



# **WIPO COPYRIGHT DEVELOPMENTS: TREATIES AND SCCR**

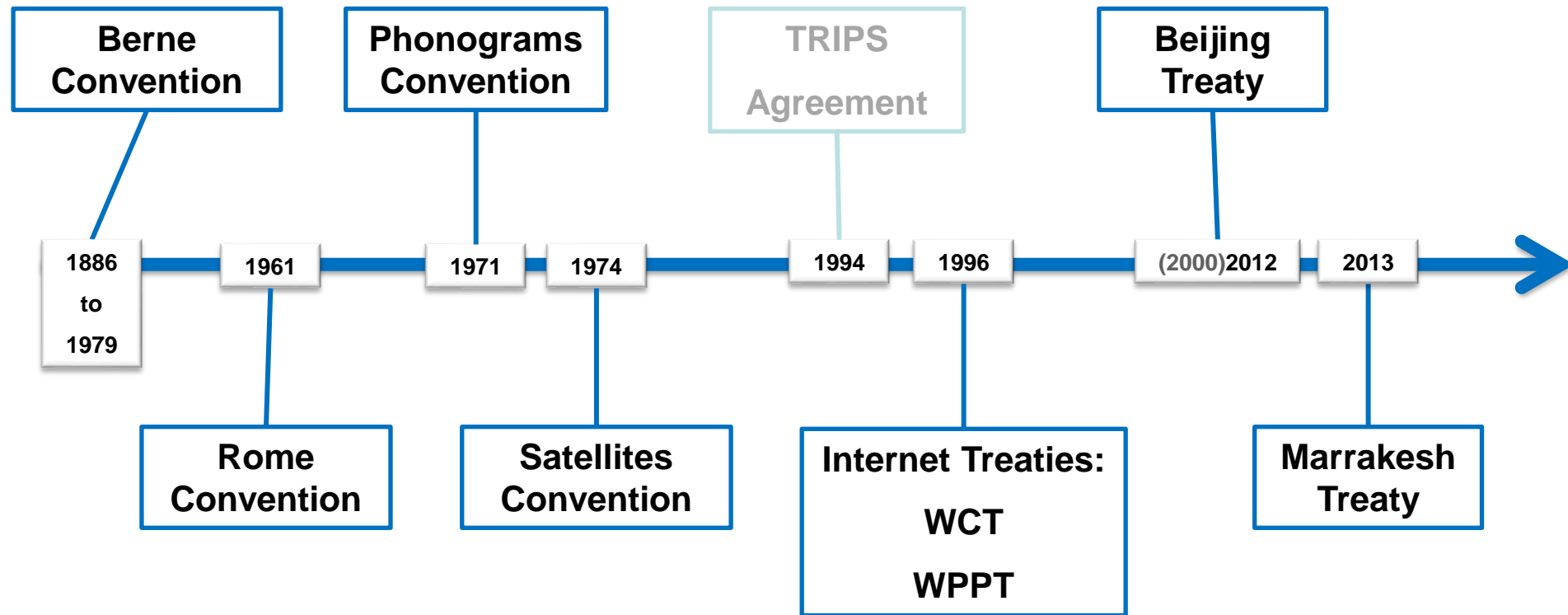
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# WIPO Copyright Mandate and Assistance

- Advocate for and explain the multilateral copyright system
- Technical assistance for joining WIPO copyright treaties
- Legislative advice for updating national copyright laws
- Technical assistance, capacity building and infrastructure for efficient collective copyright management
- Accessible Books Consortium and Publishers Circles public-private partnerships
- Possible treaty on the protection of broadcasting organizations
- SCCR ongoing negotiations and discussions on limitations and exceptions, issues related to copyright in the digital era, possible new topics

# International Copyright Legal Framework



# Membership of Certain Copyright and Related Rights Treaties

- Berne Convention (1886):
  - 179/193 WIPO members
- Rome Convention (1961):
  - 96/193 WIPO members
- WIPO Copyright Treaty (1996):
  - 110/193 WIPO members
- WIPO Performances and Phonograms Treaty (1996):
  - 109/193 WIPO members
- Beijing Treaty on Audiovisual Performances (2012):
  - 42/193 WIPO members
- Marrakesh Treaty (2013):
  - 80/193 WIPO members (covering 106 Member States – EU joined as a block)

