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Excerpts of SCCR 44 Delegate Statements

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EXCERPTS OF SCCR 44 DELEGATE STATEMENTS

Sean Flynn and Andres Izqueirdo

ABSTRACT

The World Intellectual Property Organization’s Standing Committee on Copyright and Related Rights (SCCR) held its 44th meeting November 6-8, 2023. This post includes excerpts from the public statements made by country or regional delegations during the meeting. See also PIJIP’s [Analysis of the Conclusions of SCCR 44](#).

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I. DAY 1 – MONDAY, NOVEMBER 6, 2023

Opening Statements by Group Coordinators

A. Ghana (African Group)

L&E

“The group recalls the African Group proposal on limitations and

exceptions from SCCR 43, adopted by the Committee following amendment by member states. ... [The SCCR 44 African Group SCCR 44] submission outlines the methodology [to advance the limitations and exceptions work plan]. The group looks forward to the committee's adoption of its proposal for the implementation of the workplan."

Broadcasting

"It is noted that the protection of broadcasting organisations has been on the WIPO agenda for 25 years and discussions of the subject have not progressed at [sufficient] pace. The African Group in principle supports the protection of broadcasting of organisations. [The AG supports] a signal-based framework based on a balanced approach that enhances the protection of the international system of broadcasting organisations and at the same time provides the necessary and appropriate [limitations] and exceptions to the right protection... The African Group, therefore, looks forward to the treatment which provides access to knowledge and information for the benefit society."

Preservation toolkit

"The group noted the delay in uploading [the preservation toolkit]. [We encourage] the Secretariat to implement the toolkit fully and ensure the wider dissemination through any other means and use it to provide technical assistance to member states."

Copyright in digital environment

"While looking forward to in depth discussions on the important topic of copyright related to the digital environment, we encourage the SCCR to continue its excellent work and reaffirm our commitment to contributing to the discussions of this session. The group remains committed to working towards a balanced international copyright framework that forces creativity, innovation and access to knowledge for all."

B. Netherlands (Group B)

Broadcast

"We stand ready to provide constructive comments during the informal meetings, practical and meaningful solutions needed to address the challenges faced by broadcasting organisations."

Rachel Study

"We have taken note on the scoping study of challenges of research institutions and research purposes in relation to copyright document SCCR/44/4. We look forward to the presentation of the findings and hope to have the opportunity to provide input at the next session."

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L&E

“Group B continues to welcome activities on limitations, in particular [in the form of] guidance and direction to member states in designing appropriate legislation and policies at the national level within the existing international framework. On that note, we look forward to discussing the initial steps for the implementation of the work program on exceptions and limitations [adopted in] document SCCR/43/8. You can count on the full support and constructive engagement of the Group B delegations to continue the fruitful and interesting discussions taking place in this important committee.”

C. Venezuela (Bolivarian Republic of) (GRULAC)

L&E

“On exceptions and limitations GRULAC notes the work program submission by the African group last Friday which is currently being analyzed in capital. We recognise that the existence of exceptions and limitations is an integral part of copyright. We recognise the need to update some exceptions and limitations in order to accompany the new uses and the work in the digital environment.”

Broadcasting

“We welcome revision 3 of the treaty document and we urge members to work in a pragmatic manner, particularly as to the scope of the treaty in order to reach a decision on this, which would allow us to make room in the agenda for other issues.”

Copyright in digital environment

“[Copyright in the digital environment] is pertinent in all countries of the world, both the South and the rest of the world. Consequently, we would encourage that this issue become a permanent part of the agenda of the committee, and this is in line with the current focus of WIPO on new technologies, and emerging technologies. GRULAC recognises that the original proposal must be broadened, and we need to look at AI and other issues within the committee. ... We are delighted to inform you that we are currently working on a work program which GRULAC hopes to submit at the next meeting of the SCCR 45.”

D. Iran (Islamic Republic of) (APG)

Broadcasting

“The group reiterates its belief that whether and how IP rights should apply with respect to broadcasting is a development issue that requires a delicate balance. Most members of APG would like to make

headway in implementing the 2007 general assembly mandate, aiming to agree and finalise a balanced treaty to provide protection and a signal-based approach for cable casting and broadcasting in the traditional sense. Other members of the group may also have a different viewpoint in accordance with their national positions. ... [M]ost of the members of the group believe that appropriate limitations and exceptions should apply and be reflected in the draft text, particularly in providing access to broadcast content for educational, cultural and research purposes.”

L&E

“The group is looking forward to constructive discussions [of] the updated version of the [USA] document on objectives and principles for exceptions and limitations for libraries and archives.”

“We would also like to take note of the draft proposal by the African Group for the implementation of the work program on exceptions and limitations adopted at the 43rd session of the WIPO SCCR.”

Copyright in digital environment

“With respect to the proposal on music and streaming and digital markets and the proposal to analyze copyright with relation to the digital environment, the group is looking forward to further discussions and learning from best practices that will be shared by member states.”

E. Poland (CEBS)

Broadcasting

“We believe that different types of transmissions of broadcasting organisations, including those of a competing network, should enjoy international protections from acts of piracy. We welcome changes introduced by the third revised text. In our opinion, some changes raise doubts and [others] bring us closer to developing a text acceptable to all parties.”

