

# WIPO



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## 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

SUBMISSION FROM THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND  
CULTURAL ORGANIZATION (UNESCO)<sup>1</sup>

*prepared by the International Bureau*

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<sup>1</sup> Received on April 9, 1999.

## PROPOSALS FOR THE IMPROVEMENT OF THE PROTECTION OF THE RIGHTS OF BROADCASTING ORGANIZATIONS

1. In the course of the international discussions held during the eighties and nineties by UNESCO and WIPO to upgrade the level of protection of authors' and neighboring rights and on the occasion of various other meetings, the representatives of the broadcasting organizations strongly insisted that the rights of broadcasters also need to be upgraded as a result of the new use of their broadcasts. In particular, they drew attention to the fact that at the time of the adoption of the Rome Convention audio recording equipment was only beginning and cassette recorders had not yet been introduced, cable distribution of broadcasts was only just starting in a few countries, audiovisual recording (HVS), satellite broadcasting, on-line delivery systems, interactive radio and television and the telephone line as a vehicle of transport for moving images, did not exist. In addition, there was practically no competition among broadcasters and the risk of piracy was very low.

2. Summing up the proposals formulated by the representatives of broadcasters at the above meetings and on various other occasions (symposia, seminars, training courses, etc.), it may be resumed that they request that the broadcasting organizations should be granted:

(a) the right to authorize or prohibit:

(i) the rebroadcasting of their broadcasts ("rebroadcasting" should include both simultaneous and deferred broadcasting and "broadcast" should be clearly understood to include satellite broadcasting);

(ii) the cable distribution of their broadcasts, both simultaneous and deferred;

(iii) the on-demand transmission of fixations of their broadcasts to individual subscribers and the granting to the public of access to fixations of their broadcasts incorporated in computer databases *via* an on-line network;

(iv) the communication to the public of their broadcasts, whether or not the communication is to a paying audience or is made in places accessible to the public against payment of an entrance fee;

(v) any fixation of their broadcasts *via* a sound or video recorder for other than private purposes, and any reproduction or distribution of such a fixation;

(vi) any reproduction or distribution of legally made fixations, other than for private purposes;

(vii) the making of any still photograph of a television broadcast for other than private purposes, and any reproduction or distribution of such a photograph;

(viii) distribution to the public, by any broadcaster, cable distributor or other distributor, of their own program-carrying signals transported by communications satellite, or of such signals intended for them.

(b) The right to receive equitable remuneration in respect of private recording of their broadcasts (levy on recording equipment and/or blank tapes).

(c) Protection against importation and distribution of fixations or the reproduction of such fixations made without authorization in a country which grants no protection to broadcasting organizations.

There should also be a requirement for national legislation to introduce penal or administrative sanctions (fines) against the unauthorized manufacture and distribution of decoders for encrypted broadcasts.

3. UNESCO suggests that the above proposals should be submitted *inter alia* for discussion by the WIPO Standing Committee on Copyright and Related Rights at its next meeting. It would be advisable to supplement the above proposals with information on modern national copyright and neighboring rights laws to see how much the protection of broadcasters' rights has been improved since 1961.<sup>2</sup> The conclusions and recommendations formulated by the Standing Committee when discussing such a working document could serve the International Bureau of WIPO as a basis for drafting the preliminary text of an international instrument on the protection of the rights of broadcasters, if WIPO's Governing Bodies judge this to be desirable.

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<sup>2</sup> For such information, see the Memorandum (document SCCR/1/3) prepared by the International Bureau of WIPO for the first session of the Standing Committee on Copyright and Related Rights.