

Standing Committee on Copyright and Related Rights

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STATEMENTS

prepared by the Secretariat

GENERAL STATEMENTS/ STATEMENTS ON MULTIPLE TOPICS

The Delegation of Ukraine. Ukraine conveys its extended gratitude to the Chair, Vice-Chairs and the WIPO Secretariat for preparation for the work of this Committee session, and their dedication to the Revised Draft Text for the WIPO Broadcasting Organizations. Ukraine also would like to express congratulations to the newly elected Chair and the Vice-Chairs and wish them every success in their future endeavors within this Committee. We emphasize the pivotal role of this Standing Committee in fostering a shared understanding and tackling complex issues, such as the Treaty on the Protection of Broadcasting Organizations. As we embark on discussions regarding the development of new international treaties and consider the transformative influence of new technologies like AI, streaming platforms, metaverse, and other facets of the digital era, one of the WIPO member state seeks to regress the world to an era of war and violence. Today it is 621st day since the Russian Federation initiated a full-scale invasion of Ukraine. Russia continues disregarding our territorial integrity, attacking civilians and critical infrastructure. That continuously breaches the fundamental of the UN Charter. As of 1 November 2023, Russia damaged and destroyed 130,544 civilian infrastructure facilities, including 104,004 residential buildings, 2,805 educational and 622 medical institutions, 495 cultural and 151 religious buildings, and 5,320 water and electricity networks. These numbers do not include those damages on the temporarily occupied areas, in which the real level of destruction is much higher. This figure of destroyed or damaged civilian infrastructure has nearly doubled since the previous session of this committee. Russian occupiers also damaged 1,702 sites of cultural heritage and cultural infrastructure of Ukraine, including 601 libraries and 99 museums and galleries. Losses in the field of culture caused by Russia's war of aggression reached more than 7 bln USD. On the night of 6 November, Russian forces damaged the Odesa National Fine Arts Museum, a UNESCO World Heritage Site. On this day, the museum celebrates its 124th anniversary and was scheduled to host exhibitions, which were also damaged by the attack. While esteemed colleagues continue to discuss the IPRs protection of broadcasting organizations, Ukrainian TV channels have been forced to set up studios in basements and underground parking lots. Broadcasting infrastructure and equipment have been damaged or destroyed, and journalists face risks collecting and preparing information, as outlined in the Report on Assistance and Support for Ukraine's Innovation and Creativity Sector and Intellectual Property System, contained in document A/64/8. Nevertheless, even in the face of Russia's war of aggression, Ukraine is actively advancing its IP development. Our recent accession to the Marrakesh Treaty showcases Ukraine's commitment to international IP standards and protecting vulnerable groups. Hence, we wholeheartedly welcome discussions regarding limitations and exceptions for libraries, archives, educational and research institutions, intending to ensure access to works for individuals with disabilities. We have adopted forward-looking legislation on copyright and related rights that allow us to adapt to evolving technologies and challenges faced by our creators, particularly by introducing the sui generis right to protect AI/software-generated works. But it remains profoundly unacceptable to engage in discussions with a country that has violated international law, caused harm to innocent civilians, and ravaged cultural heritage and infrastructure. Ukraine wishes to convey heartfelt gratitude to the Secretariat and all WIPO members who continue to offer unwavering support and solidarity to Ukraine and its people and unequivocally condemn in the strongest possible terms Russia's war of aggression and its violation of international law, including the UN Charter.

The Delegation of Republic of Korea. The Republic of Korea believes that the WIPO SCCR has been playing a leading role in the development and enhancement of international copyright norms. We would like to express our sincere appreciation to the Chair and the WIPO Secretariat for their hard work in fulfilling and strengthening the role of the SCCR. This delegation is of the view that the discussion on the material elements of the broadcasting treaty text should be expedited to adopt an international instrument to update the rights of broadcasting organizations in a timely manner. This delegation will participate actively and constructively in all discussions concerning other agenda items as well during this session of the SCCR meeting. This

delegation would like to call attention of the member states and the WIPO Secretariat to the heated debates on copyright and artificial intelligence (AI) currently being held at the global level after the emergence of generative AI represented by Chat GPT. This delegation observes that the SCCR is the one of the most authoritative agenda setting forum to open and develop international discussion on copyright issues concerning generative AI, including but not limited to, fair compensation for the use of copyrighted materials for the purpose of training of the AI and copyrightability of the AI-generated materials. Amid the active conversations currently taking places on other multinational fora, this delegation believes that this Committee should lead the international consultations in the area of copyright and AI. On a last note, but not least, collaborations between members of the WIPO to achieve better protection of copyright in the age of digital technologies could be another area of consultation that can be realized in this Committee since better protection of copyright encourages creators to come up with more creations leading to greater benefit for the international community through the virtuous cycle for the copyright ecosystem. This delegation is confident that this Committee is one of the most appropriate conventions for the member states to examine and discuss the optimal approach and ways of collaboration to tackle the issue of copyright protection.

Group B. Group B is in full solidarity with the people of Ukraine. Group B recalls the GA's decision on document A/63/8 on Assistance and Support for Ukraine's Innovation and Creativity Sector and Intellectual Property System. According to the Report (A/64/8) that was issued on 7 June 2023, following the before-mentioned GA decision, Russia's war against Ukraine has very negatively impacted Ukraine's creative sector: among a multitude of examples are high prices of materials, lack of equipment, cancellation of concerts and productions, lack of investment and personnel, lack of creative output and personal injury. Russia's attempt to annex the Ukrainian territories, declared on September 30, 2022, violates the territorial integrity and national sovereignty of Ukraine. As such, Russia is violating international law. Therefore, Group B does not recognize the attempted annexation of Ukrainian territories into the Russian Federation. Ukraine's territorial integrity and sovereignty must be fully respected within the global IP system.

Delegation of Spain. The European Union and its Member States expresses solidarity with Ukraine and supports the sovereignty and the territorial integrity of Ukraine within its internationally recognised borders. demand on Russia to immediately stop its invasion of Ukraine and cease all violations of international law. Russia must instantly and completely withdraw its troops from the whole territory of Ukraine and fully respect Ukraine's territorial integrity, sovereignty and independence within its internationally recognised borders. As our deliberations in the SCCR will touch upon culture, libraries, museums, archives and creative industries, the European Union and its Member States reiterate the negative impact on the Ukrainian IP ecosystem of the ongoing Russian war of aggression, as reported by WIPO in document A/64/8, the EU and its Member states recognize the importance of WIPO's Assistance and Support for Ukraine's Innovation and Creativity Sector and Intellectual Property System. We therefore welcome the decision of the 64th series of meetings of the Assemblies of the Member States of WIPO to continue these activities, hoping for prompt and efficient recovery process of the Ukrainian IP ecosystem.

Delegation of the Republic of Korea. For the 44th Session of the SCCR The Republic of Korea believes that the WIPO SCCR has been playing a leading role in the development and enhancement of international copyright norms. We would like to express our sincere appreciation to the Chair and the WIPO Secretariat for their hard work in fulfilling and strengthening the role of the SCCR. This delegation is of the view that the discussion on the material elements of the broadcasting treaty text should be expedited to adopt an international instrument to update the rights of broadcasting organizations in a timely manner. This delegation will participate actively and constructively in all discussions concerning other agenda items as well during this session of the SCCR meeting. This delegation would like to call attention of the member states and the WIPO Secretariat to the heated debates on copyright

and artificial intelligence (AI) currently being held at the global level after the emergence of generative AI represented by Chat GPT. This delegation observes that the SCCR is the one of the most authoritative agenda setting forum to open and develop international discussion on copyright issues concerning generative AI, including but not limited to, fair compensation for the use of copyrighted materials for the purpose of training of the AI and copyrightability of the AI-generated materials. Amid the active conversations currently taking places on other multinational fora, this delegation believes that this Committee should lead the international consultations in the area of copyright and AI. On a last note, but not least, collaborations between members of the WIPO to achieve better protection of copyright in the age of digital technologies could be another area of consultation that can be realized in this Committee since better protection of copyright encourages creators to come up with more creations leading to greater benefit for the international community through the virtuous cycle for the copyright ecosystem. This delegation is confident that this Committee is one of the most appropriate conventions for the member states to examine and discuss the optimal approach and ways of collaboration to tackle the issue of copyright protection. Thank you very much.

CEBS. Members of the Central European and Baltic States Group condemn continued Russia's war of aggression against Ukraine, which is a clear violation of international law. Since the very beginning of Russia's invasion against Ukraine we receive alarming reports of attacks against civilians and the civilian infrastructure. The international community must be aware of the dramatic human rights and humanitarian consequences of this war. We demand of the Russian Federation to immediately stop this war. The WIPO report on Assistance and Support for Ukraine's Innovation and Creativity Sector and Intellectual Property System, as contained in document A/64/8 and presented during last General Assemblies, confirms the sad reality of the significant negative impact of the Russian war of aggression against Ukraine. This is reflected not only in the unprecedented damage of the infrastructure serving scientific, educational, research and cultural institutions, but most importantly in the loss of the potential and capacity of the stakeholders of the Ukrainian IP ecosystem. The war has deprived Ukrainian scientists, creators and innovators any chances for normal operations and development. The CEBS group therefore welcomes the WIPO General Assembly decision to continue relevant assistance and support for Ukraine's IP sector hoping for its recovery. We look forward to further reporting to WIPO member states on these activities. Members of the CEBS group reaffirm the UN General Assembly ES 11/4 condemning attempted annexation of Ukraine's territories being a clear international indication that no territorial acquisition resulting from the threat or use of force shall be recognized as legal. We continue to express solidarity with Ukraine and the Ukrainian people.

CEBS. Poland is honoured to deliver the general statement on behalf of the Central European and Baltic States group. We express our gratitude to the Chair, Vice-Chairs, as well as Secretariat for their efforts invested in preparing this meeting and for the relevant documents that would enable further exchange of views on the SCCR topics. We also congratulate the Chair and the Vice-Chairs upon their elections wishing them all the success in carrying out the future work of this very important committee. As for this week's discussions, let me once again reiterate that the CEBS Group considers the topic of protection of broadcasting organizations as a main priority and as a central element of the SCCR. To this end, we would like to thank the current SCCR Chair, Vice-Chair and the facilitators for their work done on the new Revised Draft Text for the WIPO Broadcasting Organizations Treaty as contained in document SCCR/44/3. We share the opinion that the new revised text serves as a good ground to achieve further progress in our negotiations. We are fully aware of the complex issues included in the draft Treaty on the Protection of Broadcasting Organizations. Given the rapidly evolving technologies and the digital environment, as well as the current challenges faced by the broadcasters, we believe that different types of transmissions of broadcasting organizations, including those over computer networks, should enjoy international protection from acts of piracy. We welcome changes introduced in the third revised text. In our opinion some changes

clarify the doubts raised so far, and they can also bring us closer to developing a text acceptable to all parties. We remain committed to engage into in-depth discussions in order to reach a common understanding on the outstanding issues. Only a broad consensus between Member States on all relevant aspects of protection of the broadcasting organizations can lead us to completion of this work and tangible outcome with regards to the future meaningful Treaty. The CEBS Group would like to express our readiness to constructively discuss the limitations and exceptions for libraries and archives, as well as for educational and research institutions and for persons with other disabilities. We acknowledge the fundamental role played by libraries, archives, and museums, as well as educational and research institutions, in social and cultural development of our society. It is also in the special interest of the CEBS Group that global copyright infrastructure will ensure access to works for the persons with disabilities in both analogue and digital frameworks. We recognize the work already done in various Member States, which have recently introduced exceptions and limitations in their national systems. We look forward to continuing discussions on this matter, as we find the evidence-based approach very important. We also welcome the possibility of exchange of best practices in this regards. At the same time, we should continue exploring the already existing solutions within the flexible framework of the international treaties without the need for another internationally binding instrument. We take note of the adoption by the Committee of the revised Proposal by the African Group for a Draft Work Program on Exceptions and Limitations. The proposed direction of development in this document offers an opportunity for further discussion. Nevertheless we believe that SCCR should focus on implementing points 1-3 of the Work Program before we open the discussion on other matters. The CEBS group thanks the Members of the African Group for the proposal on the Implementation of the Work Program on the Exceptions and Limitations, adopted at the 43th session of the WIPO SCCR. Taken into account that the proposal was presented to the members of SCCR at quite a late stage ahead of this Committee, the Members of CEBS group need more time for an in-depth consideration of the proposal and thus would not be in a position to take a decision on it at this stage. At the same time we share the view that discussions related to the issue of exceptions and limitations should be fully inclusive and should not be extended to new specific formats (with special methodology). The CEBS Group would like to thank the Secretariat and the author for the preparation and presentation of the 'Scoping Study on the Practices and Challenges of Research Institutions and Research Purposes in Relation to Copyright. Considering comprehensive nature of this study in order to provide any other comments we need some more time to analyse the Study. We look forward to receiving further information from Member States, especially with regards to existing cross-border problems linked to specific uses of copyrighted works in the online cross-border environment. The CEBS Group would also like to support the proposal of the delegations of Senegal and Congo to include the resale right in the agenda of the SCCR. Finally, Mr. Chair, I would like to assure you of the constructive engagement of the CEBS Group in all discussions during this week with a view to achieve a realistic outcome. Thank you.