L&E

“The CEBS group would like to express our readiness to constructively discuss the limitations and exceptions for libraries and archives as well as for educational and research institutions and persons with other disabilities. ... [It is also] in the special interest of the CEBS group that global copyright infrastructure will ensure access to persons with disabilities in both analogue and digital

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frameworks. ... We also welcome the possibility of exchange of best practices in this regard. At the same time, we should continue exploring the already existing solutions within the flexible framework of the international treaties without the need for another international binding instrument.”

“We take note of the document by the committee of the revised proposal by the African Group for a draft program on exceptions and limitations. The proposed [...] document offers an opportunity for further discussion. [W]e believe that SCCR should focus on points one to three of the work program before we open the discussion on other matters.”

Research Study

“We look forward to receiving further information from member states, especially with regard to existing cross-border problems linked to specific uses of copyright works in the online cross-border environment.”

F. Tajikistan (CACEEC)

Broadcasting

“We take into account the technological advancements and challenges in the changing environment and therefore we know that there is an urgent need to complete the global treaty aiming to protect the broadcasting organisations from piracy.”

L&E

“In this regard, we would like to thank the African Group for its proposal for a draft on exceptions and limitations. We acknowledge the importance of access to knowledge and information for the benefit for all stakeholders, private and public.”

G. China (China)

Broadcasting

“We still have not reached consensus on outstanding issues but we are glad to see that the chair and Vice-Chairs have prepared the third version of the proposal to update various issues, including the exceptions and limitations and various issues which provide a solid foundation for the discussion in the meeting.”

L&E

“We hope that we can sort out the priorities based on the proposal of the African regime to make workable plans. ... We hope based on this solid foundation we will continue to seek common understanding to push for the progress of all items.”

II. AGENDA ITEM 5: PROTECTION OF BROADCASTING ORGANIZATIONS

Third Revised Draft Text for the WIPO Broadcasting Organizations Treaty (SCCR/44/3); prior related documents are available on the meeting page at https://www.wipo.int/meetings/en/details.jsp?meeting_id=78391

A. CHAIR

“For those of you that read the chair text closely, you will know that I inserted a couple of chairs notes. And the spirit behind those is simply to help the committee in its reflections and its work by acknowledging that there are some issues that are unlikely to be resolved in this committee, given that there are divergent views on the way forward. You will see that I have identified two issues where we felt that is the case. The first issue relates to transmissions over computer networks. My assessment is that there are divergent views in the room on the appropriate scope of an international instrument as it relates to transmissions over computer networks. The second relates to limitations and exceptions. There are divergent views in the room related to whether the limitations and exceptions are permissive in nature, as currently reflected in the chair text, or whether they should be compulsory in nature.”

B. JUKKA LIEDES, *Facilitator*

Broadcasting

“I will go through in a short way the main changes in the package. ... The conceptual basis of the document has been kept and maintained the same as in the second revised version. The philosophy has been to maintain a draft document that provides for sufficient protection against piracy, not more protection than necessary and not less than needed.”

“And the philosophical [approach] and principles have been to keep it as technologically neutral as possible, to introduce a signal [protection] which has really been emphasised by a number of groups, maintain clearly the distinction of the protection of content and protection of the carrier. We are now talking about the protection of the carrier. And provide a new minimum level of protection, irrespective of what is established by the 1961 Rome Convention. This is not a special agreement under article 22 of the Rome Convention.”

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“And then in the middle of the instrument, there is a clause, article 10, which builds a bridge between those two schools of thought -- more exclusive rights and other kinds of protection.”

“In the article on definitions there are two technical, but more substantial, changes. In the definition of broadcasting organisation, a sentence has been added according to which the output [of the signal] is forming a linear program flow. So, it was not added to the definition of broadcasting, but in the definition of broadcasting organisation, if the program flow is not linear, then the organisation is not in that case a broadcasting organisation.”

“In the definition of stored programs, the definition has been extended. Previously it contained and referred only to post transmission catch up, now it also includes the pre-transmission making available of the program materials. In fact, the signals used in the making available. So, we take a step forward. In the article on scope of application, the broad possibility to make a reservation in the beginning of that article has been removed.”

“The protection granted under this instrument is independent of the copyrightability of the subject matter carried by the program carrying signals. For instance, if a sports event is the content, and the content of the sports event is not protected, it doesn't remove the protection of the broadcasting organisation, and thus also the sports economy will get indirect protection through this proposed draft treaty.”

“In article 6, right of retransmission, in fact in the notion of retransmission itself, not much has happened. Now we are talking about retransmission to the public and the phenomenon has also been defined as retransmission to the public at request of some member states. And as in article 6.2, a possibility for a narrow reservation has been added. A contracting party could exclude from the right of free transmission the transmissions of a computer network which are not simultaneous with the transmission of radio waves by the same broadcasting organisation. So, this is narrower, applicable only to pre-transmission or webcast, and leaves the rights of fixation and protection of signals and pre-broadcasting signals intact.

On fixation, in the article itself is in the legal text, no changes have been made. But then in the explanatory notes, one important piece of explanation has been added. In the notes, they now make clear that the direct upload is covered. It is clear that the direct upload of a signal is also fixation. No post-fixation rights are covered but the fixation itself, and when the fixation takes place, the signal is still a live signal, and it ceases to exist immediately after the fixation. So, we take a step again forward.”

