th Session, “constitute[d] the basis of further text-based discussions to be undertaken by the Committee”. It also considered documents SCCR/27/6, SCCR/27/2 Rev. and SCCR/30/5.
9. At its 30th session, the Committee heard a presentation on the *Report on Current Market and Technological Trends in the Broadcasting Sector* prepared by IHS Technology (document SCCR 30/5). An Information Session on broadcasting was held, which included presentations and discussions with broadcasting experts invited to address some of the technical issues considered.
10. As set forth by the Chair in his Summary, “in relation to the scope and object of protection, with the exception of one delegation that needed further time to consider the possibility of providing protection under any platform, the Committee was of the view that effective legal international protection be granted to broadcasting organizations to prohibit the unauthorized use of broadcast signals in the course of a transmission over any technological platform. Issues related to national regulations applying to the broadcasting sector were also raised. The Committee also further considered definitions related to broadcasting and broadcasting organizations.”
11. The Committee requested the Chair to prepare for its next session a consolidated text with respect to definitions, object of protection, and rights to be granted.
12. The topic of protection of broadcasting organizations will be maintained on the agenda of the 31st session of the SCCR.
13. At the conclusion of the 30th session of the SCCR, there was no agreement on recommendations to the WIPO General Assembly.

B. LIMITATIONS AND EXCEPTIONS

14. It is recalled that the SCCR has agreed to address the issue of limitations and exceptions to copyright and related rights for libraries and archives, education, and persons with other disabilities. The topic of limitations and exceptions has been discussed at every ordinary SCCR session from the 12th session held in November 2004 up to the present.

LIMITATIONS AND EXCEPTIONS FOR LIBRARIES AND ARCHIVES

15. Regarding the issue of limitations and exceptions for libraries and archives, at its Forty-First Session held in 2012, the WIPO General Assembly encouraged the Committee to continue its work and approved the Committee recommendation that the SCCR continue discussion to work towards an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms), with the target to submit recommendations on limitations and exceptions for libraries and archives to the General Assembly by the 28th session of the SCCR.
16. At its Forty-Fourth Session, held in 2013, the WIPO General Assembly requested the SCCR to continue its work on the issues covered in its report, which included work on limitations and exceptions consistent with the recommendations approved in 2012, as set out in the previous paragraph.
17. As noted above, at its Forty-Sixth Session, held in 2014, the WIPO General Assembly did not take a decision on the agenda item regarding the SCCR Report.
18. During the 29th session of the SCCR, the Committee heard and participated in an extensive discussion about the presentation of Professor Kenneth Crews on the *Study on Copyright Limitations and Exceptions for Libraries and Archives* (document SCCR/29/3), which updated a previous study of the same name (document SCCR/17/2) submitted in 2008. For the 30th session of the SCCR, Professor Crews prepared an updated and revised *Study on Copyright Limitations and Exceptions for Libraries and Archives: Updated and Revised* (document SCCR/30/3), which covers all 188 WIPO Member States and was welcomed by the Committee.
19. Apart from these studies, the documents under consideration related to this agenda item are currently:
- (a) “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);
 - (b) “Objectives and Principles for Exceptions and Limitations for libraries and Archives”, submitted by the United States of America (document SCCR/26/8); and
 - (c) “Consolidation of Proposed Texts contained in Document SCCR/26/3”, prepared by the African Group, Brazil, Ecuador, India and Uruguay (document SCCR/29/4).
20. During its 30th session, the Committee discussed and accepted the use of a non-paper introduced by the Chair during the 29th session of the SCCR on “exceptions and limitations for libraries and archives”. According to the Summary of the Chair, “[t]he Committee decided to continue discussions on the issue of limitations and exceptions for libraries and archives in the framework of the Chair’s non-paper complemented with additional information coming from sources such as user-friendly tools based on the contents of the Study of Professor Kenneth Crews (document SCCR/30/3), technical presentations by NGOs, searchable databases, regional seminars, among others.”
21. During the 30th session, the Committee was informed of the completion of the *Study on Copyright Limitations and Exceptions for Museums*, prepared by Mr. Jean François Canat and Professor Lucie Guibault (document SCCR/30/2), which will be presented at the next session of the Committee in December 2015.

22. The topic of limitations and exceptions for libraries and archives will be maintained on the agenda of the 31st session of the SCCR.