Institute for Intellectual Property and Social Justice (IIPSJ). IIPSJ is a WIPO Accredited Observer, seated in the United States, focused on matters domestically, and internationally. IIPSJ examines intellectual property laws and policies to see where full participation of disadvantaged, excluded, and marginalized groups may need redressing. IP systems should offer access, inclusion, and empowerment for all, not only a select group. At this time, we would like to add a few observations of general nature, to the 44th SCCR Agenda Item Number 8.1 on the Proposal for Analysis of Copyright Related to the Digital Environment. The digital environment offers both opportunities, and risks for the creatives, sharing their works online. Effective IP protection and exploitation must be considered against the interests of various groups of stakeholders. There is evidence across jurisdictions, that not all artists, creatives, or musicians, are making comparable income, and that some groups are marginalized by the IP systems. In 2021, the UK Intellectual Property Office conducted a survey, finding that women make from music seven thousand pounds less than men, who on average make twenty thousand pounds a year. In 2022, a larger sample investigating the earnings by Black artists

found, that on average, Black women make twenty-five percent less than white women. In 2023, evidence found that Black musicians with disabilities, have fewer opportunities in the sector still. IIP SJ has an extensive network of scholars and sister organizations, who have explored the effects of IP systems on different groups of inventors and creatives, and they agree that the personal characteristics, such as gender(s), race, nationality, age, disability, class (or other), matter when it comes to access and enjoyment of IP systems (an intersectional approach). Making art, as making music, is a social activity, where conditions in which the individuals create, matter. WIPO's commitment to an inclusive IP regime is demonstrated, among other, by its activities under "Intellectual Property, Gender and Diversity" and its current WIPO IP Gender Action Plan (IP GAP). IP GAP's vision of gender equality will rely on research "to identify the scope and nature of the gender gap in IP and ways to close the gap". IIP SJ would add to the action plan and stress that firstly, WIPO IP GAP commitments should be implemented in other WIPO Studies, Analysis, and Action Plans, across all Divisions (such as the here discussed Agenda #8.1), and secondly, that this research must be intersectional, to avoid any correctives which could continue to ignore artists, creatives, or musicians, who are currently disadvantaged, excluded and marginalized by the creative industries. There cannot be a socially just approach towards building an inclusive IP system, if we focus 'on gender alone,' or operate under the assumption that the digital space is full of opportunities, equal to all. There is ample research to demonstrate that not all artists or creatives, have equal access or opportunities, to share their innovation and imagination with the world, to the mutual benefit of all in the society.

AGENDA ITEM 5: PROTECTION OF BROADCASTING ORGANIZATIONS

The Delegation of India. Thank you Chair. As this is the first time that India has taken the floor during this session, we would like to congratulate you on your election and thank you, and the Vice-Chairs, for your guidance. India would also like to thank the facilitators on the third revised draft text, as well as the WIPO Secretariat in the organizing and preparation of this session. This Delegation believes that broadcast signal protection is an important tool to prevent piracy and the treaty should be flexible enough to adjust the needs of Member States with diverse domestic laws and regulations. In this regard, we admire the efforts of Secretariat to put forth modified texts in the important Articles such as Limitations & Exceptions, provisions of enforcement and reservation. India observes that Article 3 of the Rome Convention defines "broadcasting" as "transmissions by wireless means for public reception of sounds or images and sounds." Article 2 of the WPPT also defines "broadcasting". However, the definition as provided in the draft text is wider and more comprehensive (as compared to Rome Convention, WPPT and BTAP) as it covers all transmissions, including by cable, satellite, computer networks and by other means. In addition to that, under the 3rd revised draft, the notion of "retransmission", in the above definition, embraces all forms of simultaneous retransmission by any means, i.e. by wire or wireless means, including combined means. It covers rebroadcasting, retransmission by wire or cable, and retransmission over computer networks. This is a Rome Convention + element, as the convention provides only for the right of re-broadcasting that is "simultaneous broadcasting by one broadcasting organization of the broadcast of another broadcasting organization." Whereas, in the present draft, "retransmission" covers a wider scope, including cable and internet retransmission that may either be simultaneous with the broadcast over-the-air or through internet whether delayed on the basis of a fixation or a reproduction of a fixation. Similarly, in the present text, definition of stored programme is intended to be used to cover the programme-carrying signals in the context of the making available to the public of online services, such as the video on-demand and catch-up services of the broadcasting organizations. This is also a Rome Convention + element, it refers to both programmes for which the broadcasting organization has acquired the transmission rights with the intention of including them in its transmissions and programmes that the broadcasting organization has transmitted earlier. When read along with Article 8 which provides

broadcasting organisation with the right to prohibit the unauthorized retransmission and fixation in respect of the programme-carrying signals used in the context of making available to the public of their own online services (not broadcasting), such as the video on-demand and catch-up services of the broadcasting organizations, instances of making available of broadcasts, its interaction with other related rights, the rights of phonogram/ cinematograph producers would require careful examination. Therefore this Delegation would like to seek a clarification from the Secretariat on the above said matter of definition of 'Broadcasting', 'retransmission' and interplay between broadcasters' rights and that of rights of phonogram/ cinematograph producers. We look forward to further discussions and enhancing the understanding on the revised draft text of Broadcasting treaty.

Electronic Information for Libraries (EIFL). I am speaking for Electronic Information for Libraries, that works with libraries in developing and transition economy countries to enable access to knowledge. We appreciate the further work on Limitations and Exceptions (Article 11) in the Third Revised Draft Text (SCCR/44/3): the addition of the words, "such as", makes clear that the exceptions are mere examples of socially relevant provisions. We also note the Chair's comment that Member States are divided on whether the exceptions should be permissive or binding: in order to be effective, they must in our view be binding. However, the major problem is that the text appears to extend to post-fixation activities, whereas the Chair's summary from SCCR/43 states that the treaty should be signal-based and should not interfere with the rights in the underlying content. A new right of in transmission of stored programmes to the public (Article 8) would surely interfere with the underlying content. For example, wouldn't this mean that libraries would have to obtain licences from a new group of rightsholders - broadcasters -to use material in their collections, such as broadcast films and documentaries used for teaching, research and civic education? We urge the committee to focus the text on a pure signal-based model that will achieve the stated objective to address signal piracy, rather than an exclusive rights model that risks many unintended consequences. Thank you.

The European Broadcasting Union (EBU). The European Broadcasting Union, which represents public service media in the broadcasting sector across Europe, greatly supports the work of the SCCR in view of adopting a WIPO Broadcasting Organizations Treaty. The EBU wants to thank the Chair, Vice Chairs and Facilitators, for the work done in preparing the Third Revised Draft Text for the WIPO Broadcasting Organizations Treaty (document SCCR/44/3). Protecting broadcasting organizations from illegitimate actors has never been more important. Global piracy significantly undermines the value and exploitation of broadcast content. Broadcasting organizations must therefore have the legal tools to act quickly against the unauthorized use of their signal. European broadcasters are of the opinion that the Third Revised Text covers the principles necessary for the legal protection of programme-carrying signals on a global scale. The new text takes into account the various legal traditions to provide efficient tools to fight piracy and, at the same time, ensures transparency and legal certainty when implementing the protection of broadcasting organizations at the domestic level. The EBU calls upon WIPO Member States – first – to reach a consensus on key outstanding issues to finalize the text of a WIPO Broadcasting Organizations Treaty, and – second – to recommend that the WIPO General Assembly convene a Diplomatic Conference to adopt this treaty shortly. The EBU wishes the Chair every success in leading the SCCR and assures its full support in that regard.

World Broadcasting Unions (WBU). The World Broadcasting Unions (WBU), representing broadcasting organizations from all regions of the world, are united in this statement to be presented to SCCR 44. The updating of protections for broadcast signals has been under discussion at WIPO since 1997, following updating of the protections of other rights owners by WIPO treaties in 1996. Protection of broadcast signals under the Rome Convention of 1961 is obsolete in the 21st century. A new international treaty must protect broadcast signals in the modern, digital communications environment where piracy is ever-increasing, damaging broadcasting organizations and all creators contributing to broadcasting. In 2019, on the

recommendation of the SCCR, the General Assembly directed the SCCR to continue its work towards convening a Diplomatic Conference. After a delay due to the COVID-19 pandemic, text-based work resumed. Complete treaty draft texts were considered at SCCR 42 and 43, leading to revised versions taking account of Member States comments. The WBU welcomes and supports the Third Revised Text. It contains the principles necessary for the legal protection of broadcast signals and successfully strikes a balance between the need to accommodate Member States' different legal traditions and the necessity to ensure legal certainty and transparency in the protection of broadcasting organizations. The World's Broadcasting Organizations support the Revised Draft Text as generally reflecting their objectives for updated international protection of broadcast signals, and they urge Member States to support it as the basis for final work for a Diplomatic Conference to adopt a treaty. Specifically, the WBU requests that the SCCR: Commit to work to finalize the draft treaty text to become a Basic Proposal for a Diplomatic Conference in advance of the SCCR 45 meeting, planning such additional work in dedicated meetings, as necessary; Recommend to the WIPO General Assembly to convene a Diplomatic Conference in the 2024/2025 biennium for the adoption of a WIPO Broadcasting Treaty (WBT).

Program on Information Justice and Intellectual Property (PIJIP) published two analyses of the Third Revised Draft Text for the WIPO Broadcasting Organizations treaty. The new draft contains mostly minor modifications as compared to the previous draft. The new papers propose specific amendments that would narrow the instrument to (1) a signal based treaty, (2) applicable only to traditional one-to-many broadcasting. In *Simplifying the WIPO Broadcasting Treaty: Proposed Amendments to the Third Revised Draft*, Professor Bernt Hugenholtz, University of Amsterdam, proposes amendments to the Third Draft to narrow the treaty to protect broadcasters solely against acts of "signal piracy." A good example of a signal based treaty is the Brussels Convention, which does not grant broadcasters any exclusive rights. The Third draft continues to follow the template of the Rome Convention, with new exclusive rights for broadcasters over the (already protected) content they carry. Professor Hugenholtz also proposes substantial amendments to the limitations and exceptions provisions to ensure that broadcast signals are not subject to more exclusive rights than copyright and protect other public interests if a country chooses to implement the treaty through exclusive rights. In *Comments on the September 6, 2023 Draft of a WIPO Broadcasting Treaty, the Definitions, Scope of Application, National Treatment and Formalities*, KEI Director James Love proposes amendments for the draft's language on definitions, scope of application, national treatment and formalities. He argues that the definitions of covered broadcast are far too broad, including information not disseminated through traditional radio or television mediums, including point-to-point transmissions, as opposed to point-to-multipoint, transmissions, and extending to transmissions of works in the public domain. He criticizes the inclusion of what he calls an "upward ratchet" on broadcaster's rights through the National Treatment provision. Finally, he argues that the conditions on formalities are unnecessarily restrictive. The papers are available at: Hugenholtz, Bernt, "Simplifying the WIPO Broadcasting Treaty: Proposed Amendments to the Third Revised Draft" (2023). Joint PIJIP/TLS Research Paper Series. 111. <https://digitalcommons.wcl.american.edu/research/111> Love, James P., "Comments on the September 6, 2023 Draft of a WIPO Broadcasting Treaty, the Definitions, Scope of Application, National Treatment and Formalities" (2023). Joint PIJIP/TLS Research Paper Series. 110. <https://digitalcommons.wcl.american.edu/research/110>

Asia Pacific Broadcasting Union (ABU). Asia Pacific Broadcasting Union is a broadcasting union representing the broadcasters in Asia-Pacific region, ABU greatly supports the work of the SCCR in view of adopting a WIPO Broadcasting Organizations Treaty. ABU takes this opportunity to thank for the hard work put in by the Chair, Vice-Chairs and Facilitators, for the work done in preparing the Third Revised Draft Text for the WIPO Broadcasting Organizations Treaty (document SCCR/44/3). Broadcasting organisations, being content creators, fulfill their important and special roles of contributing to the development of culture by producing and

delivering information essential and crucial to people's daily life as well as a variety of quality content. In order to fulfill the important and special roles and serve the public, broadcast organisations spend vast amounts of money in producing their content, as well as in broadcasting such content. The unauthorised use of broadcast signals in the broadcast industry results in massive damages of copyright piracy and loss of revenue generation because of the entities that retransmit their signals without authorization as well as payment to the owners of the broadcast signals. It has been harming broadcasting organisations' operations and roles – all these phenomena are happening even just at this time of moment. Broadcasting organizations must therefore have the legal tools to act rapidly against the unauthorised use of their signal. We are quite ambitious that the Third Revised Text covers the principles necessary for the legal protection of programme-carrying signals on a global scale. ABU highlighted the pressing requirement of having a necessary international legal tool in the most recent two statements of ours released in May 2022 and March 2023. The new text takes into account the various legal traditions to provide efficient tools to fight piracy and, at the same time, ensures transparency and legal certainty when implementing the protection of broadcasting organizations at the domestic level and it is a balanced instrument aimed at protecting the programme-carrying signal. The ABU most humbly requests from WIPO Member States to move forward the discussions and reach a consensus on key outstanding issues in order to finalize the text of a WIPO Broadcasting Organisations Treaty. As stated in the two aforementioned statements, ABU urges that the WIPO General Assembly to convene a Diplomatic Conference to adopt this treaty as soon as possible in 2024/2025 biennium. Lastly, ABU wishes the Chair every success in leading this SCCR and assures its full support in this connection.

Creative Commons. Mr. Chair, the proposed Broadcasting Treaty is founded on a flawed anti-piracy rationale and critically fails to ensure global access and use of broadcast content in the public interest. Although the Third Revised Draft Text is a slight improvement over past versions, it remains highly problematic in its treatment of exceptions and limitations and suffers from a severe want of a suitable framework for open licensing. We support the statements by other members of the Access to Knowledge Coalition and wish to offer our views regarding the treatment of open licensing flexibilities within the draft treaty's framework. We remain concerned that a broadcaster might be able to restrict access to or distribution of works released under open licenses, such as Creative Commons licenses. This is particularly concerning given how open licenses are key to improving distribution, allowing for remix creativity, and enriching the resources available on popular free knowledge platforms such as Wikipedia. For example, in 2020, German public broadcaster ZDF released dozens of videos of its documentary series Terra X under CC licenses, leading to a massive increase in the amount of open content for the benefit of users worldwide. The videos on climate change published in 2019 soon found their way into prominent Wikipedia articles, leading to hundreds of thousands of views. Mr. Chair, the Draft deals a severe blow to copyright's exceptions and limitations and the public domain, limits the possibilities offered by open licensing, and is antithetical to people's fundamental rights in access to knowledge and information, an outcome we cannot accept under any circumstances. We therefore remain firmly opposed to the Broadcasting Treaty and request that it be removed from the Committee's agenda.