# Recent Treaty Milestones

- The near-universal **Berne Convention** is second only to the WIPO Convention in the number of contracting parties for WIPO treaties
- The **Beijing Treaty** entered into force in January 2020 with 30 ratifications/accessions, it now has 42
- The Internet Treaties – the **WCT** and **WPPT** – both reached the threshold of more than 100 contracting parties in 2019 and numbers keep increasing
- The **Marrakesh Treaty** is the fastest growing WIPO treaty in the modern era; it gained over 100 contracting parties in record time

# Support for Treaty Membership

- Frequent reason for legislative assistance requests
- Missions/webinars for stakeholder or parliamentary consultations
- Implementation seminars and workshops
- Support for formation and operation of collective management organizations

# Legislative Assistance

- Based on Member State requests: “demand driven”
- Confidential on WIPO side
- Ranges from drafting first copyright law to updating law to comply with latest treaties, drafting CMO regulations
- Average current capacity is about 30 projects per year including CMO advice to Member States
- Increasing demand

## Directors General of WHO, WIPO and the WTO Agree on Intensified Cooperation in Support of Access to Medical Technologies Worldwide to Tackle the Covid-19 Pandemic





# SCCR/41: COVID-19 Info Session

## Agreed

- INFORMATION SESSION 27. The Committee requested the Secretariat to organize a **half-day information session** on the topic of the impact of Covid-19 on the **cultural, creative and educational ecosystem, including copyright, related rights, and limitations and exceptions**, during the week of the forty-second session of the Committee. During the session, **following presentations from experts, Member States will have the opportunity to exchange views and experiences.** This process will be guided by a **holistic and balanced approach**. The information session will be **separated from the rest of the agenda** during the forty-second session.

# SCCR/41 Status in the Midst of the Pandemic

- One meeting this year: June 29-July 1 (archived webcast: <https://webcast.wipo.int/>)
- “Hybrid” but largely remote
- Member State reluctance to have remote substantive negotiations or discussions
- Annotated agenda agreed in advance for “truncated” session
- Next meeting(s) will be held in 2022
- Many documents:  
[https://www.wipo.int/meetings/en/details.jsp?meeting\\_id=63929](https://www.wipo.int/meetings/en/details.jsp?meeting_id=63929)
- Chair’s Summary:  
[https://www.wipo.int/edocs/mdocs/copyright/en/sccr\\_41/sccr\\_41\\_summary\\_by\\_the\\_chair.pdf](https://www.wipo.int/edocs/mdocs/copyright/en/sccr_41/sccr_41_summary_by_the_chair.pdf)

# SCCR/41 Agenda

- Protection of broadcasting organizations
- Limitations and exceptions
  - Libraries and archives
  - Education and research institutions
  - Other disabilities (than print disabilities)
- Other matters
  - Analysis of copyright related to the digital environment
  - Resale right
  - Rights of theatre directors
  - Public lending right

# Protection of Broadcasting Organizations



# Broadcasting Organizations

Rights of broadcasting organizations are recognized because their **financial and organizational resources** are necessary to disseminate content to the public.



Late 30's – Broadcasting boom!

# Broadcasting: 2007 Mandate

- *“...[T]o negotiate and conclude a WIPO Treaty on the protection of broadcasting organizations, including cablecasting organizations. The scope of the Treaty will be confined to the protection of **broadcasting and cablecasting** organizations in the **traditional sense**.”*
- *The “SCCR should aim to agree and finalize, on a **signal-based approach**, the **objectives**, **specific scope and object of protection**.”*

# Broadcasting – 2019 General Assembly Recommendation

In view of the steady progress made in recent SCCR sessions, the GA invites the SCCR to **continue its work towards convening a diplomatic conference for the adoption of a treaty on the protection of broadcasting organizations, aiming for the 2020/2021 biennium, subject to Member States reaching consensus in the SCCR on the fundamental issues, including specific scope, object of protection and rights to be granted.**

# Some Broadcasting Draft Treaty Articles

- Definition of Signal
- Definition of Broadcast
- Definition of Transmission
- Scope of Application
- Beneficiaries of Protection
- National Treatment
- Nature of Protection for Broadcasting Organizations
- Limitations and Exceptions
- Term of Protection
- Encryption; Rights Management Information; Technological Protection Measures