23. At the conclusion of the 30th session of the SCCR, there was no agreement on recommendations to the WIPO General Assembly.

LIMITATIONS AND EXCEPTIONS FOR EDUCATIONAL AND RESEARCH INSTITUTIONS AND PERSONS WITH OTHER DISABILITIES

24. As to the issues of limitations and exceptions for educational and research institutions and persons with other disabilities, at its Forty-First Session, held in 2012, the WIPO General Assembly encouraged the Committee to continue its work and approved the Committee recommendation that the SCCR continue discussion to work towards an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms), with the target to submit recommendations on limitations and exceptions for educational, teaching and research institutions and persons with other disabilities to the General Assembly by the 30th session of the SCCR.

25. At its Forty-Fourth Session, held in 2013, the WIPO General Assembly requested the SCCR to continue its work on the issues covered in its report, which included work on limitations and exceptions consistent with the recommendations approved in 2012, as set out in the previous paragraph.

26. At its Forty-Sixth Session, held in 2014, the WIPO General Assembly did not take a decision on this item.

27. The documents under consideration related to this agenda item are currently:

(a) “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”, prepared by the Secretariat (document SCCR/26/4 Prov.); and

(b) “Objectives and Principles for Exceptions and Limitations for Educational, Teaching, and Research Institutions”, submitted by the United States of America (document SCCR/27/8).

28. During the 30th session of the SCCR, the Committee asked the Secretariat to proceed with updating the various studies on limitations and exceptions for educational, teaching and research institutions published for the 19th session of the SCCR in 2009 and to aim to cover all WIPO Member States. The Secretariat was requested to consolidate all the information from these studies into a single study. The Committee also asked the Secretariat to proceed with commissioning a scoping study on limitations and exceptions for persons with other disabilities.

29. The topic of limitations and exceptions for educational and research institutions and persons with other disabilities will be maintained on the agenda of the 31st session of the SCCR.

30. At the conclusion of the 30th session of the SCCR, there was no agreement on recommendations to the WIPO General Assembly.

CHAIR'S SUMMARIES

The Summaries by the Chair for the 29th and 30th Sessions of the SCCR are attached at Annex I and II, respectively.

31. *The WIPO General Assembly is invited to:*

(i) take note of the information contained in document WIPO/GA/47/ 5; and

(ii) direct the SCCR to continue its work regarding the issues reported on in document WIPO/GA/47/5 and provide the SCCR with any guidance or direction that it may wish concerning future action for those issues.

[Annexes follow]

World Intellectual Property Organization (WIPO)
Standing Committee on Copyright and Related Rights (SCCR)
Twenty-ninth Session
Geneva, December 8 to 12, 2014

SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. The twenty-ninth session of the Standing Committee on Copyright and Related Rights (SCCR or Committee) was opened by Mr. Martin Moscoso, SCCR Chair and Ms. Anne Leer, Deputy Director General, Culture and Creative Industries Sector, who welcomed the participants. Ms. Michele Woods (WIPO) acted as Secretary.

AGENDA ITEM 2: ADOPTION OF THE AGENDA OF THE TWENTY-NINTH SESSION

2. The Committee adopted the draft agenda (document SCCR/29/1 PROV.)

AGENDA ITEM 3: ACCREDITATION OF NEW NON-GOVERNMENTAL ORGANIZATIONS

3. The Committee approved the accreditation for the SCCR of the non-governmental organizations referred to in the Annexes of document SCCR/29/2, namely the Canadian Copyright Institute (CCI) and the Program on Information Justice and Intellectual Property, American University, Washington College of Law (PIJIP).

AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE TWENTY-EIGHTH SESSION

4. The Committee approved the draft report of its twenty-eighth session (document SCCR/28/3) as proposed. Delegations and observers were invited to send any comments on their statements to the Secretariat.

AGENDA ITEM 5: PROTECTION OF BROADCASTING ORGANIZATIONS

5. The documents related to this agenda item are documents SCCR/27/2 REV., SCCR/27/6 and technical non-papers prepared by the Chair on “*concepts*”, “*object of protection*” and “*rights to be granted*”, which addressed these issues and were submitted at the 27th, 28th and 29th sessions of the SCCR. Discussions were held on the technical non-papers.