International Council on Archives (ICA). Writing on behalf of the International Council on Archives (ICA), I wish to comment on the 3rd revised draft of the Broadcast Treaty (SCCR44/3). As we know, this topic has been on the SCCR agenda for 25 years, during which time the broadcasting landscape has undergone substantial transformation due to rapidworld technological change. I wish to propose a solution that will complete work on this matter and move it off the agenda so the SCCR can focus on new issues and challenges, such as generative AI, copyright in the digital environment. As the Chair noted in his summary of SCCR43, "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. ...there is also common understanding that the object of protection ... 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.” The ICA has long objected to various iterations of the Broadcast Treaty for many years, and we strongly oppose draft before us at SCCR44 for three main reasons: the overprotection inherent in a rights-based treaty intended simply to address signal piracy, the risks posed by the prospect of post-fixation rights, and the lack of robust mandatory limitations and exceptions (L&Es). Fortunately, the consensus that has emerged provides a starting point for productive discussions. The first objection is the overbroad scope of the current draft. The treaty must address only signal piracy (along the lines of the 1971 Geneva Phonograms Convention and the 1974 Brussels Satellite Convention, and as directed by the General Assembly in 2007) without adding new layers of exclusive rights for broadcasters. Secondly, if the treaty aims to protect broadcasters solely against acts of signal piracy, it need not grant any “post-fixation” rights. However, the explanatory notes to current Article 7 (exclusive right of fixation) are ambiguous and suggest that the fixation right might indeed protect broadcasters against acts of exploitation following fixation of the broadcast signal. This would pose enormous problems for archives and libraries that serve the public interest by preserving broadcast materials and making them available for research, education, and personal use, not to mention material in the public domain or freely licensed. Once a signal is fixed, it’s no longer a signal. The meaning of a treaty provision of a treaty must itself be clear. If its meaning depends on an explanatory note, the text of the treaty is clearly faulty and must be revised. Third, the ICA objects most strongly to the lack of robust mandatory limitations and exceptions (L&Es). While the ICA was pleased to see the addition of ‘such as’ and a preservation purpose in the second draft (Articles 11(1) and 11(1)(v) respectively), much more is required to ensure meaningful L&Es that are at least as substantial as those that presently exist in the laws on copyright and related rights in that Contracting State. Professor Bernt Hugenholtz of the University of Amsterdam has set out a set of elegant proposed amendments to the current draft that would simplify the treaty, coincide with the consensus referred to above, and address the ICA’s concerns. He addresses the overbroad scope of the draft through Amendments II-V (Revision/deletion of key definitions), Amendments VI-VII (Scope of application), and Amendment VII (Replacement of exclusive rights with a provision that offers several alternatives to protect broadcasting organizations. Regarding the “post-fixation” problem, the amended definition of fixation (Amendment III) clarifies its limited scope, and the removal of fixation and other exclusive rights (VIII) puts to rest the spectre of post-fixation rights. As for L&Es, we wholeheartedly endorse Prof. Hugenholtz’s Amendment I (added reference to balance in the preamble) and Amendments XII-XVI (deleting the word ‘specific;’ adding visually impaired as beneficiaries; changing ‘may’ to ‘shall’ to make the L&Es mandatory; removing references to the 3-Step Test; and ensuring that L&Es extend to the digital environment). Proponents of the Broadcast Treaty have argued repeatedly that the quarter-century of discussions creates urgency to schedule a Diplomatic Conference, but if they were serious about wanting a treaty they would have kept it signal-based, as directed by the General Assembly in 2007. Prof. Hugenholtz offers a clear path to a DipCon consistent with the long-standing General Assembly mandate. SCCR would be foolish to not take this opportunity.

ELAPI. Muchas gracias, señor presidente, por concedernos el uso de la palabra. Agradecemos la elaboración del tercer proyecto del tratado, y también por haber aceptado el estudio que hemos presentado desde ELAPI en trabajo conjunto con el Centro de Propiedad Intelectual de la Universidad Austral. Con base en nuestro estudio, queremos reiterar que en el contexto global actual, arribar a un acuerdo internacional se impone, para lograr la protección de una actividad que resulta tan relevante en la difusión de obras protegidas por derechos de autor y que redundará en beneficios para todos aquellos que forman parte de la industria. Debemos ARCHARCHde brindar una protección íntegra e integral al trabajo de los autores, y de dar combate a la piratería y al uso ilegal de señales portadoras de programas, más cuando las nuevas tecnologías avanzan en la integración de canales de distribución de contenidos. Para

América Latina, contar con este instrumento, repercutirá en un beneficio, y ello por cuanto, la pérdida de empleos formales que la piratería de señales ocasiona. E incluso, con una perspectiva de género, queremos destacar nuevamente que el sector audiovisual se compone por un 37% de mujeres. Para continuar fomentando su inclusión y el desarrollo del sector, generando oportunidades para más personas en la industria, se deben adoptar medidas eficaces para que todos los que forman parte de la cadena de derechos reciban la protección adecuada. Finalmente, con relación al art. 11 de este tercer proyecto, ELAPI coincide con la formulación facultativa recogida actualmente, pues considera que este esquema posibilita que cada país, en ejercicio de su soberanía y en atención a las circunstancias y problemáticas propias, pueda desarrollar las correspondientes limitaciones y excepciones. Reiteramos nuestra disposición para brindar la cooperación académica para avanzar con este tratado.

Hiperderecho, InternetLab, Fundación Vía Libre y Fundación Karisma. Hiperderecho, InternetLab, Fundación Vía Libre y Fundación Karisma, organizaciones integrantes de la Alianza de la Sociedad Civil Latinoamericana para el Acceso Justo al Conocimiento (Alianza A2K Latam), presentamos a continuación nuestra posición en relación con los puntos de la agenda de la 44.^a reunión del Comité Permanente de Derecho de Autor y Derechos Conexos de la OMPI (SCCR/44). Sobre la tercera versión del Tratado de Radiodifusión No existe justificación para la aprobación de un tratado contra la piratería de señales que crea derechos exclusivos sobre el mismo contenido que ya se encuentra protegido por otros tres tratados de la OMPI, así como por el cifrado de señales. El tercer texto de la Presidencia (SCCR/44/3)¹ mostró escasos avances en relación a la versión anterior del Tratado sobre Radiodifusión. La Asamblea General durante el último SCCR/43 expresó que este instrument debe basarse en señales, por lo que esta versión no debería prever derechos de fijación ni otros derechos exclusivos sobre contenidos (arts. 6 a 9). Tomando como base lo que sucede en América Latina, consideramos que la opción prevista en el artículo 10 no es suficiente. Sabemos que la tendencia en nuestros países es la de proteger a través de derechos de autor y, en muchos casos, de transcribir el texto de los tratados en el derecho nacional. Por este motivo las organizaciones de la Alianza A2K Latam entendemos que esta propuesta de tratado debería quitarse del orden del día. Para el caso de que esto no suceda, a continuación enumeramos algunos de los problemas técnicos específicos que detectamos en esta versión: ● La necesidad de eliminar los derechos exclusivos (6, 7, 8 y 9) y, en su lugar, establecer un lenguaje similar al previsto en el Convenio de Bruselas de 1972 (“Cada uno de los Estados Contratantes se obliga a tomar todas las medidas adecuadas y necesarias para impedir que...”) ● Las limitaciones y excepciones no deben ser inferiores a las previstas en los tratados de derechos de autor y conexos y deben ser mandatorias. ● Debería añadirse nuevamente la excepción a las medidas de protección tecnológica y debe ser mandatoria. ● Debe quitarse el requisito de que las limitaciones y excepciones sean "específicas" Sobre la propuesta para la aplicación del Plan de Trabajo en Excepciones y Limitaciones presentada por el Grupo Africano Desde la Alianza apoyamos la propuesta para la aplicación del Plan de Trabajo presentada por el Grupo Africano (SCCR/44/6)³ basada en la creación de grupos de trabajo relativa a las tres cuestiones prioritarias identificadas en el Programa de Trabajo aprobado en la 43.^a sesión de la OMC: 1) promover excepciones para bibliotecas, archivos y museos, especialmente para preservación, 2) promover excepciones para el contexto digital, especialmente para la educación en línea y 3) revisar la aplicación del Tratado de Marrakech y cómo garantizar que las personas con otras discapacidades también tengan este tipo de normas. Animamos a los países a acompañar su aprobación para trabajar de forma constructiva con los representantes africanos en el ritmo político que se ha creado. A su vez, entendemos que el documento presentado por la delegación de Estados Unidos (SCCR/44/54) es un buen insumo para ser tratado por un grupo de trabajo sobre bibliotecas, archivos y museos. Invitamos al Comité a involucrarse en el avance de este plan de trabajo en forma constructiva para avanzar este punto de la agenda que fue aprobado en la sesión 43 y merece especial atención. Sobre el estudio elaborado por la Profesora Xalabarder (SCCR/44/4) En cuanto al estudio “Los retos de los centros de investigación y los fines de la investigación en relación con los derechos de autor” preparado por la Prof. Raquel Xalabarder (SCCR/44/4)⁵,

entendemos que es un avance importante para lograr entender las relaciones y desafíos entre el derecho de autor y las actividades de investigación. De cualquier forma nos interesa puntualizar algunas cuestiones que deberían ser abordadas con mayor profundidad:

- Las universidades y centros de investigación de los países del Sur Global tienen una realidad y necesidades particulares. Para estos países resulta crucial contar con un marco de referencia sólido para adoptar excepciones y limitaciones para actividades de investigación, ya que, dado el escaso presupuesto con los que estas instituciones cuentan, los esquemas de licenciamiento muchas veces no son viables y debe garantizarse un acceso básico. Entendemos que serían necesarias recomendaciones o desafíos diferenciados para los países menos desarrollados. En este sentido, nombramos algunos ejemplos de las características particulares de los países de América Latina:
- Dos tercios de los países latinoamericanos no cuentan siquiera con gestoras reprográficas como contraparte de un posible esquema de licencias.
- De acuerdo con el Informe sobre Inteligencia Artificial y Derechos de Autor en América Latina (Díaz y Rangel, 2023)⁶, ninguno de los 19 países analizados cuenta con una excepción al derecho de autor que cubra adecuadamente las metodologías de investigación modernas, incluyendo las técnicas de minería de texto y datos, y de aprendizaje automático
- El atraso normativo profundiza las relaciones asimétricas, el colonialismo de datos en América Latina, así como la concentración del desarrollo de la IA en pocos países desarrollados, que ya cuentan con una normativa al respecto.
- También detectamos que este estudio alcanza únicamente a las actividades de investigación desarrolladas profesionalmente. Debemos recordar que la investigación se desarrolla tanto de forma profesional como no profesional y que la Recomendación de Ciencia Abierta de UNESCO resalta la necesidad de desarrollar otros espacios propios de la ciencia como la ciencia participativa y ciudadana.
- A su vez, la investigación es una tarea humana muy amplia que incluye como Fuente obras publicadas pero también obras no publicadas que con frecuencia son la obras que encuentran en archivos, museos y no pocas veces en bibliotecas. De hecho hay disciplinas que se apoyan sobre todo en fuentes que nunca fueron publicadas y que tienen restricciones de derecho de autor en muchos países por ese motivo, esto no ha sido considerado por este estudio.
- Finalmente, entendemos que deberá abordarse otros aspectos relacionados con los efectos del derecho de autor y de las medidas de protección tecnológica sobre la investigación. En la medida en que hay más tecnología envuelta en actividades humanas debe evitarse el efecto “caja negra”, o sea, evitar el uso de tecnologías opacas requiriendo la apertura del código de las soluciones informáticas (como sucede en la aviación, por ejemplo), esto garantiza que los investigadores puedan abrirlas, estudiarlas y explicarlas. Por ejemplo, de acuerdo con la base de casos hipotéticos⁷ publicada por la Alianza A2K Latam, en América Latina solo 3 países permiten a los investigadores aplicar técnicas de ingeniería inversa para encontrar vulnerabilidades en el código de diferentes programas de software privativo. Será necesario profundizar más sobre la relación entre las medidas de protección tecnológica y el propio derecho de autor, la investigación y la seguridad digital, así como en el rol de la transparencia algorítmica sobre las garantías democráticas.
- Frente a este punto enviaremos comentarios adicionales antes de la fecha decidida que fue el 12 de enero de 2024. Sobre la necesidad de contar con la versión final de la Guía práctica sobre conservación (SCCR/43/4) Durante el SCCR 43 se presentó y discutió sobre el Toolkit o Guía práctica sobre conservación (SCCR/43/4)⁸, lamentablemente la versión final aún no está disponible. Las organizaciones que integramos la Alianza A2K Latam publicamos recientemente una base de datos con el análisis jurídico de casos⁹ que ilustran la falta de excepciones al derecho de autor y otra base con un mapeo de excepciones y limitaciones¹⁰ en 19 países de Latinoamérica. Los resultados de estas investigaciones son contundentes, en más de la mitad de los países de América Latina, los principales escenarios relacionados con la preservación de obras en instituciones de patrimonio cultural son ilegales. Por ejemplo, en 11 de los 19 países no sería posible realizar copias de preservación y cambio de formato de obras audiovisuales. Las consecuencias prácticas de esta realidad son graves ya que a las

