

18 December 2013

**WIPO Standing Committee on Copyright and Related Rights 26th Session
Working Documents for a Treaty on the Protection of Broadcasting
Organisations**

The British Copyright Council represents those who create, hold interests or manage rights in literary, dramatic, musical and artistic works, performances, films, sound recordings, broadcasts and other material in which there are rights of copyright and related rights.

The BCC represents organisations of creators, performers and other right owners working primarily in the creative and cultural industries. Within those industries, our members create for, develop, or work with digital media. They are leaders in digital communication and distribution, for example, advertising, journalism and publishing. All provide creative content for use on-line or in digital formats; for example, music, film, software and games design, as well as in more traditional formats and media industries as well as to the sophisticated markets they support.

The British Copyright Council is an NGO Observer Member of WIPO.

**Statement from the British
Copyright Council**

The working documents now presented to the Committee are welcome in the focus that they help to provide for the debate which will be needed to agree the definitions that will prescribe the scope of the Treaty.

These definitions must provide for clear and transparent distinctions between the protections to be afforded by the new Broadcasting Treaty and the rights relevant to copyright works and related rights applicable to material licensed for use within a broadcast.

The definition used to describe the restricted act of “broadcasting” relevant to literary and artistic works must not be lost in attempts to prescribe new rights relevant to the electronic transmission which is recognised as a “broadcast” in its own right.

It is the elements that distinguish a “broadcast” from other forms of electronic communication to the public or the making available of a work on-demand that must lead the rights to be recognised under the Treaty.

The extent to which an electronic transmission that amounts to a “broadcast” (by meeting agreed definition) will then provide a platform to decide whether or not authorised “retransmission” or “relay” may or may not amount to a “new” “broadcast” in its own right, must then be considered.

Central to the issue of relay and retransmission is whether a “broadcast” in technical terms can really ever be “repeated”?

In terms of retransmission, a new “broadcast” may then be deemed unauthorised because it infringes the rights of all those recognised within the fixation from which the “unauthorised” broadcast or other unauthorised electronic communication takes place.

In each case a “broadcast” is a unique electronic transmission in which rights can exist.

Only if that unique “signal” is captured or relayed in some form will the rights in a

broadcast become a reality for future copyright use.

Whilst the broadcast will then be one of the copyright elements that are relevant in deciding whose rights are infringed as a result of unauthorised fixation, it is important that it is the capture or relay of the broadcast at the time that it was made which will then enable the important rights under discussion in the draft Treaty to be realised.

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