“And in article 8, again only one small refinement has been made in the legal text itself. The expression deferred has been deleted from the heading of the article. It is not only the post transmission - it covers not only post-transition catch up but pre-transmission making available. Or access.”

“Article 10, some reorganisation has been made. The possibility to make a choice of other adequate and effective protection than the rights-based approach, that choice must be made by a notification to the Director-General of WIPO. That element has been moved to the beginning of the article. To emphasize the value and the acceptance of an equal value of that solution compared to the rights-based approach. The second paragraph, the list of measures that the other adequate and effective protection shall consist of is now a closed list. In the previous version it was an open list and it attracted some criticism which was justified. Now it is a closed list.”

“The last paragraph is saying that when a contracting party makes the choice of other adequate and effective protection, it makes the notification to the Director-General of WIPO.”

“Limitations and exceptions, now it is made clear that the first paragraph on inclusion and exemplification of allowed uses - that it is not a closed list. [Countries can] have other limitations and exceptions. One item from the exemplification, the last one which referred to the must carry, has been deleted. ”

“In the previous version, the formula was open. All enforcement measures were available, and there was an obligation to use all enforcement measures. Now it is a focused enforcement clause, concerning this instrument and the rights and protection there. And the previous paragraph 17.3 has been deleted. 17.3 corresponded to the clause in article 41.2 in the TRIPS agreement.

“...And of course the main point, there is now a suggested broad transmission. Rebroadcasting is a phenomenon that practically almost does not exist anymore. All of this takes place over a cable or a computer network or by organisers of those.”

“Right of fixation is suggested to be one of those rights, the protection of life signals is also recognised in the Rome convention in half of the member states of WIPO, it is commonplace. The established convention is a new element of protection in the treaty. Ignoring the pre-transmission available signals, production of pre-broadcasting is a new phenomenon. That clause has to be made better. ... Provisions of technological protection measures and rights management information would become applicable also concerning the broadcasting organisations rights and protection. And then there is, for the moment, a broad national treatment on internationalisation of the protection which exist in different member states. It would make

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it possible to make it even more effective to have even more protection and favour such approaches.”

[INFORMAL NEGOTIATIONS OCCUR]

III. DAY 2 – TUESDAY, NOVEMBER 7, 2023

A. *Protection of Broadcasting Organizations*

CHAIR:

“I feel [the informal meeting] was an opportunity to map the areas where there remain outstanding substantive decisions to be made. And so I think it was a good opportunity to really hone in and identify what those are. ... I believe that there is broad agreement by the Committee on pursuing an instrument that is narrowly focused on signal piracy. And that instrument should provide flexibility to Member States to promote adequate and effective legal means. And, to put it differently, I believe there is agreement by the Committee to pursue an instrument that bridges copyright-based approaches to this problem, as well as signal-based approaches to this problem.

“I also believe that there is broad agreement that any instrument should be limited to the transmission of program carrying signals and that it should not extend to any post fixation activities. Likewise, there is agreement that what we are talking about is program carrying signals that are part of a linear broadcast flow.

“So, when I step back and look at our work, what do I think of the sticking points are outstanding? The decisions to take? The first is this question around, "Should there be, and if so what is the level of application to transmission over computer networks?" For those of you following the discussion, clearly there is a decision to be made with respect to that question.”

“The second is – I would frame it as a question about the overall scope of protection, specifically as it relates to storied programs and pre-broadcast signals. And again, for those following the discussion, clearly there is a decision to make about whether any instrument should be narrowly focused on, for lack of a better term, the point of fixation, the point at which a signal is pirated as part of a live broadcast, or whether it should more broadly apply to the value chain as it relates to stored programs and pre-broadcasting. And the third thing is, the third decision to be taken is the approach to limitations and exceptions. And specifically, as it relates to current international instruments.

“My intention as Outgoing Chair would be to update the third revised Chair's Text and leave you with a clean version that addresses the

technical issues that we discussed in informals yesterday.

I think this Committee needs to decide what the way forward on broadcasting is. And while I would not suggest that the current text is perfect, I do believe that there is generally good understanding of the points of agreement, and what are the outstanding sticking points that are unlikely, quite honestly, to be resolved through technical expert level discussions like this. And so, in light of that, it is really up to you to decide what to do with that information.”

BRAZIL

“Just a quick reminder to the whole plenary that yesterday was a good exercise of consensus bridging, but in the view of this delegation, there is enough evidence that the space of consensus is still in the making.... I do think that all delegations will be up to the challenge of taking this on board at the General Assembly to accept and probe what will be the future of this organisation.”

