

**Report on the Second Special Session of the WIPO Standing Committee on  
Copyright and Related Rights (SCCR) in Geneva, 18-22 June 2007**

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As decided by the General Assembly of WIPO in 2006, the SCCR was to hold two special sessions in 2007 in order to agree on and finalize a revised basic proposal to be submitted to the Diplomatic Conference that was planned for November/December 2007, provided that agreement on a revised basic proposal would be reached.

As decided at the previous, first special session of the SCCR, the Chair Jukka Liedes had prepared a revised version of his informal proposals in form of a non-paper of April 20, 2007. The paper represented a minimalist approach, taking into account the concerns that had been voiced by many (in particular developing country-) delegations in the past and, at the same time, the views of broadcasting organisations as to what would be the absolutely necessary rights at a minimum, without which the entire exercise would not be useful at all. Accordingly, the main aim of the draft was limited to protection on a signal-based approach; the object of protection was limited to traditional broadcasting and cable casting organisations and their broadcasts and cable-casts; the minimum rights were limited to the exclusive rights of retransmission and deferred transmission, an adequate and effective legal protection in respect of technological measures (in particular encryption) and rights management information, and a corresponding protection in respect of pre-broadcast signals. For limitations, the same solutions as under Article 16 of the WPPT (reference to national copyright limitations and three-step-test) were proposed; also, similar provisions as under the WPPT were proposed in respect of (no-)formalities, application in time and enforcement. The non-paper is available on the WIPO-homepage ([www.wipo.int](http://www.wipo.int)).

Although this minimalist approach should have met most concerns especially of those developing countries which had previously opposed too strong protection,

many developing countries did not seem satisfied and asked for more precise definitions, wanted clarifications on what is a “pre-broadcast signal” or a “transmission”, or opposed the plan to continue in informal sessions. Brazil in particular insisted on re-inserting its proposals on cultural diversity, competition, etc. into the articles rather than only the preamble and had a long list of detailed amendment proposals, which seemed to indicate a lack of willingness to go ahead with a Diplomatic Conference. Related procedural discussions (in particular, whether to discuss the non-paper in thematic clusters or article by article, and the order of discussion) were in part related to these concerns.

After the second day being reserved for statements by non-governmental organisations, only half a morning was devoted to the continued formal session, where in particular Japan and Mexico urged delegates to proceed to a Diplomatic Conference, while the USA warned delegates that much more work would be needed to agree on a revised basic proposal for a Diplomatic Conference and that concerns in particular regarding the proposal on cultural diversity remained. The delegation recalled that it had sought a technical update of the protection of broadcasting organisations by including simulcasting and webcasting organisations and including provisions on technical protection at least at the level of the WPPT. Then, the Chairman proceeded to informal sessions from which non-governmental organisations such as ALAI were excluded.

As reported by participants, long discussions took place even on the rather short and general Article 1 on the objective of the draft treaty, as well as on the preceding ones. The final stumbling block seemed to be the controversy between, in particular, the USA and Brazil on Brazil’s earlier proposals on cultural diversity, abuse of intellectual property protection leading to unreasonable restraint of trade and negative effects on competition, and the position of such language either in the preamble or the operative part of the treaty. It seems that the USA at one point made it clear that it did not consider useful the continuation of discussions.

As a result of this outcome, the subject matter of the protection of broadcasting organisations is moved back from the special sessions to the ordinary agenda of the SCCR, together with the issues of webcasting and simulcasting, which had been

excluded in order to enhance chances for a treaty. After more than fifteen sessions and eight years of discussions, it now seems rather unlikely that the aim of a treaty could be realised in the near future.

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