

# CIS's Statement at SCCR 24 on the WIPO Broadcast Treaty

*Centre for Internet and Society* | 2012-07-23

Pranesh Prakash

*This was the statement read out by Pranesh Prakash at the 24th meeting of the WIPO Standing Committee for Copyright and Related Rights in Geneva, on Monday, July 23, 2012, specifically on the Chair's Non Paper on the Protection of Broadcasters which was released this morning.*

---

Thank you, Madam Chair.

The Centre for Internet and Society would like to thank the Japanese, South African and Mexican delegations, as well as the Chair for their hard work on this text before us.

We wish to reiterate the statement on principles provided in the 22nd SCCR by many civil society non-governmental organizations, cable casters and technology companies opposing a rights-based Broadcast Treaty, and would like to associate ourselves with the statements made today by the CCIA, EFF, IFLA, LCA, eIFL, KEI, and the Internet Society.

I have a longer statement, which I will mail in later, but will read a shorter version now.

## **Why Do We Need Protection for Broadcasters?**

Broadcasters make three kinds of investments for which they are protected. They invest in broadcasting infrastructure, they invest in licensing copyrighted works, and they at times invest in creating copyrighted works. The first investment is protected by 'broadcast rights', and the latter two investments are already protected by copyright law. So it is probably the first investment alone that needs to be protected, but the Rome Convention already does precisely that.

## **Broadcasters Already Protected Online**

Importantly, the investments to be made in infrastructure for Internet-based transmission is insignificant, and hence Internet-based transmission should not be covered by this treaty, even if it is retransmission over the Internet, and even if it is traditional broadcaster which is transmitting over the Internet. Technology-neutrality should not be taken to such an extent as to forget why

we are granting additional protection to broadcasters, which is to protect their investments.

## **Broadcasters Can Already Sue for Copyright Violation**

The Motion Pictures Association in its statement just now mentioned "cause of action" as something that this treaty seeks to protect: that is, to allow broadcasters to have a standing to sue for copyright violation. The fact is that most, if not all, legal systems already allow for licensees — like broadcasters — to have cause of action for infringement. A global treaty is not needed for that.

## **Inconsistencies in Chair's Non Paper**

Lastly, there are many inconsistencies in the Chair's non-paper: while it proclaims that it only extends protection to broadcast signals, and not the subject matter carried by such signals, the rest of the document does not follow that principle. Fixation cannot be covered in a signals-based treaty, nor does it make any logical sense to provide 20 years of protection for a signal that lasts for milliseconds. As the delegates would recall, the General Assembly's mandate was for a signals-based approach, and not for a rights-based approach.

Thank you, Madam Chair.