B. Limitations and Exceptions

Ghana (African Group)

“We would like to mention that the content of this proposal for implementing the work program is not entirely new to the committee. The African Group's proposal highlights on four of the work programs. Against this back and would like to present our proposal, for the three priority issues for limitations and exceptions listed paragraph 2 of the work program. Our proposal is to unpack the actionable points, paragraph 4 of the work program, concerning working groups. It sets out the conversation methodology and program, such as working groups. Bearing in mind the usual WIPO standards. Considering the work of the program is in the Secretariat's, view, we look forward to them sharing the sessions and presentations by selection of experts. The selection of experts must be done, taking into account geographical and gender balance. The topic should be based on the following. Limitations and exceptions, for text and data mining research, taking into account new developments in this area. Cross-border applications in terms of reservation, teaching and research. The UNESCO recommendations on open science, 2021, and its implications for international copyright laws and policies. And the model for protection of limitations and exceptions from overriding terms in contracts, safe and harboring protections for educational and research and cultural heritage institutions and their agents. An exception to technical measures of protection and rights, management information, to protect users permitted by imitations and exceptions.”

Netherlands:

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“Group B continues to be interested in work on limitations and exceptions vertically as it looks at the best practice for libraries, archives, museums, educational and research institutions as well as uses for persons with disabilities and provides guidance and direction to member states in designing appropriate legislation and policies at the national level tailored to their specific circumstances within the existing international framework.”

“Group B welcomes the draft work as laid down in document SCCR/43/3 at the last SCCR. In our view, the Committee should focus first on discussing points one and two of the work program which provide plans. It is for discussion. Following such discussion, the WIPO Secretariat could organise further discussions on the priority issues mentioned on point 2. The members of Group B stand ready to continue to engage in a constructive discussion on the work program to further reflect on possible ways WIPO can best help to provide guidance and support to its member states including by organising an exchange of best practices to help national policymakers adopt or revise Limitations and Exceptions to international laws within the existing international framework and address the specific national needs and challenges experienced by libraries, archives, museums, people with disabilities and education and research institutions.”

India

Chair will stop this delegation agrees that this is essential to educational research and most importantly safeguard within the realm of digital technology including remote access as well as cross-border use. This has become important because of the legal framework in a significant graphical chunk of (inaudible) and the work of libraries and archives, especially in this digital error. This delegation doesn't support the view that exceptional limitations (inaudible) liberties are granted exceptions to work on (inaudible) and share use. This particular provision of the India law is in line with the TRIPS law that the member shall be (inaudible) certain exceptional cases which do not contribute to normal expedition of the work and not unreasonably (inaudible). The primary goal is to match that the copyright laws have exceptional limitations that change the user fabric for a function. Exceptional limitations should (inaudible) or other law, incredibly high cost of (inaudible) in the corporate loafer developing countries is evident. We must maximise the ability of educational institutions to provide learning materials the distance learning programs without having to pay pivotably high prohibitively high fees.

Poland

In the sake of saving time, I would like to recall the CEBS statement delivered at the beginning of the session with regard to the exception of limitations and I just want to highlight that the CEBS group takes note of the adoption by the Committee of the vice proposal by the African Group for the draft work program on the exceptions and imitations.

We believe that SCCR should focus on the implementation of points one to three of the work program before we open the discussion on other matters. And we would also like to thank the members of the African Group for the proposal on the information of the work program on the exceptions and limitations adopted at the 43rd session of the WIPO SCCR. Taking into account that the proposal was presented to the members of SCCR at quite a late stage ahead of this meeting, the members of CEBS would need a little bit more time for an in-depth consideration of the proposals and thus would not be in the position to take a decision at this stage. At the same time, we share the view that the discussions related to the issues of exceptions and limitations should be fully inclusive and should not be extended to new specific formats. I thank you.

Brazil

This delegation would like to thank the delegation of the US for document S ECR /44/5, the updated version of dogma. The derogation is of the view that the updating of this document is important in light of crafting Limitations and Exceptions and allowing member states to enable these institutions to carry this out. In light of the contents of the document, this delegation has two questions for the proponents. In view of the stimulus to the adoption of exceptions and limitations, how the proponent sees working with cross-border issues in the international framework and, second question, the doctor mentioned briefly general use exceptions, does that refer to fair use and fair dealing as a suggestion of reaching the objections and principles proposed in document?

United States of America

We take note of the questions from Brazil. First of all, regarding how do we see objectives and principles document working with cross-border issues, the objectives and print. Does not address that. It is focused on changes that a country may make to its own national laws. We certainly recognise that as the gentleman from SAA mentioned that cross-border issues are something to be taken into account, we have not yet formulated a policy on that. In terms of the mention of the general music section, that could be any exception in any national

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law that does not apply to a specific use, but a general use, so in the United States that would be fair use or section 107.

Russian Federation

Since it is the first time we are taking the floor within the session of the committee, we would like to congratulate you on your election and your Vice-Chair. We are sure only your able stewardship, will be able to make progress on the issues on the agenda. In addition, I would like to thank the Secretariat for organising this and preparing the documents of this committee's sessions. Also, conducting circumstantial information sessions, in this period. We are in favor and welcome the African Group's proposal on limitations and exceptions, that were approved by the 43rd session. We note that document 44/6 contains important concrete steps on the practical implementation of the approved work program, including the allocation of limitations and exceptions, to an online text. And also the interaction between the recommendations of the WIPO agenda, in the development agenda. We hope the implementation of this will allow us to move forward, limitations and exceptions related to copyright. The Russian Federation supports the methodology contained in document 44/6. With regard to the updated version of document 44/5 on objectives and principles for libraries and archives, we think the material does raise a certain number of interesting issues, for certain member states. However, it is more of an informational nature, rather than containing practical decisions. So we hope think it's important to deal with educational institutions in our further work on the committee. Thank you.

