

29th April 2014

**WIPO Standing Committee on Copyright and Related Rights 27th Session
Proposal 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 British Copyright Council is an NGO Observer Member of WIPO.

**Statement from the British
Copyright Council**

The British Copyright Council recognises the importance of the proposed Treaty on the protection broadcasting organisations leaving intact and not in any way affecting the protection of copyright or related rights in the subject matter carried by broadcast signals.

However, the practical reality of the way in which copyright owners license, or even entrust the exercise of specific rights to broadcasting organisations under licences, forms a vital backdrop to the protections that are being debated for the new Treaty.

This practical balance should provide a focus on just how the overall interests of rights owners are affected when a licensed signal is used or fixed by parties who are not authorised to receive it.

The damage to this agreed licensing regime and the practical damage that is caused when unauthorised third parties proceed to make use of the fixed signal and its contents for uses that were not agreed under the licences that support the signal being created in the first place, needs to be borne in mind.

An ability for a broadcasting organisation to prevent the misuse of its signal is therefore important for all rights owners who lie behind authorisation of the signal. Of particular importance is the right for the owner of a broadcast signal to consent to the fixation of the service supported by the signal and therefore oversee approval and authorisation for any fixation subsequently being made available for on demand use.

In addition to protecting the rights in the signal, this consent and approval must, under existing copyright laws, reflect the extent of licences that have been secured in underlying rights.

The owner of the signal is also well placed to provide a point of coordination in identifying the misuse and seeking to take action against this, not instead of underlying rights owners, but to a large extent as a support for such interests, by supporting and seeking recognition for the extent of content licences granted to the broadcasting organisation in the first instance.

The reality is that, once a signal is fixed, its life as a “new” signal is over. However, the form in which it is fixed needs to be able to be authorised. If it is not authorised, the owner of the signal needs to be able to do something about it, not just to protect its own interests, but also the interests of those who entrusted their own rights to the broadcaster.

However, in providing for this protection, it is also important that the opportunities for underlying rights owners to continue to assert their own exclusive rights or rights to receive equitable remuneration from broadcasters who are authorised to relay or use fixations of broadcasts, are not diminished or affected.

It seems clear that this is recognised, but it must not be forgotten.