

World Intellectual Property Organization (WIPO)
Standing Committee on Copyright and Related Rights (SCCR)
Twenty-sixth Session
Geneva, December 20, 2013

Conclusions

Protection of Broadcasting Organizations

1. The Committee considered Articles 5, 6, 7 and 9 of the working document SCCR/24/10 Corr., as well as the proposal submitted by the government of Japan on the protection of signals transmitted over computer networks, document SCCR/26/6. In addition, the Committee took note of the working document from the government of India rephrasing some textual proposals of document SCCR/24/10 Corr., as well as the proposal for discussion from the government of the United States of America.
2. During the discussions held on Article 7, it was understood that broadcasting organizations and cablecasting organizations in the traditional sense will be the beneficiaries (to be defined) of the proposed Treaty, subject to clarification of the inclusion of cablecasting organizations in the definition of broadcasting organizations in national laws.
3. It was understood that broadcasting and cablecasting are included in the scope of application of the proposed Treaty on a signal based approach, subject to clarification of the inclusion of cablecasting organizations in the definition of broadcasting organizations in national laws and of the effect of that inclusion on the scope of application.
4. On Article 6, discussions took place on the inclusion, in the scope of application, of transmissions over the Internet, with the understanding that such transmissions, if they are to be included, would be limited to those transmissions originating from broadcasting organizations and cablecasting organizations in the traditional sense. If such protection is to be included, further discussions will be held on whether the protection would be mandatory or optional.
5. Discussions took place on transmission over the Internet of simultaneous and unchanged transmissions of broadcasts, and it was understood that if transmissions over the Internet originating from beneficiaries of the proposed Treaty are included in the scope of application of the proposed Treaty, then at least such simultaneous and unchanged transmissions should be included.
6. Further discussions will take place in relation to the possible inclusion in the scope of application of transmissions over the Internet, when originating from the beneficiaries of the proposed Treaty, of Internet originated transmissions, on-demand transmissions (to be defined), or deferred and unchanged transmissions of broadcasts.

7. Further discussions will take place in relation to the protection of pre-broadcast signals under the proposed Treaty.
8. Discussions took place on the protection to be granted to the beneficiaries and delegations exchanged views on various approaches, which will be further examined at the next session of the Committee.
9. In relation to Article 9, a proposal was made in relation to the prohibition of unauthorized rebroadcasting of signals over the Internet to the extent of rights acquired by beneficiaries.
10. Discussions took place on the definitions contained in Article 5. Delegations exchanged views and the definitions will be further examined at the next session of the Committee.
11. The proposals on Articles 5, 6, 7, 9 and 12 discussed during the Session will be included in an Annex to document SCCR/24/10 Corr. and will be discussed further at the next session of the SCCR with the view to integrating them into document SCCR/24/10 Corr. based on a decision by the Committee.

Limitations and exceptions: libraries and archives

12. The Committee considered the “Working document containing comments on and textual suggestions towards an appropriate international legal instrument (in whatever form) on exceptions and limitations for libraries and archives”, document SCCR/26/3, and took note of the modifications made by the Secretariat based on the suggestions made in the 25th session of the SCCR.
13. It was recognized that libraries and archives are vital institutions, which aim to support and develop education and culture by offering well-organized access to works and information sources.
14. The Committee was reminded that the terms of the work program adopted by the 2012 General Assembly recommended that the SCCR continue discussion to work towards an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms), with the target to submit recommendations on limitations and exceptions for libraries and archives to the General Assembly by the 28th session of the SCCR.
15. Different points of view were expressed with regard to the nature of the appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms) referred to in the 2012 General Assembly mandate to the SCCR for text-based work. With regard to fulfilling that mandate, some Member States expressed interest in discussing national laws, capacity building, technical assistance, the development of studies, and the exchange of national experiences, while other Member States did not agree.

16. The Committee proceeded to discuss the topics in Document SCCR/26/3 in order, using a text-based approach. At this meeting, the Committee discussed Topics 1, 2, and 3, and initiated discussions on Topic 4.

