

# Statement of CIS on the WIPO Broadcast Treaty at the 23rd SCCR

*Centre for Internet and Society* | 2011-11-29

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*The twenty-third session of the Standing Committee on Copyright and Related Rights is being held in Geneva from November 22, 2011 to December 2, 2011. Pranesh Prakash delivered this statement on a new proposal made by South Africa and Mexico (SCCR/23/6) on a treaty for broadcasters.*

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

We wish to reiterate the statement on principles provided last SCCR by many civil society non-governmental organizations, cable casters and technology companies opposing a rights-based Broadcasting Treaty, and would like to associate ourselves with the statements made today by Public Knowledge, Computer & Communications Industry Association, Knowledge Ecology International, International Federation of Library Associations, and the Canadian Library Association.

## **Broadcasters Already Protected Online**

Broadcasters make two kinds of investments for which they are protected. They invest in infrastructure and they invest in licensing copyrighted works. The first investment is protected by 'broadcast rights', and the latter investment is protected by copyright law.

Broadcasters, being licensees of copyrighted works, generally already have rights of enforcement insofar as their licence is concerned. Therefore there is no need to provide for additional protections with regard to broadcasters in order to enable them to proceed against acts that violate existing copyright laws: they already have those rights by way of licence. This is often forgotten when talking about rights of broadcasters.

The investments to be made in infrastructure in traditional broadcast and in IP-based transmission are very different, even if it is the same 'traditional broadcasters' who are indulging in both. Given that this investment is the basis of additional protection for broadcaster over and above the rights provided to underlying copyright, IP-based transmissions should not be covered in any way even if it is traditional broadcast organizations that are engaged in them.

Providing new and separate rights to large broadcasters for their online transmission, as is currently being done via the provision on 'retransmission' while excluding small webcasters will create a hierarchy and a class distinction without any basis in either principle or existing laws.

### **Support Countries' Concerns**

We also wish to support the amendments suggested by the Indian delegation. As we were reminded by the Indian delegation, the General Assembly mandate of 2007 only extends to traditional broadcasting and to a signal-based approach. In this regard, we also wish to support the question posed by the United States delegation between signal-based and rights-based approaches, as also the strong statement by the Brazilian delegation on the need to ensure that cultural diversity and competition are protected and promoted by any international instrument on broadcasting, and we would like to add 'preservation of a vibrant public domain' as provided by Paragraph 16 of the WIPO Development Agenda.

Thank you, Chair.