

WIPO General Assembly

Fifty-Sixth (26th Ordinary) Session **Geneva, July 6 to 14, 2023**

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 once since the Fifty-Fifth Session of the WIPO General Assembly. The 43rd session of the SCCR was held from March 13 to 17, 2023, in hybrid format. The Committee will hold a second ordinary session in 2023, which is tentatively scheduled for the week of November 6, 2023.
2. At its Fifty-Fifth Session, which took place from July 14 to 22, 2022, the WIPO General Assembly considered the report on the status of the work of the SCCR (document WO/GA/55/1), including discussions on the protection of broadcasting organizations and limitations and exceptions to copyright and related rights. It took note of the report and directed the SCCR to continue its work on all issues addressed in the report.
3. This document provides an update on the status of the work of the SCCR. The Summary by the Chair for the 43rd session of the SCCR is attached.

PROTECTION OF BROADCASTING ORGANIZATIONS

4. The updating of the protection 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 SCCR/43, a Chair's "Second Revised Draft Text for the WIPO Broadcasting Organizations Treaty" was introduced (SCCR/43/3). The Committee had plenary and informal discussions on the text. The document will be revised for further consideration at SCCR/44.

6. The topic of protection of broadcasting organizations will be maintained on the agenda of the 44th session of the SCCR.

LIMITATIONS AND EXCEPTIONS

7. The SCCR has been addressing the issue of limitations and exceptions to copyright since 2004 and has been addressing limitations and exceptions to copyright for libraries and archives, educational and research institutions, and persons with other disabilities at every session since 2012.

LIMITATIONS AND EXCEPTIONS FOR LIBRARIES AND ARCHIVES

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

8. At its 43rd session, the Committee welcomed the presentation of the “Toolkit on Preservation” (SCCR/43/4). An update was given on the preparation of a scoping study on research and the Committee heard a presentation on cross-border issues related to education and research.

9. The Committee considered a proposal from the African Group for a draft work program on limitations and exceptions, and adopted the proposal with certain revisions.

10. The topics of limitations and exceptions for libraries and archives and limitations and exceptions for educational and research institutions and persons with other disabilities will be maintained on the agenda of the 44th session of the SCCR.

OTHER MATTERS

ANALYSIS OF COPYRIGHT RELATED TO THE DIGITAL ENVIRONMENT

11. The Analysis of Copyright Related to the Digital Environment has been discussed under the agenda item “Other Matters” since the 31st session of the SCCR in December 2015.

12. At the 43rd Session, the Secretariat held a half-day “Information session on the music streaming market”, with interventions from high-level speakers for a discussion about licensing practices and distribution of streaming revenues in the music streaming marketplace.

13. The Committee considered a “Proposal for Analysis of Copyright Related to the Digital Environment” (SCCR/43/7) presented by the Group of Latin American and Caribbean Countries (GRULAC).

14. The topic of the Analysis of Copyright Related to the Digital Environment will be maintained on the agenda of the 44th session of the SCCR.

RESALE RIGHT

15. The Resale Right has been discussed under the agenda item “Other Matters” since the 31st session of the SCCR in December 2015.

16. At its 43rd session, the Committee welcomed the presentation of part 1 of the “WIPO Toolkit on Artist’s Resale Right” (SCCR/43/INF/2) focused on the legal framework.

17. The topic of the Resale Right will be maintained on the agenda of the 44th session of the SCCR.

PROTECTION OF THEATRE DIRECTORS' RIGHTS

18. The Protection of Theatre Directors' Rights has been discussed under the agenda item "Other Matters" since the 35th session of the SCCR in November 2017.

19. At the 43rd session, the Committee heard an update presented by the Secretariat.

20. The topic of the Protection of Theatre Directors' Rights will be maintained on the agenda of the 44th session of the SCCR.

PUBLIC LENDING RIGHT

21. The Public Lending Right has been discussed under the agenda item "Other Matters" since the 40th session of the SCCR in November 2020.

22. At the 43rd session, Malawi, Panama and Sierra Leone reiterated their proposal for a scoping study on the public lending right. The Committee adopted the proposal and asked the Secretariat to prepare the requested study.

23. The topic of the Public Lending Right will be maintained on the agenda of the 44th session of the SCCR.

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

(i) take note of the "Report on the Standing Committee on Copyright and Related Rights" (document WO/GA/56/5); and

(ii) direct the SCCR to continue its work regarding all issues reported on in document WO/GA/56/5.