Brazil

"[...] Brazil fully supports the African proposal, since its inception of the last session. The documents SCCR/44/6, Brazil welcomes and supports the African Group on the draft proposal for the implementation of the work program on exceptions and limitations. This delegation welcomes also the priorities elaborated on in the document, as well as the methodology program for the working groups. That is of extreme importance to keep the momentum alive, and hopefully inspire such advancements on other agenda topics. Especially concerning the digital environment."

Uganda

We would also like to support – fanciful, we are pleased to see you once again residing of our work and thank you and the Vice-Chair is

for your professionalism and leadership to bring us this and results. We also like to thank the Secretariat. Mr chairperson, Uganda aligns itself with the statement made by Ghana on behalf of the African group. Limitations and exceptions benefit everyone, uses, developed and developing countries. Using a pivoted work to create and publish new works, the copyright, let's both aspects, creators, and public interest to promote fair and equitable work. Uganda is currently holding national consultative meetings to review the Copyright Law. The law is in sync with the band convention of artistic works, the WIPO Copyright Treaty, the WIPO Phonogram's treaty, the Beijing Treaty on the visual performances. We believe this law will help societies by incentivising creators and promoting public welfare through the dissemination of knowledge, culture, and science. We look forward to the work of this committee and its efforts. Concluding, Mr. Chair, Uganda believes in advancing in this committee, and calls upon member states, and WIPO, to implement or to improve the implementation from the African Group on limitations and exceptions, an appropriate instrument, to give us the impetus to global solution to the challenges in the digital era. And considering efforts on three priority areas. Online cross-border uses, and sensibilities.

Nigeria

Nigeria aligns itself with the statements delivered by the delegation of Ghana on behalf of the African group and the proposal for the implementation of the work program on exceptions and limitations, as adopted in the 43rd session of the SCCR. My delegation believes that this proposal is completing the work of the Secretariat. Advancing the paragraphs 1-3 in the work program of this committee. The objective of the proposal, the need to be strategic and pragmatic, and the implementation of the work program. And furthermore, we are glad to observe that this proposal is largely enjoying support from member states and observers. Chair, we recall that paragraph 4 of the work program, to advance information sharing and consensusbuilding 1.1-3, between SSE buildings, as well as working groups for memo states, and agreed, with objectives and implementation at the national level with consideration by the committee. We therefore believe this paragraph is mutually exclusive with the three point area in a paragraph. And consequently, look forward to your leadership, chair, and how to advance with the implementation of this work program.

European Union

We strongly believe that libraries and archives and museums play a crucial role in knowledge, information and culture along with the

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preservation of our history. Also the importance of supporting education and research institutions, and people with disabilities, both in the analogue and digital world, within the existing international copyright framework. As indicated in the past, we support the approach and focus on the limitations and exceptions, so they can function efficiently within the framework of the existing national treaties. While being mindful of the control licence in place in many member states. Consideration should be given to the solutions available to WIPO member states, under the current international framework. We welcome the work on the draft work program and are ready to engage on the discussion and the follow-up of this program. In general, we are of the view that the Committee should first focus on discussing points one, two and three of the work program and the WIPO Secretariat would be tossed with related practical influencing steps.

As far as the new proposals from the African Group on the implementation of the work plan and the proposal from the United States were published very recently so we need more time to really look into them and have a clear opinion on them. But we stand ready for discussing them and as you announce, we are (inaudible) during an informal session. But in this context as we have consistently expressed in the past we would like to reiterate that the EU and member state cannot support work toward legally binding instruments at the international level or any preparations to this regard. However, we stand ready to engage constructively under the work program to reflect further ways by which WIPO can best help to provide guidance and assistance to WIPO members to address the problems faced by cultural heritage, education and research institutions and people with disabilities including through introduction of meaningful exceptions and limitations in their respective international laws.

[INFORMAL NEGOTIATIONS OCCURED]

IV. DAY 3 – WEDNESDAY, NOVEMBER 8, 2023

Opening of Agenda item 8: Other matters

Proposal for Analysis of Copyright Related to the Digital Environment

SECRETARIAT (Paolo Lannteri): [summary of last SCCR info session]. The full event and the contribution of the experts have been

recorded, and some written inputs were also posted online, but as you know the Secretariat was not asked to do anything specific with the valuable information shared in the session. So, we just wanted to flag this point, and reiterate that obviously we stand ready to make the best and most appropriate use of the wealth of information collected during that exercise. The space is attracting a lot of interest and evolving very fast. Since our debate in March, many elements were reported from around the world, from the business side but also from the regulatory and a policy-making perspective.

VENEZUELA (BOLIVARIAN REPUBLIC OF):

As stated by the Secretariat in the 43rd session, we put forward a document which you have referred to. This is a proposal for analysis of copyright to the digital environment. Various members told us that they require additional time to analyse the proposal, and we think that today is the time to do so. We would like to see a standing debate in favour of our performers, authors in the digital environment. As we said in the opening session, our intention is to put forward a comprehensive work program in the next session and would be willing to include other items included within the digital environment, which would be a cross cutting in nature and of interest to all members such as artificial intelligence. A detailed proposal had already been submitted by GRULAC, and therefore in order to make the best use of our limited time, we would like to hear members reactions and reactions of observers on this item. The committee must address the urgent need of analysing and addressing the concerns of authors, artists, and performers who have in this forum said that in the new rights systems, they have seen their interests affected.

