

**Report on the 21st Session
of the Committee on Copyright and Related Rights (SCCR)
in Geneva, November 8 to 12, 2010**

Dr. Silke von Lewinski

1. General Remarks

The meeting started with the reminder of the Chair that the past three meetings had not achieved an agreement on conclusions, and the general urge to start early with the drafting and discussion of conclusions in order to get them adopted was strong. In fact, a focus of discussions during the week of the 21st Session was on the conclusions and a work program for the future. A long introductory session with general statements by delegations on the three issues on the agenda (broadcasting organizations, audiovisual performances and exceptions/limitations) did not reveal any surprises, and discussions on procedure took quite some time.

2. Broadcasting Organisations

The third part of the 'Study on the Socio-Economic Dimension of the Unauthorised Use of Signals' ('Unauthorized Access to Broadcast Content – Cause and Effects: A Global Overview'), WIPO Doc. SCCR/21/2, was presented by the Secretariat, as was the Analytical Document of the Secretariat on the three parts of this study (WIPO Doc. SCCR/21/4).

On the continuing issue of a possible treaty on the rights of broadcasting organisations, the Director General reminded delegations of the existing common ground, of the fact that the mandated studies had been delivered and regional consultations had been completed, and that no delegation had rejected to go forward but that only certain issues needed to be clarified. He encouraged the Committee to find a concrete way forward. Finally, in informal consultations, delegations reaffirmed to continue work on a treaty for traditional broadcasters and cablecasters on a signal-based approach, and agreed to invite Member States to submit new proposals in

addition to the existing draft in WIPO Doc. SCCR/15/2/rev with a view to an enlarged basis for a new draft treaty. In addition, the Committee requested the Secretariat to organize informal consultations before the next SCCR in order to clarify outstanding issues. The next SCCR should agree on a timetable on future work on this topic.

3. Audiovisual Performances

Likewise, a possible treaty on the protection of audiovisual performances is still on the agenda. The SCCR, in its conclusions, reaffirmed its commitment to work towards such a treaty. It also stated that the 19 articles provisionally adopted at the 2000 Diplomatic Conference were a good basis for advancing the negotiations on the treaty. Proposals by India and Mexico on possible articles regarding transfer of rights (WIPO Docs SCCR/21/5 and 21/6) were noted and Member States were asked to submit any further proposals on outstanding issues or additional or alternative elements for a draft treaty until 31 January 2011. The Secretariat should then organize informal open-ended consultations among the Member States on the new proposals and a timetable for concluding negotiations in order to make recommendations to the next SCCR. Overall, the general situation as compared to the June meeting did not seem to have changed.

4. Limitations and Exceptions

First, the Secretariat presented the updated report on the questionnaire (WIPO Doc. SCCR/21/7) and the fourth interim report on the Stakeholders' Platform (WIPO Doc. SCCR/21/10), which has made further progress in its pilot project to achieve equal access to works for visually impaired persons. The following discussion focussed on how to proceed with the debate on the four existing proposals (Brazil et al., USA, EU, African group) – whether there should be an article-by-article debate, or debate of main issues, on a comparative basis or on the basis of each proposal separately, etc. Finally, since the EU had not yet officially presented its proposal, it was given the opportunity to do so, followed by a question-and-answer period on this proposal; subsequently, the same procedure was applied to the other proponents of proposals. This discussion presented the most substance-related part of the entire session. It showed that there were more questions than answers; moreover – as indicated by

some delegations – these had only been preliminary questions. It is no surprise that this session illustrated that discussing on limitations, and even more so where the aim is the adoption of an instrument, whether binding or not, would require much more time for deliberations and substantive work, and that the process is now only at its beginning. It showed that the topic of limitations by its nature involves a high degree of detail, unlike many other issues in copyright law.

The statements by NGOs on all three topics on the agenda (including broadcasting organisations and audiovisual performances) reflected a broad array of different opinions on the individual proposals and did not bring about any surprises.

Following informal discussions, the Committee agreed, in particular, to “work towards an appropriate international legal instrument or instruments” (that may or may not be binding) taking into account the four tabled proposals and any possible future, new ones. The Committee also agreed on a work program for the next two years as specified in detail in the conclusions, from which one may also deduce a slight focus on limitations in favour of visually impaired persons as compared to those for educational and other purposes.

[End of report]