instituciones culturales les resulta imposible aplicar a fondos de financiación a proyectos de preservación, dado que el objeto central del proyecto es ilegal, estas actividades no se están realizando y muchos materiales se perderán para siempre. El Toolkit o Guía práctica sobre conservación resultará un elemento indispensable como herramienta de apoyo para impulsar la modernización de las leyes de los países de América Latina, por lo que necesitamos contar con la versión final cuanto antes Sobre la remuneración justa de los creadores en entornos digitales Durante el SCCR/43 fue discutida y aprobada la Propuesta de análisis de los derechos de autor en el entorno digital (SCCR/43/7)¹¹ presentada por el GRULAC. Este mismo grupo ha expresado durante el SCCR/44 la necesidad de que este tema permanezca como un punto independiente en el orden del día del Comité y ha informado que se está preparando un Plan de Trabajo que proporcione un proceso para avanzar en la agenda. Desde la Alianza A2K Latam entendemos que este punto debería permanecer permanentemente en el orden del día del Comité. Entendemos que se trata de un punto directamente relacionado con los DDHH, al igual que las excepciones y limitaciones. En ese sentido hemos publicado el Documento de Posición sobre remuneración a las personas autoras, artistas, intérpretes y ejecutantes en el entorno digital¹² en el que reconocemos la actual situación de desprotección de las personas autoras, artistas, intérpretes y ejecutantes frente a los grandes titulares de derecho autoral. La discusión parece importante para ser abordada en OMPI a la luz del informe Revenue distribution and transformation in the music streaming value chain, publicado por UNESCO en diciembre de 2022, en donde se alerta sobre los desequilibrios en los modelos de remuneración que afectan especialmente a artistas y compositores y hace énfasis en las asimetrías que dan en torno al copyright. También proponemos la inclusión de normas de transparencia en los contratos y la revisión obligatoria de contratos desventajosos. Una vez definido el alcance de la agenda sobre los entornos digitales, esperamos que se pueda establecer un plan de trabajo para ahondar en temas como la remuneración justa y equitativa, estudios económicos, análisis de casos, relevamiento de derecho comparado, así como inteligencia artificial y su relación con los derechos de autor, entre muchos otros temas que hoy adquieren importante relevancia gracias al avance y desarrollo tecnológico. Finalmente, resaltamos que, en todos los casos, se deberá incluir un análisis de impacto normativo sobre otros derechos fundamentales. stas-intérpretes-y-ejecutantes-en-el-entorno-digital/ De esta forma apoyamos la inclusión de este tema en la agenda. Animamos al Comité a adoptar un plan de trabajo para esta cuestión similar al plan de trabajo del Comité para la agenda limitaciones y excepciones que proporcione un proceso para avanzar. Sobre la propuesta de estudio sobre el derecho de préstamo público (DPP) La posición desde la Alianza A2K Latam es que esta propuesta de tratado debería quitarse del orden del día. En nuestro Documento de Posición sobre el préstamo público en América Latina¹³ expresamos los fundamentos de esta postura, a continuación nombramos algunos: ● El préstamo público forma parte del derecho de acceso y participación en la vida cultural y resulta un instrumento indispensable para el cumplimiento de estos derechos culturales, especialmente en América Latina. ● El “principio de que todo uso entraña un pago” no existe y es incompatible con el principio de proporcionalidad, instrumento básico de equilibrio entre derechos fundamentales. ● El argumento relacionado con la “compensación por ventas perdidas” no ha sido avalado por ningún análisis de impacto económico y refleja una visión distorsionada o al menos sobresimplificada de la relación entre la producción autoral, las instituciones culturales y el ecosistema de creación y circulación de bienes culturales. ● No existe ningún tratado vinculante que obligue a incluir el DPP en el derecho nacional. De hecho no está previsto como derecho en varias legislaciones latinoamericanas. ● Las medidas de fomento a los creadores ocales no forman parte del derecho de autor. De hecho, son incompatibles con el principio de trato nacional, al excluir a autores extranjeros. ● La inclusión de esquemas de pago por DPP afectaría gravemente a las bibliotecas y archivos de los países de América Latina. A su vez, debemos recordar que, aunque se trate de esquemas por fuera del derecho de autor, este tipo de esquemas tienen el potencial de desviar los magros fondos estatales dedicados a bibliotecas y archivos, a su vez los costos de transacción para calcular estos pagos (cantidad

de usuarios, cantidad de préstamos, qué tipo de obras, qué autores, etc) estarían a cargo de las bibliotecas y archivos (en América Latina es una carga enorme).

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

Education International. I speak on behalf of Education International, the global federation of education trade unions that represents more than 32,000 teachers around the world. EI research¹ in 40 countries worldwide shows that copyright laws often do not allow teachers to do basic teaching activities such as showing a short YouTube video in a live online class or posting an article on a school platform. Teachers in Latin America, Africa and partially Asia-Pacific, are particularly disadvantaged in this regard. What teachers worldwide have in common are legal uncertainties for using and sharing printed and digital materials and in contexts of cross-border collaboration. We are here to advocate for balanced global copyright reforms that advance the right to education. We want copyright reforms that empower teachers as creators and users, to adapt and choose materials in the physical and in the online environments. And we want copyright reforms that contribute to more equitable research opportunities essential for the development of inclusive and sustainable societies. We are concerned about restrictions on copyright exemptions for educational purposes through licenses. They increase the financial burden on education systems and institutions, many of which already pay substantial licensing fees to provide students and teachers with access to essential learning materials. Current copyright laws put educators, researchers and students at risk. Considering the massive discrepancies between what is required from teachers and what copyright laws allow, we appreciate the leadership of so many countries in this room who recognise the important role of teachers for quality education, who do not close their eyes to the fact that current copyright laws put teachers in vulnerable positions and who are ready to move beyond vague statements about potential legal impossibilities. Teachers around the world rely on you, rely on WIPO, to make use of the expertise in this committee and to work towards solving national as well as international copyright challenges for education, research and cultural heritage organisations. It is of utmost importance that SCCR 44 reaches a consensus and establishes a comprehensive implementation plan for the Proposal for A Draft Work Program On Exceptions And Limitations, which was previously adopted by the Committee during SCCR 43. We strongly advocate for the Committee's proactive engagement in the creation of dedicated working groups, each tasked with the formulation of objectives, principles, and options as delineated in the work program. These working groups should focus their deliberations on addressing the three specified priority issues: preservation, online and digital education and research, as well as access for individuals with disabilities, excluding visual impairments. Finally, we would be interested to hear from the experts whether global minimum copyright standards for education and research could solve challenges related to cross-border collaboration and access and use of digital materials in the physical and online environment. Thank you.

The International Federation of Library Associations & Institutions (IFLA). The International Federation of Library Associations & Institutions (IFLA) welcomes all progress on the work plan for limitations & exceptions to copyright (L&Es), and urges a swift and thoughtful implementation centred on the needs of libraries and others who rely on L&Es to fulfil their missions. We thank the Committee sincerely for its interest in advancing the topic. On the agenda's three key priority areas from the work plan approved at SCCR/43: a) L&Es for libraries: L&Es legally support libraries to collect, preserve and lend books and other materials. Without them, works all too easily become mired in rights issues, or lost or inaccessible once publishers no longer see a commercial logic in giving access to them. Libraries can be left without legal certainty to act as aging and unique collections remain vulnerable to risks (including climate change and war). Risks like these can be strongly mitigated by digitization and other practices that nonetheless risk engaging copyright. b) Education in the online

environment: With digital-era content normally licensed rather than purchased, libraries often explicitly or implicitly lose hard-fought rights established for physical content when faced with effectively non-negotiable contracts. This damages their ability to collect, curate, and make available works to patrons, researchers, and the public. Unless we address threats to the effectiveness of L&Es in the digital environment, as well as wider concerns about market failure, we risk an unprecedented deregulation at the expense of public interest goals. c) Marrakesh review: We affirm that the Marrakesh Treaty has greatly enabled libraries to share material for people with print disabilities, who are not well-served by the commercial market. We look forward to exploring how similar implementations could serve persons with other disabilities, in line with the Convention on the Rights of Persons with Disabilities. Marrakesh, as an international instrument, has allowed for cross-border transmission of works in accessible formats for patrons with print disabilities. It enabled international coordination and reduced ambiguity for libraries around the world. It has recognised the particular role of libraries as actors in the copyright system, enabling access without destabilising markets, and helped us to serve our patrons in ways that, without international agreement, would still be mired in friction and ambiguity. We welcome similar international agreements in other areas to encourage clarity, support cross-border collaboration, and help our institutions' work to preserve literature, facilitate science, and support the public interest. Without properly adapted law, works will be lost, people will not be able to access material, and innovative uses of works will be left unexplored. On these issues we reiterate our support for the A2K coalition letter on which we are a signatory, and the urgency expressed by the US delegation's letter supporting L&Es for libraries and other institutions to provide preservation and access to materials for researchers, patrons, and members of the general public.

Electronic Information for Libraries (EIFL). I am speaking for Electronic Information for Libraries, that works with libraries in developing and transition economy countries to enable access to knowledge. We thank member states for their constructive engagement on this topic. I have three brief points. First, we thank the African Group for its detailed proposal on implementation of the work programme on L&Es, adopted at SCCR/43. The suggested methodology is a helpful starting point for discussions on how the work plan can best be advanced, in a process led by the Chair between SCCR meetings, as set out in point 4 of the work programme. In that context, we read points 1 to 5 of the work programme together, rather than being subsequent to each other. We encourage MS to work together in informals to come up with an agreement. Second, we appreciate the updated proposal by the United States on "Objectives and Principles for L&Es for Libraries and Archives". It is a great starting point for intersessional work under the aforementioned work programme. We especially appreciate updated sections on digital preservation, online and remote access to digital content, and the inclusion of museums that are also responsible for stewardship of cultural knowledge and heritage. Finally, we appreciate the work of the Secretariat in preparing the studies and toolkits on the priority topics identified in the work programme. In particular, we eagerly await the final version of the Toolkit on Preservation that we will roll out to our communities and to policy makers concerned with the promotion of cultural heritage.

International Council on Archives (ICA). From the perspective of the International Council on Archives (ICA), we are pleased that Professor Xalabarder's report notes a number of issues that we've been talking about for some time, particularly the importance of L&Es as an essential means of providing access to protected works to achieve goals that serve the public interest, plus the matter of access limited to onsite terminals, an outdated constraint on access in a digital global world. However, the analysis is far too narrow in terms of who does research, where research is done, and the resources researchers consult. The definition of researcher is too narrow ("Researchers are professionals engaged in the conception or creation of new knowledge...." p. 1). Many non-professionals (e.g., family historians, students, ordinary citizens) conduct research in libraries and archives to create knowledge that is important to them and their communities. Secondly, research takes place not only in academic institutions and in

universities (p. 8), but in a range of archival institutions, public libraries, museums, and other cultural heritage institutions. Third, research is not limited to published works in specific library collections (p. 8). Archival materials preserved by a range of cultural heritage institutions provide a rich trove of raw material for researchers in many disciplines. Much archival material was not created for the commercial market, and thus copies should be made available for research only through L&Es rather than through licensing. Finally, the study would have benefited from an examination of the Typology analysis of archives copyright exceptions (SCCR39/5) prepared by Prof. Kenneth Crews. It appears that research counts only if it is scientific research. The study neglects research in the humanities and social sciences. If this scoping study is to be the basis for any further work, it must be significantly revised, or proponents must be mindful that it excludes many individual and institutional stakeholders as well as a wide range of research resources. The ICA stands ready to assist in addressing these unfortunate gaps.

Creative Commons. Mr. Chair, people all over the world should have the right to equitably and meaningfully access, share, and use their cultural heritage in order to understand their present and create their future. Unfortunately, overly restrictive or outdated copyright laws continue to raise unnecessary barriers around cultural heritage, raising major challenges for people to experience, interpret, and connect with their heritage and with each other. Furthermore, cultural heritage institutions are often unable to fulfill their crucial missions in the online environment — including sharing collections as part of efforts to protect, preserve, safeguard, or make them available to the public for education, research, or enjoyment within and across country borders. Global challenges such as climate change, armed conflicts, and the COVID-19 pandemic are causing unprecedented hardship to institutions and the communities that they serve. These challenges are compounded by a lack of international limitations and exceptions that would legally support preservation and access as well as liability regimes that place an undue burden on institutions and lead to severe levels of “copyright anxiety” among practitioners. At this session, we call on the Committee to advance its work towards an international instrument on clear, effective, consistent, and mandatory exceptions and limitations to enable legitimate uses and to support cultural heritage institutions’ presence in the online environment. Specifically, the Committee should move forward with the organization of intersessional working groups to draft objectives, principles and options concerning the three priority issues mentioned in the Draft Proposal by the African Group for the Implementation of the Work Program on Exceptions and Limitations, Adopted at the 43rd Session of the WIPO SCCR (SCCR/44/6). Mr. Chair, we look forward to continuing to engage to ensure the Committee achieves real progress at this session. Thank you.