17. The Secretariat was requested to arrange for the update of the Study on Copyright Limitations and Exceptions for Libraries and Archives (document SCCR/17/2) prepared by Kenneth Crews. The Secretariat was also asked to arrange for a separate study on limitations and exceptions for museums. It is understood that the preparation of these studies would not delay discussion on the limitations and exceptions agenda item on libraries and archives. These studies will serve as information resources for the Committee.

18. As to the topic of preservation, it was considered that in order to ensure that libraries and archives can carry out their public service responsibility for the preservation, including in digital form, of the cumulative knowledge and heritage of nations, limitations and exceptions for the making of copies of works may be allowed so as to preserve and replace works under certain circumstances.

19. As to the topic of the right of reproduction and safeguarding copies, concern was expressed regarding the scope of the concepts under consideration and the possible overlap with other topics. Suggestions were made to modify the title of the topic. The Committee considered that arrangements such as limitations and exceptions for libraries and archives, among others, play an important role in allowing the reproduction of works for certain purposes, including research. Further discussion took place concerning the supply and distribution of those reproduced works.

20. As to the topic of legal deposit, Delegations expressed differing views on the need to address this topic within the framework of limitations and exceptions.

21. As to the topic of library lending, the Committee recognized the importance of addressing this issue and various Delegations suggested different alternatives for providing this service, including the use of limitations and exceptions, the exhaustion of rights, and/or licensing schemes. The Committee expressed different views on digital distribution in the scope of library lending.

22. The working document, including new text proposals, will be a basis for the future text-based work to be undertaken by the Committee in its 27th session.

Limitations and Exceptions: educational and research institutions and persons with other disabilities

23. The Committee considered the “Provisional working document towards an appropriate International Legal Instrument (in whatever form) on Limitations and Exceptions for Educational, Teaching and Research Institutions and Persons with Other Disabilities Containing Comments and Textual Suggestions”, document SCCR/26/4 Prov., and took note of the modifications made by the Secretariat based on the suggestions made in the 25th session of the SCCR.

24. The Committee discussed and recognized the importance of the subject of limitations and exceptions for educational, teaching and research institutions.

25. Different points of view were expressed with regard to the nature of the appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms) referred to in the 2012 General Assembly mandate to the SCCR for text-based work. With regard to fulfilling that mandate, some Member States expressed interest in discussing national laws, licensing schemes, capacity building, technical assistance, the development of studies, and the exchange of national experiences, while other Member States did not agree. Different views were also expressed on which topics should be included in Document SCCR/26/4 Prov. and on how the document should be organized.

26. Several Delegations expressed the importance of distance education, digital learning, and cross-border exchange of works for educational purposes as efficient tools to be considered with respect to universal access to education and the use of the copyright system to contribute to that goal.

27. The Secretariat was asked to examine the available resources and if possible arrange to update the regional studies on limitations and exceptions for educational, research and teaching institutions, with the understanding that their preparation would not delay discussion on limitations and exceptions agenda item. The Secretariat was also asked to examine the possibility, consistent with available resources, of commissioning a scoping study on copyright and related rights limitations and exceptions for persons with other disabilities (than blindness, visual impairment, or print disabilities). These studies would serve as information resources for the Committee.

28. The provisional working document will be a basis for future text-based work to be undertaken by the Committee in its 27th session.

Other Matters

29. It was announced that the reports of the Stakeholders' Platform, documents SCCR/26/5 and SCCR/26/7, which were not discussed at SCCR/26, are available on the web page for SCCR/26.

30. Suggestions were raised for additional topics to be considered at future meetings of the SCCR.

Next Session of the SCCR

31. The Committee agreed that at SCCR/27 two and one-half days will be devoted to the agenda item on the Protection of Broadcasting Organizations, two days will be devoted to the agenda item on Limitations and Exceptions, starting with libraries and archives, and one-half day will be devoted to the preparation of conclusions and discussion of future work of the Committee and any other matters, including consideration of whether to hold an inter-sessional meeting on limitations and

exceptions for libraries and archives to comply with the goals established by the Committee.

[End of conclusions]