6. The Committee requested the Secretariat to update the information contained in the technical background paper (document SCCR 7/8) and the 2010 study on “Current Market and Technology Trends in the Broadcasting Sector” (document SCCR 19/12), on current technological developments in broadcasting with special reference to the ways new digital technologies are used by traditional broadcasting and cablecasting organizations including in developing and least developed countries with the aim of presenting the results of the study and providing opportunities for technical discussion at the 30th session of the SCCR.

7. Technical experts, with emphasis on experts from developing and least-developed countries, will be invited for a half-day information session at SCCR/30 to address some of the technical issues considered in the discussions. The Committee agreed that Member States will

be encouraged to submit specific questions to be addressed by the technical experts through Regional Coordinators to the Secretariat.

8. This item will be maintained on the agenda of the thirtieth session of the SCCR.

AGENDA ITEM 6: LIMITATIONS AND EXCEPTIONS FOR LIBRARIES AND ARCHIVES

9. The Committee heard the presentation of Professor Kenneth Crews on the *Study on Copyright Limitations and Exceptions for Libraries and Archives*, contained in document SCCR/29/3, which updated a previous study of the same name contained in document SCCR/17/2, submitted in 2008. The Committee welcomed the presentation and delegations and observers participated in an extensive question-and-answer session with Professor Crews.

10. The Committee asked the Secretariat to arrange before the next session for the preparation of a document that combines both study documents and reflects the additional information on national library and archive limitations and exceptions provided by delegations. The Secretariat will expedite preparation of the portion of the meeting report that includes the record of the presentation and discussion, including contributions from Members and observers. The Secretariat will also consider alternative ways of presenting the material to allow searching and comparison, taking into account resource considerations.

11. The documents related to this agenda item are SCCR/26/3, SCCR/26/8, SCCR/29/3 and SCCR/29/4.

12. The Committee heard the further presentation of document SCCR/26/8 submitted by the United States of America, followed by the presentation of document SCCR/29/4 submitted by the African Group, Brazil, Ecuador, India and Uruguay.

13. The Chair introduced a non-paper he had prepared on "*exceptions and limitations for libraries and archives*". Delegations will consider this proposal at the next session.

14. This item will be maintained on the agenda of the thirtieth session of the SCCR.

AGENDA ITEM 7: LIMITATIONS AND EXCEPTIONS FOR EDUCATIONAL AND RESEARCH INSTITUTIONS AND FOR PERSONS WITH OTHER DISABILITIES

15. The documents related to this agenda item are SCCR/26/4 PROV. and SCCR/27/8.

16. The Committee heard the further presentation of document SCCR/27/8 submitted by the United States of America.

17. This item will be maintained on the agenda of the thirtieth session of the SCCR.

AGENDA ITEM 8: OTHER MATTERS

SUMMARY OF THE CHAIR

18. The Committee took note of the content of this Summary by the Chair.

AGENDA ITEM 9: CLOSING OF THE SESSION

19. The next session of the Committee will take place from June 29 to July 3, 2015.

[Annex II follows]

World Intellectual Property Organization (WIPO)
Standing Committee on Copyright and Related Rights (SCCR)
Thirtieth Session
Geneva, July 3, 2015

SUMMARY BY THE CHAIR

Protection of broadcasting organizations

1. The documents related to this agenda item were SCCR/27/6, SCCR/27/2 REV. and SCCR/30/5.
2. The Committee welcomed the presentation of the Report on Current Market and Technological Trends in the Broadcasting Sector prepared by IHS. It also heard the information session on broadcasting as well as the presentations from and discussions with broadcasting experts invited to address some of the technical issues considered in previous discussions of the Committee.
3. The Committee pursued discussions on the protection of broadcasting and cablecasting organizations in the traditional sense following a signal-based approach and taking into account documents, informal charts and non-papers discussed at the three previous sessions of the SCCR.
4. In relation to the scope and object of protection, with the exception of one delegation that needed further time to consider the possibility of providing protection under any platform, the Committee was of the view that effective legal international protection be granted to broadcasting organizations to prohibit the unauthorized use of broadcast signals in the course of a transmission over any technological platform. Issues related to national regulations applying to the broadcasting sector were also raised.
5. The Committee also further considered definitions related to broadcasting and broadcasting organizations. These definitions should be drafted taking into account similar definitions in existing treaties. Discussion was also opened on the definition of signal.
6. The Committee requested the Chair to prepare for its next session a consolidated text with respect to definitions, object of protection, and rights to be granted. At that session the Committee will also exchange views on and further clarify other issues in order to reach a common understanding.
7. There was no agreement on recommendations to the WIPO General Assembly (WIPO/GA/47).
8. This item will be maintained on the agenda of the thirty-first session of the SCCR.