Society of American Archivists (SAA). What is so special about archives that SCCR needs to take action right now? By definition archives provide one-of-a-kind records of humanity. That uniqueness makes archives invaluable to every citizen, student, scholar, and writer of creative works, no matter where they live. Archives however are uniquely vulnerable because of their very one-of-a-kind nature. These irreplaceable collections can be instantly lost forever in fires, floods, or wars and conflicts. The enormity of these threats can be seen in the devastating fires at the National Museum of Brazil in 2018, at the University of Capetown Library in 2021, and among the multiple collections that the Lahaina Restoration Foundation lost in the Maui fires in 2023. Each catastrophe caused permanent, irreversible loss of knowledge, heritage, and memory. Amidst the growing climate crisis, no organization concerned with innovation and intellectual and creative works can afford to ignore the lessons of these disasters. The future of knowledge, culture, and social memory clearly requires aggressive preservation copying of archival collections. Unfortunately, unbalanced and internationally inconsistent copyright laws no longer fit the modern world, and they create a legal barrier that impedes the preservation and access needed to protect and preserve the essential works found in archives around the world. It should be obvious that the ability to copy archival collections is clearly essential to our mission to preserve the world’s heritage. UNESCO’s Universal Declaration on Archives states that archives must safeguard societal memory and be accessible to everyone. We can fulfill that mandate only by copying archives to protect from fires, floods, and wars and to make them

available for purposes of education, research, heritage, and the securing of personal rights. The need for an instrument for exceptions to support public interests, including those of archives and libraries, was put forward as a Committee document (SCCR/13/5) in 2004-05. Over the nearly 18 years since, several studies and considerable SCCR discussion have brought maturity to Chile's concerns. Those same years have demonstrated the urgency of the public interest in exceptions because the survival of cultural-heritage works found in the world's archives faces twin existential threats that come from increasing climate extremes and rapid technological changes that can lock archival content in outdated hardware and software. Most Global South and many Global North nations lack resources to retrofit their facilities to withstand extreme climate events or to deal with technological obsolescence, but addressing either requires the legal space to do proactive copying. Without prompt action, how many portions of the world's knowledge and cultural heritage held in global archives will literally disappear forever? No archives can respond to these twin threats while working within the current maze of copyright laws. The national disparities in resources and technical capacity needed for digital copying mean that survival of documentary heritage requires that countries engage in cooperative projects across borders. This is exactly the kind of international work that is currently hindered by lack of consistent copyright laws. It is why we need WIPO to acknowledge the enormity of the twin threats of climate crises and technological obsolescence. Otherwise, the lack of specific exceptions to copyright will continue to doom the very preservation projects that so many countries need to launch. What recourse do archivists have if there are no balanced exceptions to enable work across borders? Must archivists just ignore the law? Because SAA's members would like to be ambassadors for the copyright system rather than opponents, we seek exceptions that will enable us to meet society's needs and build the public's faith in a balanced copyright system. As the UNESCO Declaration requires, we want to respect "the pertinent laws and the rights of individuals, creators, owners and users." For SAA, this also includes respecting the special circumstances of indigenous knowledge and rights. We seek to, in UNESCO's words "contribute to the promotion of responsible citizenship." Without the help of WIPO's distinctive mission, however, we cannot meet the Universal Declaration on Archives' mandate unless we are prepared to violate the world's ill-fitting copyright laws. Because archival collections inherently are works that exist as the only copy in the world, these materials need to cross borders so that people everywhere can access their own heritage, documents, no matter where in the world those heritage documents are located. Further, whether they are correspondence, technical reports, architectural drawings, photographs, or all types of audio, video, or computer records, the majority of these documents were not meant for commerce. Thus, copying them for preservation or cross-border use does not conflict with a normal exploitation of the work or unreasonably prejudice the legitimate interest of the author. Furthermore, current licensing systems cannot provide a viable resolution of the copyright barriers for such non-commercial materials, especially when there is no known or discoverable creator. Nor can licensing systems address issues of cultural appropriation that arise with indigenous cultural works that do not have an identifiable individual creator. WIPO showed concerns about these problems when it commissioned three distinguished experts to create a Toolkit for Preservation. It was completed and presented to Member States at SCCR43, but for some reason, the final text has not been released. That should be done promptly. Member States need to have these principles to incorporate into their national laws. More is needed-- WIPO needs to take the next step of adopting an international treaty to support preservation exceptions and limitations. Otherwise, archivists across the globe will continue to be hamstrung by the ambiguity of competing national laws. Lacking legal clarity, critically needed preservation copying will be stalled or deferred entirely. The only organization that can provide a global policy dealing with copyright's current barriers to knowledge is WIPO. Only WIPO can enable archivists to fulfill their crucial mission to society within the bounds of a balanced copyright system. The opponents of exceptions often say that no WIPO action is needed because existing international systems provide sufficient flexibility for countries to create exceptions for national needs. This is wrong. WIPO's purpose is to provide international policy guidance, is it not? National flexibility as a guiding principle rings hollow in an organization devoted to creating global solutions. If WIPO does not provide an

international framework for communication and the preservation of knowledge, who else can? The Africa Group has charted a way forward. Its Work Program on Limitations and Exceptions (SCCR/43/8,) adopted by SCCR in March 2023, outlined steps that would position WIPO to fulfill its international mandate for a global policy that supports development, dissemination, and use of knowledge. SCCR44 should move quickly to begin implementation of the Work Program. Fortunately, the general outline of next steps outlined in the March Work Program has now been supplemented by an actionable and substantive implementation plan proposed by the Africa Group. The plan, found in document SCCR/44/6 is substantive, inclusive, and practical. It sets forth a transparent and inclusive process consistent with existing practices in WIPO committees. Coincidentally the updated version of the United States of America's "Objectives and Principles for Exceptions and Limitations" (SCCR/44/5) provides one option for approaching the discussions need to fulfill the promise of the Africa Group's proposed implementation plan. No more time should be lost before there are more disastrous fires, floods, or wars. In addition to the final release of the Toolkit on Preservation (SCCR/43/4). SCCR should give priority to the Africa's implementation plan for a Work Program and discussion of the USA's Objectives and Principles. The severity of the threats to the preservation and accessibility of the world's archives is real. It is therefore essential that SCCR44 follows through now on the progress made in March 2023. Neither the Toolkit nor the implementation plan should be delayed any longer—the disasters threatening the future of knowledge and heritage will not wait.

IFRRO. Thank you, Mr. Chair, for giving us the floor. The International Federation of Reproduction Rights Organisations, IFRRO, thanks the WIPO Secretariat and Deputy Director General Sylvie Forbin and her team, for all the hard and pertinent work. IFRRO is the network for the Collective Management Organisations, and author and publisher organisations in the text and image sector, with 155 member organisations in 85 countries worldwide. Our members offer licensing solutions that enable access to content, including cross-border solutions, while providing remuneration for authors and publishers. In IFRRO's view, we must keep the interests of authors and publishers at the centre of discussions about exceptions and limitations. After all, they are the creators of the content that we are discussing here, and it is their livelihoods that will be affected by the outcome of these deliberations. IFRRO thanks Dr. Xalabarder for the scoping study, which represents a broad analysis of the practices of research institutions and research purposes and how those relate to copyright. In particular, we welcome the acknowledgement of the international copyright framework and the three-step test as well as the impact of exceptions and limitations. We also welcome the recognition that copyright enables the development of licenses for new uses and markets. The study also identifies some challenges which we do not recognize as problems with the international copyright framework per se. Rather, these are problems of local or regional implementation and copyright infrastructure within certain markets and regions. We would therefore welcome the opportunity for a further exchange, which would enable this committee to focus on challenges that may indeed be due to the international copyright framework. IFRRO reiterates our support for a three-pillar solution, sharing of best practices, a WIPO-led targeted program of capacity building, and cooperation among governments – as demonstrated just now by the approval of the Regional CMO Regulations at the WIPO Ministerial Meeting for CARICOM Member States in the Caribbean, or by the recent targeted WIPO-ASEAN CMO Project, paving the way towards technical assistance projects. Thank you.

The European Writers' Council (EWC). The European Writers' Council protects the interests of over 220.000 writers in the book sector worldwide, including educational authors. We thank Dr. Xalabarder for her efforts to reach a balanced perspective between research institutions – and the sources of knowledge and information: the authors. And we welcome the acknowledgement of the three-step test as well as the analysis about the harmful impact of L&E on the market. As representatives of individuals whose living conditions and income structure are the first to be impacted by exceptions and limitations, we note as follows: • First: The fragility of institutional budgets does not justify restricting the human right of authors- and copyright. • Second: The

assumption is outdated that Text and Data Mining would lead to the development of Large Language Models. Machine learning includes different processes relevant to copyright, such as copying, storing, memorization and reproduction. TDM, in contrary, is a process to extract information, and must only take place under volunteer licensing, remuneration and full transparency. • Third: The study repeatedly presents examples of research material that is desired from the trade and popular market, like literature, movies, music. As you are all aware, writers are usually not remunerated for their work, but only for the use of their work. Therefore, you may consider very carefully before you expose professional authors to a further loss of income through L&E. The EWC supports furthermore the statement from IPA and from IFRRO.

ELAPI. Muchas gracias, señor presidente/a, por concedernos el uso de la palabra. Agradecemos a la Secretaría la elaboración de los documentos, al respecto del punto del orden del día ELAPI se ratifica en su postura que ha sido ampliamente difundida en este comité, vemos con preocupación como se acerca, cada vez más el Derecho de Autor. Vale la pena recordar la condición de Derecho Humano que ostenta el Derecho de Autor y al hablar de limitaciones y excepciones se debe respetar siempre la regla de los tres pasos y la soberanía de los países quienes son los llamados a regular este tema dependiendo de su contexto sociocultural, al respecto ELAPI anuncia que llevará adelante una serie de Encuentros académicos al respecto, y compartiremos las conclusiones en nuestra próxima reunión. ELAPI considera que la agenda para el desarrollo debe ser tomada para fortalecer el sistema de Derecho de Autor en beneficio de los autores y titulares de Derecho y enhorabuena que el día de la Propiedad Intelectual 2024 sea sobre esta temática para que el Derecho de Autor salga fortalecido de las discusiones. Señor presidente/a ELAPI ofrece toda su cooperación académica a este comité, los estados miembros, especialmente al GRULAC para darle al Derecho de Autor el Valor que se merece. Muchas gracias.

ELAPI. Muchas gracias, señor presidente/a, por concedernos el uso de la palabra. Agradecemos a la Secretaría la elaboración de los documentos, al respecto del punto del orden del día ELAPI expresa que los avances tecnológicos no deben ser bandera para limitar, cada vez más, el Derecho de Autor. La primera herramienta en la que se debe pensar a la hora de usar una obra es la licencia, lo que traduce en respetar el trabajo creativo de los autores del mundo. Para estos fines contamos con la gestión colectiva, como herramienta valiosa, en la defensa y protección del Derecho de Autor. Estamos llamados a acercarnos a la gestión colectiva para lograr los justos equilibrios a los que se quiere llegar. Desde ELAPI vemos con preocupación cómo las nuevas tecnologías, como la IA, se usan de excusa para no respetar el Derecho de Autor. La limitación de minería de datos y textos no es un cheque en blanco, es una norma de interpretación restrictiva que debe cumplir con requisitos precisos para ser cumplida. ELAPI avanzará en jornadas académicas de gestión colectiva en América Latina y compartiremos las conclusiones en nuestra siguiente reunión. Muchas gracias.

IFRRO. Thank you, Mr. Chair. IFRRO thanks the delegation of the United States of America for the updated version of the document "Objectives and Principles for Exceptions and Limitations for Libraries and Archives" (document SCCR/44/5) and the African Group for the draft proposal for the implementation of the work program on exceptions and limitations (document SCCR/44/6). IFRRO is the network for the Collective Management Organisations, and author and publisher organisations in the text and image sector, with 155 member organisations in over 85 countries worldwide. These so-called Reproduction Rights Organisations, RROs, exist on all continents, in large and small countries, in developed and developing countries, and in all legal systems. RROs are an important component of the copyright infrastructure all around the world, offering licensing solutions that enable access to content, including cross-border solutions, while, at the same time, providing remuneration for authors and publishers of text and image-based works. We agree with document SCCR/44/5 that a robust copyright system that incentivizes continued innovation and artistic expression is paramount to the flourishing of humanity and creative economies. International copyright treaties provide a framework for the

recognition and protection of the rights of creators in the member countries. Within that time-proven framework, Member States must carefully craft exceptions and limitations within their domestic laws that are consistent with the boundaries of the three-step test. As regards document SCCR/44/6, rather than establishing new working groups of Member States and experts to support and facilitate the negotiations of the SCCR, we reiterate our support for a three-pillar solution, sharing of best practices, a WIPO-led targeted program of capacity building, and cooperation among governments to coordinate national legislation. In IFRRO's view, we must always keep the interests of authors and publishers at the centre of discussions about exceptions and limitations. Any outcome of the discussions should never come at the expense of the creators of the content discussed here. Ultimately, it is the livelihoods of authors and publishers that is at stake – authors and publishers who contribute to the richness and diversity of education and culture all around the world.

International Federation of Library Associations and Institutions (IFLA). Thank you Chair. And thank you very much to the Secretariat and Professor Xalabarder for this scoping study. I am speaking on behalf of the International Federation of Library Associations and Institutions, IFLA, on behalf of libraries and library associations worldwide. The scoping study affirms the value of limitations and exceptions to copyright, as well as the particular challenges researchers face with technical protection measures (TPMs). Those challenges cannot be overstated. In that regard, we echo the statement of our colleagues from Brazil. Limitations and exceptions already provided for in copyright law show much promise in the area of research. However, as they are easily overridden by contract. Additional laws providing for anti-contractual override (such as Art. 7(1) in the EU Directive on Copyright in the Digital Single Market) should be strongly encouraged. As a practitioner in a major research library, I have witnessed the particular challenges researchers face when dealing with technical protection measures, particularly around large amounts of data. I have personal experience with researchers who are struggling with various contractual and licensing issues. Technology, use norms and TPMs are constantly changing. The law often does not give clear enough exceptions for researchers to bypass technical protections for research. Research can easily be stifled if the law is unclear about under what circumstances TPMs can be broken and – perhaps an even larger issue – licensing may get in the way of such exceptions. It does not support research if TPMs are used to lock researchers and other users from rights and uses they are otherwise allowed under law. In general, the study could be better complemented by including more examples, such as those Prof. Xalabarder expanded upon in her excellent talk today, and more extensive engagement with real-world practices of researchers, both professional and non-professional, who make use of copyrighted content –including the use of unpublished works. I'd like to conclude with a question: Professor, how would you respond to the conclusions of the UNESCO recommendation and the UN Open Science conference that urge against taking an approach focused on copyright exploitation and licensing, as it is harmful to research? They both call for a shift to community ownership because licensing solutions have locked research - often publicly-funded - away from the public, behind private paywalls?

International Federation of Library Associations and Institutions (IFLA). Thank you, Chair, for giving me the floor. IFLA knows firsthand that libraries and archives use limitations and exceptions in their daily work to make works accessible to researchers, patrons, and the general public. We thank the delegates and civil societies who have voiced support for the African Group's Workplan. We stand ready to support the work outlined in it, as well as guidelines of the US Objectives and Principles, and the national and cross border partnerships this work supports and enables. We welcome further work on limitations and exceptions to copyright laws that will benefit libraries, archives, and museums; their patrons; and global cultural knowledge and heritage.