BRAZIL:

For almost a decade, Brazil has been advocating for the analysis of copyright in the digital environment. In this very committee, this delegation has consistently underscored the necessity to scrutinize and engage in a meaningful debate concerning the profound changes in the consumption and exploitation of creative works, driven by the rapid advancements in technology and digital. Now, and then it is our firm belief that these changes have had a significant impact on the rights of creators, particularly artists and authors. Over the years, numerous SCCR sessions have witnessed the presentation of legal, economic, and market studies, all of which have underscored the urgency of re-evaluating copyright protection mechanisms to ensure that they are reacting to the realities of the current digital landscape, and inevitable technological progress that accompanies it. At the 43rd session of this committee, GRULAC presented document

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SCCR/43/11, proposal for analysis of copyright to the digital environment. It is heartening to note that such document received full endorsement from the African Group and garnered support from countries ranging from the Asia-Pacific group, the Brits, Group B, and its strategic partners both from the developing world and civil society. Given the remarkable consensus reached on the critical impact of this issue on the rights of artists and authors across all regions represented by WIPO, Brazil has also been advocating for consideration to include the copyright and rights as independent and permanent agenda item within SCCR. Brazil firmly believes that there is a way forward with the committee, to reach a consensus on establishing a standard of protection for rights holders in the context of their works and services used through download platforms, online transmission or streaming, and other evolving forms of expectation. This endeavor is not only about safeguarding intellect but also about supporting the livelihoods of creators themselves. The challenges ahead are not contained to only one sector or one specific contractual practice, but instead horizontal issues that affect all member states on how to secure the rights of creators across-the-board. Making sure from new technology such as block chain, quantum computing, enhanced reality, AI and whatever crosscutting technology comes down the road can play a positive role to safeguard the collective rights recognised by intellectual property and human rights.

COTE D IVOIRE:

Ivory Coast would like to invite WIPO to embark on an awareness raising campaign about the situation of audiovisual authors in analyzing the existing protection system of audiovisual authors in the world and the impact, not only on the exercise of the copyright but also on the remuneration. The development of new avenues of audiovisual representations, it has already been noted by several states in the world to manage this copyright collectively in Europe, and so Latin America unfortunately, its approaches remain spotty so the approaches vary widely across states. Authors in terms of film directors et cetera are not covered by any legal protection. Rights are considered on the base of one-off protections, so audiovisual authors need to be urgently reviewed against the backdrop of new challenges arising to do with the AI and new encroachments on copyright. Different regions over the world offer different rights, contractual rights with different approaches to operation and collective management rights. This study needs to focus in particular on capacity and the rights of audiovisual to receive uninterrupted and unfettered remuneration for various uses of the work. This study needs to identify solutions practical and appropriate so copyright holders will be adequately remunerated for the economic expectation

of their works.

CHAIR:

Colleagues, we have a little bit of late breaking news and that is that there is a proposal coming forward from group B for an information session to be held on AI. It is not yet posted on the website. ... So just to make sure we have a full picture of what is on the table with respect to copyright in the digital environment, I would briefly give the floor to to our Group B colleague, so they can share with us the idea of an information session on AI.

GROUP B:

Thank you for giving us the floor to introduce this. Actually, I would like to turn to my distinguished colleague from the German delegation to introduce the proposal. Thank you.

GERMANY:

I would like to very briefly present our idea, which is to have, as the chair already indicated, an information session during the next SCCR next year on artificial intelligence in connection with generative AI. So the topic would be generative AI and copyright. We think that this is very important and very interesting topic because the topic AI is in everyone's mouth, and it's a worldwide problem so we should really discuss this here in this committee. Also, would like to point out that the questions in relation to artificial intelligence are debated in other committees of WIPO, namely the standing committee of patent law and their conversation group on frontier technologies. And as there was a strong relation between copyright and artificial intelligence, we really think they should be debated here as well. There are many points we think should be discussed, and this is putting it simple. The input of copyright content into machines, so should machines be able to use copyrighted content? And the other question is related to the output of content, so is it possible that a machine or a human relation with machines can make an output that could be copyright protected? ... [We propose] no legal binding instrument and no policy debate, but just an information session where experts and stakeholders from around the world give different presentations on these two topics and others in order to allow us to dive into the substance of that. Also we think it should be a stand-alone item. So far we don't think it's necessary to make a standing item of it or integrated into any other topic. And a third aspect would be very important to Group B and that is that the discussion time for the other standing items of the agenda

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are not being cut down.

CHAIR:

Thank you very much Germany. OK folks, so there you have it. There is a lot out there on the table. So just to recap in terms of what I would like to hear from member states on, there is the GRULAC proposal from SCCR/43 that proposes in brief to make digital copyright standing item of the SCCR going forward, so solicit your reactions to that. Picking up on the conversation we had last time on that, and as Brazil noted, we did have some member states react to that last time, but there were others who indicated they needed more time to consider. We have the proposal from Ivory Coast to do a scope in study related to the audiovisual sector and creators in the audiovisual sector. And then we have the proposal from group B on doing an information session on generative AI and copyright at the next SCCR.