# Some Key Issues That Have Been Discussed:

## ■ *Revised Consolidated Text on Definitions, Object of Protection, and Rights to be Granted:*

- Definitions
  - Deferred transmission
  - Broadcasting / cablecasting organizations
- Object of Protection
  - Cablecasting Organizations – opt in, opt out, another solution
- Rights to be Granted/Protection
  - Single right to authorize or prohibit (re)transmission
  - Application to pre-broadcast signal

# Some Issues to Be Discussed Further

- **Deferred transmission/post-fixation of signal**
- Term of protection
- Limitations and exceptions
- Technical protection measures
- Rights management information
- Overall: Broad or narrow, traditional or new approach

# What's Next?

- Status of Chair's text with Acting Chair
- Previous General Assembly reference to a diplomatic conference during 2020-21: now 2022-23?
- 2021 General Assembly
- Resume negotiations in 2022?
- Continued informal discussions

# Limitations and exceptions

- Libraries, archives and museums
- Education and research institutions
- Persons with other disabilities

# L&E Action Plans Through 2019

- **LIBRARIES, ARCHIVES, MUSEUMS, EDUCATION:**  
Regional seminars and conference; typologies and studies
- **EDUCATION AND RESEARCH INSTITUTIONS:**  
Regional seminars and conference; typology and study on digital issues
- **DISABILITIES:** Update and expand study and hold side event

# Regional Seminars and Conference

- Asia and Pacific Group – Singapore, April 2019
- African Group – Nairobi, June 2019
- Group of Latin American and Caribbean Countries – Santo Domingo, July 2019
- Conference before SCCR – October 18 and 19, 2019

# What's Next

- Report on seminars and conference given by Secretariat at SCCR/40
- Discussion of next steps on related agenda items by Member States – time limited with no substantive discussions on next steps at SCCR/40 and SCCR/41, will there be time at SCCR/42?

# Other Matters

- Analysis of copyright related to the digital environment
- Resale right
- Rights of theatre directors
- Public lending right study proposal
- Any other business



# Other Matters – Copyright in the Digital Environment

- Many interrelated topics:
  - “Value chain” and “value gap”
  - Transparency
  - Efficient functioning of CMOs
  - Cross-border issues
- Goal is a discussion not a treaty - proponents
- Strong stakeholder interest

# Music Study >>> Music Studies

- *“..the Committee welcomed the proposal of Brazil that a further study be undertaken, focused on digital music services in the initial stages, which could be followed later by complementary studies on audiovisual and literary works.”*
- First phase of study presented at SCCR/39
- Next phase with five studies presented at SCCR/41
- Next steps to be discussed at SCCR/42?

# Other Matters – Droit de Suite/Resale Right

- Ensuring compensation to visual artists (creators of visual art works, e.g. paintings, sculpture)
- Proposal from Congo and Senegal to include topic in the agenda
- International campaign (study by Prof. Sam Ricketson)
- Support from Member States from different regions and 2016 conference
- Concern: allocation of time during SCCR, no time to progress



# Optional Article 14ter Berne Convention

*(1) The author, or after his death the persons or institutions authorized by national legislation, shall, with respect to original works of art and original manuscripts of writers and composers, **enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer by the author of the work.***

*(2) The protection provided by the preceding paragraph may be claimed in a country of the Union only if legislation in the country to which the author belongs so permits, and to the extent permitted by the country where this protection is claimed.*

*(3) The procedure for collection and the amounts shall be matters for determination by national legislation.*

# Other Matters – Resale Right

- *“...set up a task force of Members and stakeholders to report back to the Committee regarding the practical elements of the artists’ resale royalty right.”*
- The task force will provided an interim report at SCCR/41
- Next steps TBD

# Other Matters – Rights of Theater Directors

- Proposal from the Russian Federation tabled during SCCR/35
- Scoping study presented at SCCR/41
- Next steps?

## Other Matters – Public Lending Right

- Proposal for a scoping study tabled by Sierra Leone, Panama and Malawi during SCCR/40
- Proposal renewed at SCCR/41
- WIPO Magazine article on PLR:  
[https://www.wipo.int/wipo\\_magazine/en/2018/03/article\\_0007.html](https://www.wipo.int/wipo_magazine/en/2018/03/article_0007.html)



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