The International Authors Forum (IAF). We would like to thank the chair and the WIPO secretariat for their work this week to progress the meeting and agenda over these days. The International Authors Forum represents over 700,000 authors around the world. We are working to improve the recognition of their contribution to culture and the protection of their rights necessary to ensure their continued contribution to culture and knowledge in every country. The work we discuss here, and that is the concern of this study is the work of authors and it is important to ensure that their rights are respected so that they can continue to make their contributions to culture and knowledge. We thank Dr Xalabarder for the scoping study, which presents a broad analysis of the practices undertaken in research and how those relate to copyright. We welcome the acknowledgement of the importance of copyright and the three-step test which is a vital baseline protection for creators, as well as the impact of exceptions and limitations which can have significant importance and when poorly considered can harm the continued work of authors. We also welcome the recognition that copyright enables the development of licenses for new uses and markets and the positive ongoing work in this area. The careful development of licenses has proven to be key to managing the balance between access to works and remuneration to creators. The study identifies some challenges which are best tackled at a national level, more sensitive to the specific needs and practices of authors in one country and another, having seen examples internationally where the application of an approach unsuitable to a country has had significant negative impacts on creators and their ability to work in that country. We welcome the acknowledgement of the danger of legal uncertainty, this can be hugely harmful and We would welcome more time to provide further feedback on this in the future.

AGENDA ITEM 8: OTHER MATTERS

Copyright in the Digital Environment

CEBS. The CEBS Group would like to thank the Secretariat for organizing the Information Session on the Music Streaming Market. During the last SCCR session we were able to hear various voices from different stakeholders and market players. We find those comments very useful for understanding challenges that arise in connection with new forms of receiving music. We have to keep in mind that music streaming market grows rapidly, therefore a need to continue the discussion on music streaming may arise in the future. The CEBS group supports the proposal made by group B and presented by Germany on holding an Information Session during the next SCCR session on Generative AI and copyright. The CEBS group thanks the delegation of Cote d'Ivoire for the Proposal for a Study on the Rights of Audiovisual Authors and their Remuneration for the Exploitation of their Works (SCCR/44/7). As the proposal was tabled quite late in time we would need more time to study its provisions in depth.

European Writers' Council (EWC). The EWC highly welcomes the proposals to have a standing item on this topic and to organise an information session on the challenges that generative AI poses to authors. It has been proven that Large Language Models have been built from copyrighted book works without consent by the authors – and whose sources are, among others, shadow libraries and piracy websites. Here it needs to be clarified on how this violation of intellectual property rights under the Berne Convention can be remedied. Without legal regulation, generative technologies that reproduce cultural human works, accelerate the legitimisation of copyright infringement and collective licensing remuneration fraud. We ask you kindly to take two aspects into consideration: m- On the AI input: To clarify, that machine learning for generative AI and its copyright related processes are NOT covered by TDM - On the AI output: To clarify the need of labelling and full transparency. Thank you.

SCAPR. SCAPR is the international federation representing performers' Collective Management Organisations (CMOs). We count 59 CMOs from 43 countries. Collectively our members have collected 880 million euros in 2022 for the benefit of performers. On behalf of SCAPR, I would

like to support the proposal of GRULAC. In an era where technology has revolutionized the way we consume and enjoy creative content, it is crucial that we ensure the performers who bring this content to life are justly compensated for their invaluable contributions. Platforms have become integral to our daily lives. Behind these screens, there is a group of dedicated performers who work tirelessly to create and share their art with the world. It is incumbent upon us to recognize the vital role they play in our culture and to ensure that they receive fair compensation for their talents and efforts. We must acknowledge that the advent of digital platforms has led to unprecedented challenges for artists in terms of fair remuneration. In the past, artists relied on sales of physical media, live performances, and other traditional revenue streams. With the shift towards digital distribution and streaming, the compensation model has changed dramatically and the only rights holders that have not been able to benefit from it in a fair manner are the performers. In many countries, Collective Management Organisations representing performers are not able to collect from streaming platforms. It means that hundreds of thousands of performers, if it is not millions, including featured artists and even more non featured artists don't receive any remuneration when the work to which they have contributed is used in a digital environment. SCAPR has recently issued its yearly executive report consolidating the key activities figures of its worldwide members. It shows clearly the very limited amount of remuneration collected from streaming platforms for performers compared to the level of use by the consumers and the revenues generated. As an example, while our performers' CMOs were able to collect 270 million euros from broadcasters in 2022, revenues coming from Making Available on Demand were limited to 52 million euros! This latter representing less than 6% of all the rights collected by our members on behalf of performers in 2022. A very little 6% to put into perspective with the huge share of streaming in the global market and the recent announcement of other rights holders CMOs federations that streaming has become their main source of revenue. It is not a sustainable situation for performers considering the shift of consumption without appropriate compensation for them. Therefore, we hope that the WIPO members states will support the proposal of GRULAC to have the topic as a permanent point of the SCCR agenda and launch a working plan.

FILAIE. Gracias, Señor Presidente. En la Sesión Informativa sobre la música en streaming, celebrada durante la Sesión 43ª de este Comité, quedo acreditado que artistas musicales y creadores de todos los continentes denunciaron la falta de ingresos que reciben de las plataformas de música en streaming, mientras las mismas plataformas generan muchos billones de dólares y transfieren gran parte de ello a las multinacionales discográficas. Las discográficas recibieron 26,2 billones de dólares en 2022, de los cuales el 67% provienen del streaming, la falta de transparencia de esta industria hace que nadie sepa qué cantidad de los 17,5 billones de dólares generados por el streaming han recibido los artistas musicales, pero si sabemos una cosa y es que en el caso de los músicos de sesión la cantidad ha sido CERO. Y esto no es algo que diga FILAIE o un grupo de artistas, sino que se ha acreditado en suficientes informes encargados por este propio Comité (Castle/Feijoó), por el informe de la UNESCO "Distribución y transformación de los ingresos en la cadena de valor de la emisión de música en continuo", el Informe del comité de Cultura Digital, Medios y Deporte (DCMS) del Parlamento de Reino Unido, o la Directiva 2019/790 de la Unión Europea sobre Derechos de Autor en el Mercado Único Digital. Es decir, es un problema global, de los artistas de todo el mundo, incluidos aquellos de Estados Unidos, y no de una región u otra. Esto queda acreditado por múltiples voces de artistas del mundo. Esta situación se debe a que los contratos de derechos exclusivos reconocidos a artistas intérpretes o ejecutantes y productores fonográficos por la puesta a disposición de fonogramas, en el Tratado de la OMPI sobre Interpretación o Ejecución y Fonogramas, han consolidado un modelo de negocio del siglo XX para usos del siglo XXI. Ante esta situación de desequilibrio la normativa que perjudica a uno de los derechohabientes de la cadena de valor, tal vez el más importante, el artista, algunos países han modificado sus legislaciones para protegerles de forma adecuada y eficaz: México, Corea de Sur, España, Bélgica, Alemania y, el último, Uruguay, a cuyas autoridades felicitamos por su valentía y solidez para reconocer un derecho de remuneración por la puesta a disposición. Por eso FILAIE apoya la Declaratoria para el debate permanente ante la OMPI en favor de autores,

artistas intérpretes o ejecutantes, por la explotación de la música en el entorno digital, formulada por el GRULAC en el 43^a Comité (Documento SCCR/43/7) y anima a todos los grupos y delegaciones a que se sumen, fijen este punto como permanente de orden del día para darle el tiempo que merecen los artistas, y que la Secretaría trabaje en una recomendación abierta de la OMPI para la implementación del artículo 10 del TOIEF a través de un derecho remuneración de gestión colectiva, para aquellos países que se quieran adherir, y que sea objeto de discusión en la próxima reunión del Comité Permanente de Derechos de Autor y Conexos. Como pedía el representante de Chile, modernizar la agenda de temas es muy importante. Gracias!

ELAPI. Muchas gracias señor presidente por concedernos el uso de la palabra. Desde la ELAPI reiteramos la necesidad de establecer este tema como punto permanente de la agenda. Como venimos sosteniendo, resulta necesario profundizar el análisis de la extensión del derecho de puesta a disposición y sus innumerables consecuencias prácticas, con el afán de reducir los niveles de injusticia que se expresan en términos económicos. Teniendo en cuenta que los números actuales arrojan inéditos posicionamientos de los usos digitales en el mercado musical, creemos necesario avanzar en esquemas que pongan foco en la consagración de un verdadero derecho de remuneración en favor de autores y artistas. De igual forma, los avances alcanzados en modelos generativos de inteligencia artificial nos obligan a reforzar los esquemas de licenciamiento de obras y prestaciones artísticas. En este orden de ideas, la ELAPI siempre se encuentra a disposición para aportar al trabajo de este comité, confiando en trazar un camino que permita mejorar la realidad de la persona humana que sostiene con su capacidad creativa y su prestación personal los pilares indispensables para el sostenimiento de las industrias basadas en la creatividad. Muchas gracias.

Bildupphovsrätt i Sverige (BUS). Bildupphovsrätt i Sverige (BUS) is the Swedish collective management organisation representing more than 10 000 direct represented visual creators and around 150 000 visual creators worldwide. Among them illustrates and photographers affected by the PLR. Sweden has a PLR system since 1954. The system is well-functioning and of utmost importance for the Swedish cultural life as well as the national book market. The PLR system gives professional writers of literature a safe and regular income based on the lending of their books. It also gives grants which contribute to diversity in the book market. It is fundamental for creation, publication and reading. PLR also remunerates visual creators with works in books. Many books like children's books, photobooks, art books are mainly based on visual material. The PLR are for all creators that contribute to this richness of culture expression as literature is. BUS think that the PLR system should be further studied by this Committee with the aim that Member states could take informed decisions on the issue of implementation of a PLR system nationally. We are convinced that PLR contributes to development and that a richness in culture lead to a richness of social standards.

Indian Singers' Rights Association. We, ISRA, would like to congratulate you on your election and also your leadership on this important Committee, It is indeed a great pleasure to have attended the 44th SCCR meeting. We, ISRA would like to make the following Statements: 1. In today's digital environment, it is important that challenges posed by AI by Performers be attended to urgently and hence WE SUPPORT the Proposal made by Group B for an Information Session on Generative AI and Copyright. 2. Further, WE also SUPPORT the Proposal for a Study on the Rights of Audiovisual Authors and their Remuneration for the Exploitation of their Works prepared by the Delegation of Côte d'Ivoire. However, we would also like that the Study also includes the Rights of Performers in Audiovisual Works and their Remuneration for the Exploitation of their Performances. 3. Furthermore, WE SUPPORT the Proposal made by the Africa Group to include the Copyright in the Agenda of this Committee. Thanking you and the Secretariat for affording us this opportunity and assure you of our continued involvement on this Committee.

CECOLDA. Muchas gracias señor Presidente. Siendo esta la primera vez que intervenimos deseo expresar en nombre del Centro Colombiano de Derecho de Autor - CECOLDA, nuestro agradecimiento a los Estados miembros de la Organización Mundial de la Propiedad Intelectual - OMPI, por la admisión como observadores en el presente comité. Es un verdadero honor para CECOLDA poder participar en el mismo. Por otra parte, en relación con el punto 8 del orden del día sobre derechos de autor en el entorno digital, Quisiera comenzar con una anécdota, hace unas semanas la canción TQG interpretada a dúo por las artistas y compositoras Colombianas Karol G y Shakira, ocupó el primer lugar en el listado Billboard 200, lo que significa que fue la canción más escuchada en el mundo entero, en todos los géneros y en todos los idiomas. Esta situación, que parece simplemente anecdótica, evidencia una vez más que la creatividad y el talento no distinguen áreas geográficas o continentes, pero lamentablemente esta realidad no necesariamente conlleva una adecuada distribución de los ingresos entre los diversos intervinientes de la cadena de valor de los sectores creativos en el entorno digital, esto ha quedado ilustrado de muchas maneras en los diversos estudios comisionados por la OMPI desde que se presentó por primera vez la propuesta de los países del GRULAC. Coincidimos con lo manifestado por algunas delegaciones en el sentido de que la propuesta presentada por el GRULAC beneficiaría no solo a autores e intérpretes de América Latina, sino también a los autores e intérpretes de todos los continentes, contribuyendo de esta manera a un incremento del bienestar general en todas las regiones, cumpliéndose así la promesa de valor de que la propiedad intelectual puede mejorar la vida de las personas en todo el mundo, al tiempo en que mantiene vigentes con una visión de futuro, los principios que inspiraron la necesidad de contar con un sistema de derecho de autor que toma en consideración primordialmente a los seres humanos. Con todo lo anterior, desde CECOLDA consideramos beneficioso incluir la propuesta del GRULAC de manera permanente en los asuntos de este comité, así como el análisis de cualquier asunto relacionado con el entorno digital, como es el caso de la inteligencia artificial.