PARAGUAY:

We think there is an urgent need to address these issues within the agenda of this meeting to protect the rights of creators and encourage creativity within the digital environment.

UNITED STATES OF AMERICA:

Over the past last years, we have supported the exchange of views on the issues raised by GRULAC in its SCCR/31/4 document. We have supported reports including scoping study on the impact of digital environment and copyright legislation enacted during 2006 and 2016. SCCR document 35/4. SCCR document 39/3, inside the global digital music market, document 32/2, SCCR document 41 – three, The Latin American Music Market, SCCR document 41 – four, study on the, SCCR/41/6 and report on the music – on the online music market and main business models in Asia, overview in general trends SCCR document 41 – seven. We have carefully read the GRULAC proposal, SCCR/43/7 and observed that many complex and contentious issues it discusses arise from country or region-specific marketplace conditions and contractual practices. We reiterate our view that this Committee is not a proper forum to address marketplace or contractual issues arising from the exploitation of music in region specific digital marketplace environment. Our long-standing view has been that SCCR should be a forum to discuss substantive copyright policy issues as opposed to economic or marketplace issues. Consistent with this view, the United States does not support GRULAC's proposal to make copyright related to the digital

environment with a specific focus on remuneration in the music marketplace a permanent standing item of the agenda within the SCCR. Further, the US takes note of the document SCCR44/7 submitted by the delegation of Côte d'Ivoire title Proposal for on the Rights of Audiovisual Authors and Their Remuneration for the Exploitation of Their Works." Because this proposal was submitted right before the start of the session, we need more time to review it. However, preliminarily, we observe that this proposal raises marketplace and contractual issues in the audiovisual sector that are country specific and we feel that the SCCR is not a proper forum to examine these issues. In the meantime, the United States would be interested to hear from the Secretariat and other delegations the ideas and suggestions for additional topics for discussion, either under copyright related to the digital environment or other matters with the express understanding that such a discussion is not intended to lead to any binding norms setting in this area. Further, we note that the German delegation has proposed a new topic for discussion within this Committee from Group B. With the suggestion that the Secretariat organise an information session on generative AI and copyright. Artificial intelligence raises a number of interesting but challenging issues for copyright policy. United States has been active in studying these issues and seeking the perspectives of creators, developers, practitioners and others responding to this rapidly changing technology. One of the areas of focus has been the need to safeguard IP and copyright. The US PTO has been hosting a series of AI emerging technologies partnership meetings. The United States Copyright office has hosted public listening sessions, issued registration guidance for applicants submitting material wholly or partially generated using AI, and most recently, our Copyright office published a notice of enquiries soliciting comment on a wide range of questions connected to AI and copyright. The United States appreciates WIPO's work on fostering conversations about AI, including past events co-sponsored with the United States Copyright Office. The United States believes these conversations and opportunities to share information are important and beneficial to all WIPO members looking into these issues domestically. Given that this new technology provides a wide array of new issues including its applications and impacts on the creative community that need to be closely studied on the national level. The United States believes that any norm setting in this area would be premature. However, the United States welcomes the proposal by the German delegation for an Information Session to exchange views and experiences among delegations, observers and experts in this area as it relates to the work of this Committee under other matters.

NETHERLANDS:

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Group B would like to thank GRULAC once more for their proposals set down in SCCR 43/7. At this point Group B finds it too early. In this groups view parity should be given to outstanding Agenda Items where further work is needed to achieve results. However this did not prevent the topic from being discussed on an ad hoc basis as agreed by member states and it would need to be balanced with other topics that are already underway in this Committee. We would also like to thank Côte d'Ivoire on their Proposal for a Study Focused for the moment, Group B still needs more time to study this proposal. Thank you, Chair.

GHANA:

The African Group supports the proposal by Côte d'Ivoire to include a study on audiovisual authors rights and their remuneration for the expectation of their works in the SCCR agenda. The group also supports GRULAC my proposal to have copyright in the digital environment as a standing item in the SCCR. Considering Group B's proposal, we have one question. We noted that the document indicates that it is an EU proposal, and we would appreciate clarification on whose proposal it is. Furthermore, given that we just received this proposal this morning, we would need time to review it and get feedback from our capitals before considering it as a group.

CHAIR:

The answer to your question is that there was a typo in the document circulating to group coordinators. It is a Group B proposal, I believe that is being corrected and the version that is being posted on the website will be correct.

POLAND:

During the last SCCR session, we were able to hear various voices from different stakeholders and market players. We need to keep in mind that the music stream market grows rapidly therefore we see the need to continue the discussion on music streaming which may arise in the future. As for the proposal that was made by Group B and presented by the distinguished colleague from Germany related to AI and the topics with relevance to this Committee, the CEBS group supports this idea of holding an information session on this very topic. With respect to the proposal of Côte d'Ivoire, for the study on remunerations on the right of audiovisual authors and remuneration expectations on their work, the CEBS group will probably need a little bit more time to study this interesting proposal.