[Summary by the Chair of the 43rd session of the SCCR follows]

STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS

Forty-Third Session
Geneva, March 13 To 17, 2023

SUMMARY BY THE CHAIR

prepared by the Chair

AGENDA ITEM 1: OPENING OF THE SESSION

1. The Forty-third Session of the Standing Committee on Copyright and Related Rights (“SCCR” or “Committee”) was opened by the Deputy Director General, Sylvie Forbin. Mr. Owen Ripley acted as Chair and Mr. Aziz Dieng and Mr. Peter Labody served as Vice-Chairs. Ms. Michele Woods (WIPO) acted as Secretary.

AGENDA ITEM 2: ADOPTION OF THE AGENDA OF THE FORTY-THIRD SESSION

2. The Committee adopted the draft Agenda (document SCCR/43/1 PROV.).

AGENDA ITEM 3: ELECTION OF OFFICERS

3. Election of officers was postponed to the next session of the Committee.

AGENDA ITEM 4: ACCREDITATION OF NEW NON-GOVERNMENTAL ORGANIZATIONS

4. The Committee approved at this time the accreditation as ad hoc SCCR observers of the following non-governmental organizations referred to in the Annex to document SCCR/43/2:

- *The Societies’ Council for the Collective Management of Performers’ Rights (SCAPR)*
- *The Ebenes’Art Association*
- *International Olympic Committee (IOC)*
- *Brazilian Union of Composers (UBC)*

There was discussion about the accreditation of one other observer, which was postponed to the next session.

AGENDA ITEM 5: PROTECTION OF BROADCASTING ORGANIZATIONS

5. The documents from previous sessions related to this agenda item are available on the dedicated web page for SCCR/43 at https://www.wipo.int/meetings/en/details.jsp?meeting_id=75412.

6. After statements from delegations, the Chair’s Second Revised Draft Text for the WIPO Broadcasting Organizations Treaty (document SCCR/43/3), prepared under the Chair’s authority, was presented by Vice-Chair Peter Labody and Facilitator Jukka Liedes, with comments from Facilitator Hezekiel Oira. The Committee engaged in a discussion and question-and-answer session with the presenters about it. The Committee continues to analyze and evaluate the implications of the Chair’s Second Revised Draft Text and, in its view, there are some issues that remain to be clarified.

7. In plenary and informal discussions, the Committee made some progress towards finding common ground related to the objectives, specific scope and object of protection of a possible treaty on the protection of broadcasting organizations. The basis for the discussion was the Chair's Second Revised Draft Text for the WIPO Broadcasting Organizations Treaty (SCCR/43/3). With respect to objectives, there is common understanding amongst the Committee that any potential treaty should be narrowly focused on signal piracy and that it should provide member states with flexibility to implement obligations through adequate and effective legal means. With these objectives in mind, there is also common understanding that the object of protection (subject matter) of any potential treaty should be limited to the transmission of programme-carrying signals and should not extend to any post-fixation activities, thus avoiding interference with the rights related to the underlying content. Members expressed various views as to whether a potential treaty should require a minimum level of protection with respect to broadcasting over computer networks, the effect of introducing a fixation right, the effect of not having a term of protection, and the scope of limitations and exceptions, among others.

8. The Committee agreed that the Chair, working with the Vice-Chairs and Facilitators, would revise document SCCR/43/3 based on the comments, suggestions and questions from delegations, for further consideration at SCCR/44. Delegations were invited to send any further comments on document SCCR/43/3 to copyright.mail@wipo.int by June 16, 2023. These submissions will be published on the WIPO website. The output will be the Chair's Third Revised Draft Text, which will be used as a basis for discussion at the next SCCR session.

9. This item will be maintained on the agenda of the forty-fourth session of the SCCR.

AGENDA ITEM 6: LIMITATIONS AND EXCEPTIONS FOR LIBRARIES AND ARCHIVES
AGENDA ITEM 7: LIMITATIONS AND EXCEPTIONS FOR EDUCATIONAL AND RESEARCH INSTITUTIONS AND FOR PERSONS WITH OTHER DISABILITIES

10. These two agenda items were addressed together. The documents from previous sessions related to these agenda items are available on the dedicated web page for SCCR/43 at https://www.wipo.int/meetings/en/details.jsp?meeting_id=75412.

11. After statements from delegations, co-authors Kenneth D. Crews, Rina Elster Pantalony, and David Sutton presented the Toolkit on Preservation (document SCCR/43/4). The Committee welcomed the presentation and held a question-and-answer session and an exchange of views among delegations, observers and experts. Delegations were invited to send any further comments on document SCCR/43/4 to copyright.mail@wipo.int by May 19, 2023. The Secretariat indicated that toolkits would be prepared next on access for libraries, museums and archives, and on access for educational and research institutions.

12. Professor Raquel Xalabarder gave an update on the preparation of the research scoping study, which was discussed briefly by the Committee and observers. The scoping study will be presented at SCCR/44.