Latin Artis. Latin Artis y sus miembros, en representación de los actores y demás artistas hispano hablantes del audiovisual, continuamos agradeciendo y apoyando la propuesta del GRULAC, al tiempo que recordamos el mandato de este Comité para acometer un segundo estudio similar al ya realizado sobre los servicios digitales de la música, pero en el ámbito audiovisual. También damos la bienvenida a la propuesta presentada por la delegación de Costa de Marfil, de estudio sobre los derechos de los autores del sector audiovisual, notando que la misma señala que “lo ideal sería que el estudio no se limitara a la situación de los guionistas y directores como principales coautores de las obras audiovisuales, sino que también abarcara, en un contexto más general, a todos aquellos que contribuyen a la creación de la obra audiovisual”. En este sentido, resulta incuestionable la contribución creativa de los actores, por lo que estimamos absolutamente necesario que la propuesta de Costa de Marfil se extienda a los actores, tal y como ha sugerido la delegación de Malawi, habida cuenta que se enfrentan a los mismos desafíos contractuales y económicos que los directores y guionistas. Latin Artis y sus miembros están completamente de acuerdo en la necesidad de analizar los marcos jurídicos más eficaces adoptados en el mundo para garantizar el contenido económico de los derechos reconocidos a autores y artistas audiovisuales, y es que las soluciones contractuales únicamente son válidas cuando existe una situación de equilibrio entre las partes negociadoras, y sucede que, salvo en contadas ocasiones, referidas a las grandes estrellas del cine, tanto el artista como el autor ostenta una posición negociadora de clara inferioridad frente al productor. En suma, Sr. Presidente, nos ponemos a disposición de la Secretaría para facilitar datos y demás información que puedan ayudar en la elaboración del estudio, todo ello con la esperanza de que finalmente se abra un debate que no podemos retrasar más. Los artistas y autores del audiovisual necesitan soluciones prácticas, y cada día que pasa sin que puedan participar equitativamente en los rendimientos económicos derivados de la explotación digital de sus obras e interpretaciones supone una pérdida irrecuperable para ellos. Latin Artis y sus miembros también agradecen al Grupo B su propuesta de introducir en la agenda de este comité la cuestión de la inteligencia artificial, pues los actores seguramente sean los integrantes de la comunidad creativa en los que esta tecnología está impactando con más fuerza, y precisan de soluciones inmediatas y equilibradas. Por último, desde Latin Artis entendemos que estas cuestiones, quizás refundidas

en una sola, tal y como propone el GRULAC, deben constituir un punto permanente e independiente en la agenda del Comité.

AEPO-ARTIS. AEPO-ARTIS is a non-profitmaking organisation and the paramount voice of performers' collective management organisations in Europe. Our members represent over 650.000 performers in the audio and audio-visual sectors whose work is used in all corners of the world. First of all, we would like to thank once again the Secretariat for the enormous work put in the organisation of the information session on the music streaming market at the 43rd SCCR in March. This information session was part of the agenda point "Copyright in the digital environment" which has been introduced by the GRULAC proposal presented at the 31st SCCR in 2015 (SCCR/31/4). It was the perfect summary of all the work this committee had already done as a result of this proposal. We heard testimonies from representatives of all stakeholders within the global music industry and it became clear to everyone that the problem of fair remuneration for musicians (authors and performers) is not only a theoretical problem, but above all a practical one. And a global one. Unlike the statement given by the United States of America, the problem of unfair remuneration is not limited to specific regions. There is no local digital market. As a European organisation we can confirm that this is also still a reality in Europe, even after the reform of copyright with the 2019 Copyright directive. With this directive, the European Union did not provide a solution that works in practice. A study commissioned by the European Parliament Committee on Legal Affairs, which was published yesterday, concludes that: "Legal solutions must be considered to improve the effectiveness of the protective principles of the Copyright Directive." What became very clear throughout the information session is that the industry had not yet been able (or willing) to address this issue and, even less, to work towards a solution. And this situation has not been changed since. These last months, several major labels have set up new models of distributing streaming revenue, which their marketing departments have tried to sell to the world as 'artist centric'. This is misleading for several reasons, chief among which is that no artist was part of the development of these new models. Any objective analysis of these models shows that their actual goal is to create even greater profits for the record companies, often at the expense of emerging artists who are the most vulnerable. This tactic has been referred to by some independent commentators as the "reverse Robin Hood effect". These developments (among others) make it very clear that that no solution to the unbalanced and unfair distribution of streaming revenue will be found if the work needed to achieve it is left in the hands of the sector itself. We do not share the statement by IFPI that musicians are earning more since the high days of CD-sales. The reference made to the UK CMA study is incorrect and misleading. Although there was indeed an improvement reported on the side of the composers – who have been able to license their work through their collective management organisations – the same cannot be said for performers. The UK IPO report states that considering the inflation rates, over a period of 20 years, performers face a 41% decline in revenue in real terms. After eight years of debate, the publication by WIPO of several studies, and the multiple contributions of representative organisations, the SCCR now has all the elements in hand to take the next step. Everyone knows that there is a problem, the question is whether WIPO is going to play a role in solving it. We fully support the GRULAC's recent proposal on the matter, submitted at the 43rd SCCR last March (SCCR/43/7). This proposal correctly points out that the drafters of the WIPO internet treaties could not have foreseen that the use of new technologies could have such undesirable consequences in the marketplace. This is particularly the case for the performers' making available right, contained in article 10 of the WPPT. This right was not conceived with the aim of licensing, but with the aim of stopping piracy. The focus of the right and its implementation around the world was on control, not on remuneration. Nevertheless, it is this right that is currently being used to license the work of our performers for all online uses, even online uses that do not fall under the definition of making available. AEPO-ARTIS supports the inclusion of the topic as a separate standing item on the agenda of the SCCR and to instruct the WIPO Secretariat to make proposals, aimed at achieving effective and fair solutions to secure performers' rights in the digital environment. We fully support the preparation of a WIPO

recommendation on the implementation of Article 10 of the WPPT in order to guarantee remuneration to performers during the entire exploitation period of their recordings, taking into account the role of collective management as a robust and efficient mechanism to remunerate performers. AEPO-ARTIS also supports the proposal put forward by the Delegation of Côte d'Ivoire to commission a study on the situation of audiovisual authors and their remuneration for the exploitation of their works. These last years, we have reminded the SCCR several times that the problem of unfair remuneration in the digital environment is not limited to the music sector. But just like in the music industry, the problem is also not limited to authors. We therefore insist that the scope of such study should be extended to address the situation of actors too. In particular this study should look at the extent to which the contracting parties to the 2012 Beijing Treaty have made use of the mechanism included in its article 12.3. This option was included specifically with the purpose of ensuring that performers are entitled to receive a fair remuneration from the digital exploitation of their work. We think it is safe to say that given the way in which the audiovisual sector has developed since, this mechanism ought no longer to be optional. Finally, we would like to react to the proposal for an information session on generative AI and copyright, prepared by Group B (SCCR/44/8). Stakeholders of all creative industries are indeed concerned with the fundamental impact of generative AI. Performers too. We therefore support the idea of organising such an information session and believe that this session should also include the issue of fair remuneration of authors and performers when their work is used for the training of AI models and applications. However, we do not support this item being put on the table with the mere goal to provide an opportunity for a mere exchange of experiences. Performers from all over the world look at this institution for its capacity to develop norms and standards. They expect this Committee to act when it can and provide guidance to make their remuneration from digital exploitations effective.

The International Authors Forum (IAF). In the digital environment, creators' works are used more than ever, and we would like to thank the members and speakers who have acknowledged the importance of appropriate remuneration to foster the work of creators. IAF hopes that analysis of Copyright Related to the Digital Environment propose by Group of Latin American and Caribbean Countries (GRULAC) could holistically consider the impact of the digital environment on authors and, in particular, the impact of business models in streaming on creators. We thank the GRULAC for its proposal on this important area of work and hope this issue will remain on the agenda. While the works of authors across the world are now being accessed online more than ever before, creators are not always fairly remunerated for such access. Screenwriters, for example, often remain unpaid for the use of their work online despite audio-visual works generating significant revenues for on-demand services. It is often difficult to resolve this lack of remuneration, given the huge inequality in the negotiating relationship between producer and screenwriter. Authors' organisations such as the Federation of Screenwriters in Europe (FSE) and the Federation of European Film Directors (FERA) have called for the need for an additional right as well as better creator contracts to resolve this. Therefore, authors urgently need remuneration rights that reflect the myriad uses of their works in the digital age. An Unwaivable Right to Remuneration (URR) for online uses would ensure that authors are properly rewarded for their contribution to the vast libraries of work now being made available by on-demand streaming services. At a webinar hosted by IAF earlier this year on URR we heard about the success of URR in Spain, Italy, France and Belgium. We would urge WIPO to consider the role of URR in the digital environment, particularly given the rising dominance of streaming platforms. We would like to thank Côte d'Ivoire for bringing forward this very important proposal. In a rapidly changing international creative industries, it is important to better understand the challenges audiovisual authors face in their profession and the role of copyright and collective management in their creative work and remuneration. We welcome the proposal from Côte d'Ivoire to launch this study process, which is an essential step towards better understanding the situation of the diverse range of authors around the world. Through understanding we create opportunities for every country represented here to enhance the opportunity of creators in their country. Audiovisual authors are at the root of creation of audiovisual works, but their situation varies considerably from one country to another. In a

rapidly changing environment, such as authors can rely on legislation, licensing and collective management to guarantee them fair remuneration for the enjoyment of their works. The different situations of authors around the world will be particularly interesting to analyse in this context to understand positive steps that can be taken to protect and improve their situation. We invite delegates to support the Côte d'Ivoire proposal and to encourage progress on this study to highlight the needs and challenges of audiovisual authors so that they can make a living from their art and continue to contribute to the cultural and creative industries of their nations, preserving opportunity and diversity in a vast global industry. IAF welcomes the proposal to examine issues related to the fundamental impact of generative AI by this committee, including a future information session on the challenges that generative AI poses. We also agree that the aim should be to provide a global forum for a structured exchange of experiences on this important issue. AI systems provide numerous opportunities and challenges, both legal and ethical of significant importance to authors. We should not forget that creators provide the foundation upon which many AI technologies exist. It is necessary to have considered, well informed discussions and policymaking in this area, acknowledging that a broad legal framework that includes copyright, privacy, data protection, and competition and consumer protection laws will be required to regulate the responsible use of AI technologies. We believe it is crucial to address the potential impact of AI on the irreplaceable value that authors bring to society. IAF has developed, with its members guiding principles for AI policy to this end with the goal of a future where human authors can utilise AI creatively, realising the potential of this technology, while ensuring that creative contributions are duly acknowledged and protected. IAF would be pleased to share further views on the challenges that generative AI poses for copyright law and writers and artists around the world.

Resale Right

CISAC, the International Confederation of Societies of Authors and Composers, is the world's leading network of authors' societies. With 228 member societies in 120 countries/territories, CISAC protects the rights and promotes the interests of over 4 million creators, from all geographic areas and all artistic repertoires. We would like to thank the Secretariat for the comprehensive update on the status of the ongoing work on the topic of the Artists' Resale Right, and Professor Ricketson for undertaking the important task of drafting a toolkit on the management of the right. We are confident that the toolkit will bring added value to the discussions in the Committee, and shedding more light on the different aspects of this issue. The Resale Right has been on the agenda of the SCCR since 2015. Since then, a number of authoritative reports have been presented at the plenary, including the study by Professor Ricketson on an International treaty for the Resale Right, the 2017 Study on the economic implications of the Right, as well as the reports prepared by the Task Force on this issue. Further, the International Conference held in 2017 contributed to enriching the debate and promoting a better understanding of the right. We are grateful for the growing endorsement that this initiative has been receiving over the years from the distinguished delegates. We are also encouraged by the increasing recognition of the ARR, which is now adopted in more than 90 countries around the world, recently including Korea, New Zealand and Morocco. In many other countries, possible implementation of the resale right is under discussion. We believe that the item of the Resale Right is sufficiently mature and therefore, we encourage the Committee to include the Resale Right as a separate item of the agenda and to start as soon as possible substantive discussions towards a meaningful outcome.

Public Lending Right

European Writers' Council (EWC). The European Writers' Council (EWC), founded in 1977, represents 220,000 writers in the book sector from 49 writers' associations in 31 EU-, EEA- and non-EU countries, publishing in 34 languages and in all genres, including educational and academic fields. Their works are published globally. The EWC is the worldwide only federation representing solely book writers' and protecting their legitimate interests. The EWC is grateful to

WIPO and to Member States for their decision to conduct this important study on how a remunerated Public Lending Right protects and promotes the values writers provide to societies and individuals. But it is important that the study focus on PLR for printed works and on public libraries only. PLR implements the principle that 'every use must be remunerated' which is based on the Universal Declaration of Human Rights. We hope that this PLR-Study will strengthen the mission of libraries as a third place, an analogue and real space of encounter and social interaction, and a precious access to knowledge and literature. Remunerated PLR for print books is the way forward to foster reading, literacy, human encounters and critical thinking. And PLR is a commitment to fairness. The EWC hopes for a wide-ranging and relevant report to be used in practice including regional seminars and workshops. But the report must absolutely not lead to a legal instrument of any form. Moreover, it should help a country to analyse the four different legal options on how to install PLR. Furthermore, the study should support member states to fulfil the state's educational mandate, and to act in the interest of authors, society, and preservation of future knowledge and innovation.

Electronic Information for Libraries (EIFL). I am speaking for Electronic Information for Libraries, that works with libraries in developing and transition economy countries to enable access to knowledge. Public Lending is the non-commercial lending of works by libraries to the public. Public Lending Right is a government-mandated charge for public lending by libraries. We have three suggestions for the proposed study to help ensure a complete context for the issues from a library point of view: First, PLR systems fall into two broad categories: as part of state cultural policy, or as copyright policy. The study should examine both categories. Second, in the 1990's, WIPO rejected consideration of PLR because it would strain already limited state support for public libraries, especially in developing countries. The study should examine the impact, in particular, on developing countries and their cultural and educational policies. It should also deal with the flow of PLR payments to and from developing countries arising from the issue of national treatment under international copyright law - EIFL and IFLA have prepared an Information Note on the conflict between PLR and national treatment that is available online. Third, the study should include other relevant ways that governments can support authors, such as direct grants and tax breaks, the issue of unfair contracts with publishers, and transparency over revenue, particularly when it comes to digital works. Thank you.