Limitations and exceptions: libraries and archives

9. The documents related to this agenda item were SCCR/26/3, SCCR/26/8, SCCR/29/3, SCCR/29/4, SCCR/30/2 and SCCR/30/3.
10. The Committee welcomed the Study on Copyright Limitations and Exceptions for Libraries and Archives: Updated and Revised, prepared by Professor Kenneth Crews (document SCCR/30/3).

11. The Committee was informed of the completion of the Study on Copyright Limitations and Exceptions for Museums, prepared by Mr. Jean François Canat and Professor Lucie Guibault (document SCCR/30/2), which was made available for this session and will be presented at the next session of the Committee.

12. The Committee discussed and accepted the use of the non-paper introduced by the Chair on “exceptions and limitations for libraries and archives” during the twenty-ninth session of the SCCR. This non-paper consists of a chart which is designed to serve as a useful tool to provide structure to discuss the substance of each topic, drawing on the many resources before the Committee. This will allow the Committee to have an evidence-based discussion respecting differing views and understanding that the goal is not to guide the discussion toward any particular or undesired outcome, but instead to lead to a better understanding of the topics and of their actual relevance to the discussions and the intended outcome.

13. In relation to the topic of preservation, the Committee stressed its importance and views, national laws and practices were exchanged in relation to the objectives, principles, conditions and other factors to consider when adopting an exception for preservation.

14. The Committee decided to continue discussions on the issue of limitations and exceptions for libraries and archives in the framework of the Chair’s non-paper complemented with additional information coming from sources such as user-friendly tools based on the contents of the Study on Copyright Limitations and Exceptions for Libraries and Archives: Updated and Revised, prepared by Professor Kenneth Crews, technical presentations by NGOs, searchable databases, regional seminars, among others.

15. A number of delegations suggested that the discussion on this topic would benefit from equal allocation of time among the three substantive topics on the agenda.

16. There was no agreement on recommendations to the WIPO General Assembly (WIPO/GA/47).

17. This item will be maintained on the agenda of the thirty-first session of the SCCR.

Limitations and exceptions: research institutions and persons with other disabilities

18. The documents related to this agenda item were SCCR/26/4 PROV. and SCCR/27/8.

19. The Committee stressed the importance of limitations and exceptions for educational, teaching and research institutions due to the fundamental role of education in society. The Committee held discussions on the topic, with due consideration of the existing documents.

20. The Committee asked the Secretariat to proceed with updating the various studies on limitations and exceptions for educational, teaching and research institutions published for the nineteenth session of the SCCR in 2009 and to aim to cover all WIPO Member States. The Secretariat was requested to consolidate all the information from these studies into one single study. Some delegations requested that the studies include information on limitations on remedies for infringements applicable to educational, teaching and research institutions without prejudice to the introduction of other topics related to this agenda item. The Committee also asked the Secretariat to proceed with commissioning a scoping study on limitations and exceptions for persons with other disabilities.

21. A number of delegations suggested that the discussion on this topic would benefit from equal allocation of time among the three substantive topics on the agenda.
22. There was no agreement on recommendations to the WIPO General Assembly (WIPO/GA/47).
23. This item will be maintained on the agenda of the thirty-first session of the SCCR.

Other matters

24. One Member State highlighted the need to ensure adequate compensation to visual artists and suggested that the Committee add the topic of the resale royalty right to its agenda and undertake further discussion on the issue. Many Member States expressed support for adding this item to the agenda of the meeting, while a few Member States expressed some concerns. It was suggested to analyze the issues further at the next meeting.

Summary of the Chair

25. The Committee took note of the contents of this Summary by the Chair. The Chair clarified that this summary reflects the Chair's views on the result of the thirtieth session of the SCCR and that, in consequence, it was not subject to approval by the Committee.

Next session of the SCCR

26. The next session of the Committee will take place from December 7 to 11, 2015.

[End of Annex II and of document]