13. A presentation on cross-border issues related to education and research was moderated by Natalia Reiter, with panelists Ana Andrijevic, Natalie Corthesy, Yogesh K. Dwivedi, and Paul Birevu Muyinda. The Committee appreciated the presentation and held a question-and-answer session and an exchange of views among delegations, observers and experts. Some delegations indicated a desire to continue the discussion, which could be done in association with the presentation of the additional toolkit on education and research referred to in paragraph 11.

14. The coordinator of the African Group presented the group's Proposal for a Draft Work Program on Exceptions and Limitations (SCCR/42/4 REV.). Delegations provided comments on the proposal. The Committee welcomed the initiative of the African Group and adopted the Proposal, with certain revisions as agreed by the Committee (SCCR/43/8).

15. The agenda items on limitations and exceptions for libraries and archives and for educational and research institutions and persons with other disabilities will be maintained on the agenda of the forty-fourth session of the SCCR.

AGENDA ITEM 8: INFORMATION SESSION ON THE MUSIC STREAMING MARKET

16. The Secretariat presented a half-day Information session based on the Proposal for an "Information session on the music streaming market" at SCCR 43 submitted by GRULAC. During the session, following presentations from professionals and experts, members and observers had the opportunity to exchange views and experiences.

AGENDA ITEM 9: OTHER MATTERS

17. The documents from previous sessions related to this agenda item are available on the dedicated web page for SCCR/43 at https://www.wipo.int/meetings/en/details.jsp?meeting_id=75412.

18. Regarding the topic of Copyright in the Digital Environment, the Committee appreciated the Information Session that was held on the music streaming market. Several delegations expressed interest in having similar events on other topics related to copyright in the digital environment.

19. GRULAC presented the Proposal for Analysis of Copyright Related to the Digital Environment (SCCR/43/7), proposing to make Copyright in the Digital Environment a standing agenda item and to undertake various activities on music in the digital environment. The proposal was discussed at length by the Committee. Many members welcomed the proposal, while some members requested more time to review the proposal and others expressed reservations.

20. Regarding the topic of the Resale Royalty Right, the Committee welcomed the presentation by Professor Sam Ricketson of Part 1 of the WIPO Toolkit on Artists' Resale Right (legal framework) and looks forward to Part 2 of the toolkit (management of the right). The Committee noted statements made by delegations, including requests for proposals from the task force on next steps, and agreed to continue exchanging views and information on this item.

21. Regarding the topic of Strengthening the Protection of Theatre Directors' Rights, the Secretariat indicated that consultations with relevant experts and stakeholders are ongoing. Some members intervened, expressing support to continue mapping the current international landscape in consultation with interested member states.

22. The Proposal for a Study Focused on Public Lending Right in the Agenda and Future Work of the Standing Committee on Copyright and Related Rights of the World Intellectual Property Organization (WIPO) (document SCCR/40/3 REV. 2) was presented by Sierra Leone, Malawi, and Panama and discussed by delegations. The Committee asked the Secretariat to prepare the requested study, taking into account the comments made by delegations.

23. The topic of Other Matters will be maintained on the agenda of the forty-fourth session of the SCCR.

SUMMARY BY THE CHAIR

24. The Committee took note of the contents of this Summary by the Chair. The Chair clarified that this summary reflected the Chair's views on the results of the forty-third session of the SCCR and that, in consequence, it was not subject to approval by the Committee.

AGENDA ITEM 10: CLOSING OF THE SESSION

25. At SCCR/42, the Committee agreed that there should be two regular SCCR sessions during 2023, and this was reported in the Chair's Summary (SCCR/42/Summary by the Chair). However, for a variety of reasons, only one session was scheduled in the WIPO calendar. At SCCR/43, some member states expressed concern with only having one SCCR session in 2023 and requested that a second session be scheduled in the latter half of the year to respect the outcome of SCCR/42. The Committee agreed that there should be a second session of the SCCR (SCCR/44) during the week of November 6, 2023. The Secretariat has indicated that the Committee could be accommodated during that week. On an exceptional and non-precedential basis, the Committee should meet for three days instead of five and the time should be allocated as follows: The time on the first two days should be divided equally between broadcasting and limitations and exceptions after the handling of preliminary, administrative agenda items. The third day should be devoted to other matters, specifically copyright in the digital environment. Given the shorter meeting, the Chair indicated that he would ask group coordinators, Member States and observers to forego making oral opening statements and general declarations on broadcasting and limitations and exceptions. Priority will be given to substantive discussions. Member States and observers will be invited to submit any general statements in writing, to be posted on the WIPO SCCR website.

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