

**Report on the 20th Session
of the Standing Committee on Copyright and Related Rights (SCCR)
in Geneva, June 21 to 24, 2010**

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1. Broadcasting Organisations

The second 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/20/2 rev of 10 May 2010 was presented by a representative of Screen Digest, London that had prepared this study. It covers different types of unauthorised access to signals, its causes and causes of piracy, as well as the impact of unauthorised signal access at a global level and in different regions of the world. After a critical discussion, the third part of this study was announced for the 21st session of the SCCR.

On the continuing issue of a possible treaty on the rights of broadcasting organisations, several countries confirmed their wish for a treaty or at least for progress in this direction (e.g. Japan, Switzerland, Mexico, India, Senegal (pointing at the fact that broadcasters often do not respect authors' rights because they are subject to piracy themselves), Kenya, Australia), while the EU considered the topic of broadcasters' rights as important and expressed its satisfaction that it remained on the agenda; similarly, the USA looked forward to continuing discussions. Brazil opposed a proposal by the Chair to work more efficiently towards a treaty, for example, by intersessional meetings or an informal working group, and considered this procedure as too rushy; A.D. Clarke reminded Brazil of the fact that this topic had already been on the agenda for 15 years.

In the end, the Committee did not agree in particular on the draft conclusions as proposed by the Chair, nos. 3 and 4, which expressed the commitment of the SCCR to continue work towards an international treaty for the protection of broadcasters

while taking due account of the protection of the public interest and access to information, and which invited the secretariat to organise informal consultations to address the outstanding technical issues.

2. Audiovisual Performances

Likewise, a possible treaty on the protection of audiovisual performances is still on the agenda. The SCCR not only reaffirmed its commitment to work towards such a treaty and agreed on a faster pace, including a time table for new proposals and informal consultations before the next session of the SCCR, not least in order to recommend to the SCCR a timetable for concluding negotiations. On the question of whether the 19 articles provisionally adopted at the 2000 Diplomatic Conference should be re-opened or not, the EU this time reverted to its initial understanding in 2000, namely, that these 19 articles were only a provisional compromise and would have to be re-opened if negotiations would take place again at a later stage. Other countries beforehand had taken the same view (e.g., Brazil, New Zealand). In contrast, in particular Australia, the USA, and Senegal opposed the re-opening of these 19 articles. According to the draft conclusions, these articles constitute a 'good basis for advancing the negotiations on the treaty'. Overall, and despite many principally positive statements, the enthusiasm for a treaty seems to be limited

3. Limitations and Exceptions

Among the studies or updated studies submitted to this Committee containing information on exceptions and limitations in general or in limited areas (WIPO Docs. SCCR/20/3 through SCCR/20/7) was also the Third Interim Report of the Stakeholders' Platform presented at the meeting. It showed that this platform had made further progress in achieving access of the visually impaired persons to special format-copies and that WIPO had offered physical support in Geneva for the pilot project, which is to run for a test phase of three years and which should in the end result in making all titles on the market available in special formats through trusted intermediaries, which must be trusted by both the right holders and the institutions for the blind.

In addition to the Brazil, Ecuador, and Paraguay (proposal in WIPO Doc. SCCR/18/5), also other delegations submitted their own proposals on this topic. The African group submitted a proposal based on the Brazilian one but extending its scope to limitations in favour of educational and research institutions, libraries, and archive centres (WIPO Doc. SCCR/20/11). The USA submitted a Draft Consensus Instrument in form of a recommendation, limited to the issues of importation and exportation of special format copies for the visually impaired persons (WIPO Doc. SCCR/20/10); it made it clear that such a recommendation would not exclude other options, such as a treaty. The European Union submitted a Draft Joint Recommendation concerning the improved access to works protected by copyright for persons with a print disability (WIPO Doc. SCCR/20/12), which, while also being a recommendation, extended to limitations of rights other than import and export and recommended these limitations to be provided only in absence of working and appropriate voluntary solutions, such as licenses. While a first exchange of opinions had already taken place on some of the proposals at the informal consultations in May, statements at this session were little surprising, such as the criticism of Brazil regarding the US- and EU-proposals.

Canada referred to its current draft law and stated that flexibility would be vitally important and that member states should have choices such as providing for exceptions, for compulsory licenses, for conditioned exceptions, etc. It urged the SCCR to recognise the existence of cultural differences and not to block innovation in national legal frameworks. It also expressed a clear preference for the European and US-approaches of a non-binding instrument, and highlighted the key importance of addressing trusted intermediaries and their possible roles.

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.

Further discussions among member states focussed on the question of how to organise upcoming discussions, e.g., on the basis of a comparative table to be established. The SCCR in the end could not agree on the paragraph of the draft conclusions of the Chair relating to this question; draft paragraph 19 had suggested that the SCCR should request the Secretariat to prepare a comparative table of the

four proposals in order to facilitate further negotiations on substantive issues and to organise informal consultations to advance the work towards an international consensus regarding limitations for persons with print disabilities, and that other exceptions and limitations would be pursued following a global and inclusive approach. Thus, the meeting ended with a lack of agreement on the conclusions of the SCCR-meeting.

One may expect that the discussions, which just have started, will continue for quite some time both on questions of principle (such as the appropriate instrument) as well as on the content.

[End of report]