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**WIPO SCCR/29 – 9 December 2014**  
**Working Document for a Treaty on the Protection of Broadcasting Organisations**

**Statement from the British Copyright Council**

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

As such, the British Copyright Council recognises the significance 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. It is in this context that the British Copyright Council emphasises that the protection of broadcast signals should depend on respect for copyright in that subject matter. Respect includes ensuring that broadcasters have all relevant licences to broadcast the underlying content in their signals.

But as was noted yesterday, greater International recognition for the protection of broadcast signals appears to be a gap within the International Framework for recognition of copyright and related rights. It is a gap that is being used by those who wish to sidestep the legitimate interests of copyright owners in an increasingly technological world. However, it is also a gap which must not be filled by one set of rights replacing others but instead be filled in a way that complements their effective application in the future.

The way in which rights in broadcasts are already recognised by some Member States within a working copyright framework is surely an indication that the consensus in support of a Treaty is the basis for future practical realities.

The renewed focus on definitions is extremely welcome, because it is enabling a focus on the type of signals which are vulnerable to unauthorised access. That unauthorised access undermines not only the value of the services provided by broadcasting organisations but also the value of rights carried by the signals issued by broadcasting organisations.

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

Technical demonstrations of the range of electronic signals that it is now possible for a broadcasting organisation to emit, seem important to show how the same service can be interrupted by unauthorised users in increasingly sophisticated ways. The end result of such interruption is usually the same. The value of the service and therefore the value of rights carried by the service is undermined.

So in looking at the protection of signals, we are surely looking at identifying suitable windows that can be broken by unauthorised use. Once a signal is “fixed” that signal is no more. Retransmissions of the fixation will involve new signals. It is that structure which any Treaty will need to accommodate and put in the context of the wider international copyright framework.

Therefore keeping the definition of “broadcast” distinct from the broadcasting organisations who may be recognised as owners of relevant rights that can be recognised in a broadcast (distinctly from other underlying rights owners) will be important. If this is not done, some organisations who are not in our minds genuine beneficiaries of the rights could, so to speak, “seize” the signal, and undermine the very structure that it is hoped to build.

An ability for duly defined and recognised broadcasting organisations to be in a position to prevent the misuse of a separately defined groups of signals is therefore important for all rights owners who lie behind authorisation of the signal.

In addition to protecting the rights in agreed signals, this consent and approval must, under existing copyright laws, reflect the extent of licences that have been, or should be secured in underlying rights (see paragraph 2 above on respect for underlying rights).

This does not mean to say that recognition of such rights somehow prevents recognition of the rights from being applied alongside the whole range of regulatory issues that are relevant to the operations of what we currently understand as being “traditional broadcasting organisations”.

It is to be hoped that the current focus on definitions and scope of protection and the elements of those concepts will support an important copyright balance being preserved for the benefit of all rights owners in the future, whilst also dealing with the “gap” in the International Framework which is being addressed.

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