

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

**STANDING COMMITTEE ON COPYRIGHT
AND RELATED RIGHTS**

Second Session
Geneva, May 4 to 11, 1999

AGENDA ITEM 4: PROTECTION OF THE RIGHTS OF BROADCASTING
ORGANIZATIONS

SUBMISSIONS RECEIVED FROM NON-GOVERNMENTAL ORGANIZATIONS
BY MARCH 31, 1999

ADDENDUM CONCERNING THE SUBMISSION BY THE NATIONAL ASSOCIATION
OF COMMERCIAL BROADCASTERS IN JAPAN (NAB-JAPAN)

Document prepared by the International Bureau

Introductory Note

Document SCCR/2/6 contains a proposal by NAB-Japan drafted in treaty language, namely,

“SUBSTANTIVE PROVISIONS OF WIPO TREATY FOR THE PROTECTION OF THE RIGHTS OF BROADCASTING ORGANIZATIONS”

NAB-Japan had submitted these provisions together with a commentary. That commentary was erroneously omitted by the International Bureau when it produced document SCCR/2/6.

The Commentary given by NAB-Japan is now hereby reproduced:

COMMENTARY

In updating the rights of broadcasting organizations to deal with nowadays digitization and spreading networks, it is essential to have the framework that can comprehensively accommodate ever-arising new technology, transmission means, and method of communication. Otherwise, every time a new treaty is introduced, it must be amended or added whenever new technology appears. To that end, NAB-Japan drew up a new framework that can cope with today's technological advancement while following the concepts of the Rome Convention.

I. OBJECTS OF PROTECTION

At the present time, it is technologically feasible to achieve not only re-broadcasting or cable distribution of the received broadcasts but also multiple re-broadcasting or multiple cable distribution of the broadcasts received from the re-broadcast or cable-distribution. Especially, cable, re-cable and multiple cable distribution is now common business. Further, those that were re-broadcast or re-distributed by cable can be also fixed and used. The Rome Convention defines broadcasting as “the transmission by wireless means for public reception of sounds or of images and sounds.” However, to cope with aforementioned situation, it will be meaningful to read the object of protection as “signals representing sounds, images, or any other information, or a combination thereof,” based on the act of broadcasting. In this way, the object of protection will be a distinct physical embodiment, and broadcasting organizations, the rights owners, can cope with infringements at any phase on the signals that they transmitted, and deal with the advancement of technology at large. Here, the object of protection is “signals representing sounds, images, or any other information, or a combination thereof;” nonetheless, establishing the signals transmitted by the act of broadcasting as the premise of this “signals,” we yet are in accordance with the basis of the definition of broadcasts since the Rome Convention.

II. “BROADCAST CONTENTS”

Although it was inconceivable in the past, laymen can easily steal the signals transmitted by satellite circuits or by microwave. The images and sounds thus robbed of surface on Internet in a large number. Under such circumstances, it is not good enough to protect the broadcast signals that were broadcast. It only ensures the protection of broadcasts when “signals representing sounds, images, or any other information, or a combination thereof,” which is transmitted for broadcasting, is protected at the same time. For this reason we propose the protection of broadcasts contents to be included in the treaty. It may be difficult to grasp “broadcast contents.” But, for instance, it applies to the signals, which carry images and sounds, being transmitted from cameras and microphones at a certain relay point to a station for broadcasting purpose. Or, it also applies to the signals being transmitted point-to-point for the purpose of simultaneous or deferred broadcasting by a station B of a program being broadcast by a station A.

III. “COMMUNICATION TO THE PUBLIC”

The most important rights regarding the protection of the broadcasting organizations are the rights of fixation and reproduction of the broadcasts, and the rights of communication to the public. As to the means of communication, technological development gives the birth of new methods one after another. To cope with the situation, it is not good enough to take measures against each of those new methods, but it is quite essential to lay down “the rights of communication to the public” as major premise. Accordingly, we propose this broader concept which covers every notion of “communication to the public” used in the Rome Convention, the WCT and the WPPT. Naturally, each nation has its different situation so that we think implementation should allow each nation to correspond to its own situation.

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