ELAPI. Muchas gracias, señor presidente/a, por concedernos el uso de la palabra. Agradecemos a la Secretaría la elaboración de los documentos, al respecto del punto del orden del día ELAPI afirma que: Maureen Duffy principal gestora del préstamo público en la comunidad internacional, determina que la remuneración en compensación por la explotación de las obras generadas por sus autores. Por otro lado, ELAPI contempla que la gobernanza del préstamo público a través de las sociedades de gestión colectiva permitiría garantizar a un adecuada recaudación de este derecho a través de contratos de representación recíproca para las obras extranjeras para que sean garantizadas por estas sociedades de gestión al utilizar obras nacionales en otros países observando el principio de trato nacional. ELAPI apoya que el préstamo público sea tomado en la agenda del SCCR y a su vez que se observen los diferentes mecanismos de Sistemas Comparadas a favor de los autores al permitir la negociación fruto de su trabajo e impronta personal, también es necesario recordar que en el ámbito digital se debe mantener un sistema de terminals especializados o un préstamo digital controlado que analice la regla de los 3 pasos. Estamos convencidos, que los derechos humanos que mantienen los autores se encuentran consagradas en la Observación General 17 , desde dos acepciones, la i) al determinar la importancia de los intereses morales incluso cuando es Patrimonio Cultural de la Humanidad y la ii) en los intereses materiales que refieren al respectivo gozo de un nivel adecuado a través de su trabajo. Para finalizar señora presidenta ofrecemos toda nuestra cooperación académica a esta Asamblea, al comité permanente, estados miembros especialmente al GRULAC para darle al Derecho de Autor el valor y la preponderancia que se merece, muchas gracias.

Rights of Theater Directors

ELAPI. Muchas gracias señor/a presidente/a por concedernos la palabra, por su intermedio nos dirigimos a este honorable comité en el punto de la agenda que se desarrolla. Desde la ELAPI, agradecemos la elaboración del documento sobre los derechos de los directores de teatro. Al igual que en intervenciones anteriores, desde la ELAPI mantenemos que, en el marco de este comité, debe continuarse analizando en profundidad la naturaleza de este derecho, con fines de unificar el criterio en todas las legislaciones de los Estados Miembros y facilitar así el intercambio transfronterizo y los potenciales mercados involucrados, siempre priorizando la salvaguardar, ya sea como derecho de autor o derecho conexo, los intereses de estos creativos. Desde ELAPI reiteramos nuestra consideración de que el régimen más adecuado, dadas características de la actividad creativa que se realiza, es el derecho de autor, en defecto de una regulación sui generis que refleje las particularidades de este rubro, pues su labor más se acerca a la realizada por los directores de obras audiovisuales que a la de los intérpretes y ejecutantes. Así mismo, como aporte al debate, consideramos que la fugacidad de la puesta en escena no debe ser óbice para protegerla como derecho de autor, pues en este rubro, el acto creativo, distintivo y expresivo de la personalidad del autor existe y se produce con carácter previo e independiente a la fijación, siendo quizá entonces los límites a la ejecución de este derecho los que debieran ser debatidos en este honorable espacio. Por otro lado, cabe añadir que hoy día ya existe un nicho de mercado consistente en grabar representaciones teatrales, así como un público interesado en consumir dicho contenido, como es el caso de la experiencia argentina y la plataforma Teatrix. Con los nuevos espacios digitales que se están conformando, y el incesante desarrollo de sistemas de Inteligencia Artificial que podrían llegar a generar contenido a partir de cualquier tipo de información, la necesidad de contar con un adecuado régimen de protección internacional para los directores de teatro, se torna cada vez más acuciante, por ello creemos que no debe descartarse del debate la posibilidad de elaborar un eventual tratado internacional específico. Desde ELAPI ofrecemos toda nuestra cooperación académica a este respecto. Muchas.

Generative AI

IFRRO. Thank you, Mr. Chair. The International Federation of Reproduction Rights Organisations (IFRRO) welcomes the proposal by Group B, presented by Germany, to hold a future information session on the challenges that generative AI poses specifically for copyright law and authors and publishers concerned. We also agree that the aim should not be to develop norms or standards, but to provide a global forum for a structured exchange of experiences. AI systems provide numerous opportunities for learning and innovation and simultaneously present a set of challenges, both legal and ethical. Among these is how to ensure that AI technologies can lawfully use copyright protected materials. We should not forget that authors and publishers provide the foundation upon which many AI technologies exist. Without appropriate obligations on generative AI providers, we can expect a significant impact on the creation and dissemination of human works. Fewer quality, trusted works, including educational, cultural and scientific materials, will be to the great detriment of rightsholders of all types, national economies and society overall. Striking the correct balance will ensure that AI systems, as well as the copyrighted works on which they are built, thrive. IFRRO would be pleased to share concrete experiences on the challenges that generative AI poses for copyright law and authors and publishers around the world. Thank you.

CISAC, the International Confederation of Societies of Authors and Composers, is the world's leading network of authors' societies. With 228 member societies in 120 countries/territories, CISAC protects the rights and promotes the interests of over 4 million creators, from all geographic areas and all artistic repertoires. CISAC welcomes the proposal by Group B to hold an information session on the challenges that generative AI poses specifically for copyright law and authors and publishers concerned. Artificial Intelligence is a powerful and impactful technology which is increasingly used in the creative and cultural industries, offering creators

new opportunities, and potentially enhancing and complementing the creative skills of human beings. At the same time, AI presents challenges for the global creative community. The most relevant is to ensure that AI systems are developed in a way to ensure respect of copyright. Today, generative AI is trained on enormous amount of copyright-protected works at the expense of creators, who are not asked for permission, do not know if and how their works are used, and are not remunerated for such uses. We are of the view that the focus of the future debate within this Committee should be to determine how best to clarify and improve legislation in a way that preserves the value of human-driven creativity. At this regard, we firmly believe that any further development should be based on the following core principles: Consent - authors should be in a position to authorize or prohibit the ingestion of their works by generative AI systems and no exception should deprive creators of control on their works. Remuneration – every use of copyright protected works by AI services must be remunerated. Many authors live in precarious situations and depend on being remunerated for the use of their works to make a living and to continue working. Transparency - authors should have the right to be informed about the use of their works by AI services. This should cover both information on the use of the works by AI systems, in a way that allows traceability and licensing, and the identification of the works generated by AI systems, so that the public is aware about the nature of such content. AI can be a powerful tool for enhancing human creativity, but it must be used in a responsible and ethical manner. CISAC would be pleased to contribute to the future debate by sharing knowledge and experiences on the challenges that generative AI poses for the global community of creators.

Study on the rights of audio-visual authors

Statement by the International Federation of Actors (FIA). The International Federation of Actors represents performers' trade unions, guilds and professional associations in about 70 countries. In a connected world of content and entertainment, it stands for fair social, economic and moral rights for audiovisual performers working in all recorded media and live theatre. The proposal put forth by the Ivory Coast and the African group, for which we are thankful, addresses a crucial concern—ensuring that the intellectual property protection granted to audio-visual authors, particularly in terms of economic rights, can effectively yield the intended benefits for them in an industrial and technological landscape that has undergone radical changes since the adoption and implementation of the WCT. As emphasized in the document, these rights must be examined within the context of prevailing industrial practices, where they are often acquired in perpetuity. In the absence of adequate contractual or legal mechanisms to ensure a fair and proportionate remuneration, especially in the digital environment, these rights often fail to reward these authors appropriately, hindering their ability to sustain a decent livelihood from their work. It is evident that these authors lack the individual capacity to resist such buyouts, primarily due to the pervasive power imbalances within the contractual relationship. We submit that the same is also true for performers in the audiovisual sector and believe that the scope of this exercise could and should be extended to also encompass them, as part of the same ecosystem, confronted with very similar challenges. Mr. Chairman, many countries are yet to ratify or accede to the WIPO Beijing treaty, whilst some have done so in a minimal fashion, mostly as a copy/paste exercise with respect to the mandatory provisions in the treaty, but without availing themselves of the full potential of these provisions to adopt appropriate contractual and/or legal mechanisms offsetting the imbalance of power in the contractual relationship between performers and those hiring them and maximising the value of those rights for performers. We feel very strongly that, by looking at best practices comprehensively in their national context, this study could also help promote an effective and ambitious approach to the protection of audiovisual performers – as recommended by the distinguished delegate of Malawi - alongside authors. We also believe that it is both urgent and vital for this body to start addressing the topic of AI and more specifically of generative AI, a technology that may be very beneficial to our industry and indeed be an incredible tool for mankind, provided it is properly regulated and allowed to develop in a human centric way, as an enabler of human creativity,

rather than as a way to replace it, and respecting fundamental rights, including IP rights, both with respect to how it is trained as well as the downstream content it generates. Our community is concerned about this technology expanding in a vacuum, scraping personal and nonpersonal data from the net indiscriminately, duplicating the image, likeness and work of our members without their consent and without compensation, exposing them to the high risk of being competing with synthetic, digital copies of themselves or others, and displacing hundreds of thousands of jobs. Whilst some of them may rely on their national legal framework and collective clout to prevent this from happening, most others won't and will be wiped out. We are equally concerned about the use of this technology to conceive, produce and release deep fakes, that can have devastating effects on our societies but also on the reputation our members rely upon to build sustainable careers. More broadly, we are worried about the detrimental impact of this technology, unless properly regulated, on the future of human creativity and cultural diversity. Considering the wide-range implications of generative AI, not only from an IP point of view, but equally from a labor and cultural standpoint, we welcome a joint future initiative by WIPO, also including the ILO as well as UNESCO – as the UN agencies equally competent to tackle generative AI from their unique, but complementary, perspective.

Société des Auteurs Audiovisuels. Merci Monsieur le Président, Ceci est la première intervention de la Société des Auteurs Audiovisuels dans le cadre du Comité Permanent du Droit d'auteur et des droits voisins. La Société des Auteurs Audiovisuels est une association européenne des sociétés de gestion collective des droits des auteurs audiovisuels – scénaristes et réalisateurs – qui compte 33 membres dans 25 pays. Nous travaillons à une amélioration de la protection juridique des droits des auteurs audiovisuels et une meilleure valorisation de leurs droits d'auteur et de leur rémunération pour l'exploitation de leurs œuvres sur l'ensemble des médias. La Société des Auteurs Audiovisuels a été admise comme observateur au Comité permanent du droit d'auteur en 2020 et depuis, nous avons appelé les délégués et le secrétariat à se pencher sur la situation des auteurs audiovisuels, pour mieux comprendre les enjeux de leur métier et le rôle du droit d'auteur et de la gestion collective dans leur travail de création et leur rémunération. Je remercie le bon accueil que nous avons reçu de la part des groupes auxquels nous avons pu parler sur ce sujet et je salue la proposition de la Côte d'Ivoire qui lance ce processus d'étude indispensable à une meilleure connaissance de la situation des auteurs audiovisuels. En effet, les scénaristes et réalisateurs sont au cœur du processus créatif des œuvres audiovisuelles, mais leur situation juridique et économique varie considérablement d'un pays à l'autre. Contrairement aux auteurs de la musique, la gestion collective de leurs droits est souvent limitée et la liberté contractuelle peut les priver de toute protection, à moins que la législation ne leur garantisse une rémunération proportionnelle pour chaque mode d'exploitation. Les différents modèles de législation protectrice en Europe, Amérique latine et Afrique seront particulièrement intéressants à analyser dans ce contexte. Nous encourageons donc les délégués à soutenir avec enthousiasme la proposition de la Côte d'Ivoire et à demander au secrétariat de lancer cette étude internationale au plus vite afin de mettre en lumière les besoins et enjeux des auteurs audiovisuels pour qu'ils puissent vivre de leur art et continuer à créer des œuvres originales, surprenantes et qui questionnent le monde dans chacun de leur pays et de considérer ce sujet au sein du comité permanent.

CISAC, the International Confederation of Societies of Authors and Composers, is the world's leading network of authors' societies. With 228 member societies in 120 countries/territories, CISAC protects the rights and promotes the interests of over 4 million creators, from all geographic areas and all artistic repertoires. On behalf of the global community of audiovisual creators that CISAC represents, we would like to thank the delegate of Ivory Coast for proposing a study looking at the legal and economic situation of audiovisual authors across the world. AV creators, such as screenwriters and directors are at the heart of the creative process in the audiovisual industry, but their rights are not properly recognized. In many territories, they do not receive remuneration for the exploitation of their works. In others, they are not even recognized as authors of their works and therefore they are not entitled to any legal protection. The legal and economic protection of audiovisual authors needs to be assessed in light of the

specific circumstances linked to the development of the AV industry: the increased volume of audiovisual production, due to the development of on demand and online services; the extensive use of buyout practices whereby creators are pushed to contractually give up their rights in exchange for a lump sum payment; the challenges brought by the quick development of Artificial Intelligence and its impact on creators and their ability to earn a living from their works. We are confident that the study recommended by Ivory Coast would shed more light on the different aspects of this issue. We are of the view that the study should focus on a crucial need of AV creators: their entitlement to receive remuneration for the exploitation of their works on the different media and in particular in relation to the new modes of exploitation of the audiovisual works by on-demand and online services. A growing number of countries around the world have recognized the need to fairly remunerate audiovisual creators and allow them to participate in the success of their works. Argentina, Spain, France, Italy, Poland, Chile, Colombia, and Uruguay are some of the countries where screenwriters and directors have a right to proportionate remuneration, payable by the users and managed by authors' societies. In all these countries, remuneration rights have proven to be a key factor to promote creativity and nurture a skilled creative community. At the same time, remuneration rights have generated positive externalities in the market in terms of growth of audiovisual productions and exports, increase of box office revenues and relevant investments by video streaming platforms. By analyzing the most effective legal regimes adopted around the world, the study will provide member countries with valuable insights on this issue, which is of great importance for the global community of AV creators. We therefore encourage the distinguish delegates to endorse the proposal of Ivory Coast and to include this initiative in the future working agenda of the SCCR.

Closing Statements

CEBS. The CEBS Group wishes to thank you and your Vice-Chairs for your able guidance through this SCCR session. In the same vein, we equally commend the Secretariat for their efforts invested in the advancement of the work of this Committee. Likewise, we would like to thank the interpreters, the Conference Services, and relevant NGOs and other stakeholders, who have contributed to this session. We are also grateful for a constructive engagement of Member States. Mr. Chair, you can count on the full support of the CEBS Group Member States in the future work of this Committee. Finally, let me wish all capital delegates a safe journey home and Geneva based colleagues to enjoy the rest of the week. Thank you.