INDIA:

The delegation of India would first like to thank GRULAC introducing the proposal for of to digital environments and also thank the authors and experts for providing us brands of studies. India does not think this is an area where one size fits all but we hope that we can and from each other and we also support the work of WIPO to educate those in the industry and make the most of their rights. ... Screenwriters for example often remain unpaid for use of their work online despite audiovisual costs generating significant revenue for on demand services. It is often difficult to resolve this lack of remuneration including in negotiating between producer and screenwriter.... We would also like to take the opportunity to suggest that the topic of copyright in the digital environment be maintained in the Committee and the discussion we continued on the important and highly pertinent topic.

BRAZIL:

On the Côte d'Ivoire proposal, Brazil would like to see incorporated in such an important study two aspects, mainly. One related to how platforms act as producers, or platforms as producers of content, and the relationship of those platforms to independent producers. I think those two aspects are key elements that might be of value probing and getting data and information within that study. On the German proposal, now Group B proposal, this delegation is of the view that finally this topic has been taken seriously by this Committee. The impact of the digital age is tremendous. We have been saying this for a decade now in this Committee, in this same Committee. I would not like to see any treatment of the digital environment relinquished to the discussion as we have in the Broadcast Sector, a technology for in the past that we are still discussing here. ... The topic fits well within the frame of the digital environment theme and should be placed in the agenda inside the discussion of the digital environment raised by GRULAC. ... I am not aware of any artificial intelligence that acts on analogical terms. If we are to discuss artificial intelligence, or any other Frontier Technology, this is the place to do it, in terms of gathering support of all membership, reflecting not one specific issue confronted by one only country or delegation.

EUROPEAN UNION:

We take note of the document SCCR/43/7 which proposes to include this item in the standing agenda of the SCCR. We consider that the discussions on the two current standing agenda items are already very

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time-consuming. This will likely further increase given the progress of the discussions on the Broadcasting Treaty and the discussions on the implantation of the program of exceptions and limitations. ... As regards the proposal from Côte d'Ivoire on a study on the Audiovisual Authors, the European Union supports this proposal tabled by Côte d'Ivoire. And, concerning the formation session on generative AI made by Germany we also support this proposal.

IRAN (ISLAMIC REPUBLIC OF):

The APG needs more time for reviewing these proposals in depth and detail, and to study them comprehensively.

GUATEMALA:

Our delegation believes that it is important for us to be allowed to move forward and reiterate the human right that authors and musical artists and performers have within the digital environment. That is why we need a standing item on copyright in the digital environment on the agenda of this Committee.

URUGUAY:

Uruguay is fully in association with the position of the GRULAC group. And, nationally, we are able to support the German proposal and the Côte d'Ivoire proposal also. ... We heard that this may not be the appropriate forum to deal with this issue, and issues related to performers and artists in digital environments. I imagine that they are thinking that perhaps the WTO TRIPS Committee would be more appropriate forum for this discussion, but whenever I look at the TRIPS agreement, I would find it difficult to see how remuneration of content creators, be it audiovisual or otherwise or the issue of AI, it would be difficult to see how this would be linked to market rules, national treatment rules and event treatment. I think that the WTO TRIPS agreement has a different scope to that which we are trying to discuss today. And therefore, I don't know if the delegation of the United States would perhaps like to shed light on what they thought the ideal forum for this topic would be.

ARGENTINA:

Argentina considers that it is necessary to make progress on the issue of fair remuneration for authors, artists, performers in the digital environment by developing efficient mechanisms to correct asymmetries which cause harm to artists and performers in the

negotiation of their contracts, as well as the disproportionate exponential growth of platforms and the difference between those and the artists income. Nor should we lose sight of the public interest and cultural goods and preserving the balance of all elements of the digital ecosystem. We equally would share the question raised by Uruguay with regard to the ideal forum for this issue if it were not to be this Committee. And, with regard to the recent proposal put forward orally by the German delegation, we understand the challenges that artificial intelligence raises, particularly with regard to copyright and would encourage an official submission of the proposal from Group B in order to be put together in a timely manner and within a more inclusive work program under the copyright and digital environment

CHILE:

As has been indicated by the distinguished delegation of the United States, this Committee has more than enough information on the situation of artists and performers in the streaming market with regard to the remuneration they receive. ... I would also like to point out that remuneration is not a regional but rather a global phenomenon. ... The question is it is an IP problem or a market problem? It's very likely to be both, and so this committee should address it. ... Group B says there are still pending issues. This is true, but it is also up to this committee to become more modern and modernise in relation to 21st-century challenges. And therefore we should move together to create a modern agenda which reflects the interests of all members and will set out the future of work for this committee. And we would therefore invite all of the membership to enter into a dialogue to address the possible challenges that the digital environment raises around the world in all markets developed or developing. With regard to the Group B proposal, we think it is sensible to have this included into the digital environment agenda item, and we should like to support it for contributing to modernising the debate within this committee. With regard to the Cote d'Ivoire proposal, we also need time to read and discuss it.

RUSSIAN FEDERATION:

Given the active development of technologies and changes that occurred in the (inaudible) when the pandemic broadcast, we believe that the matter of using copyright and related rights in digital environment is topical and merits the inclusion of substantive item on the agenda of the committee, which is by the delegation of the Russian Federation supports the GRULAC proposal made by the respective delegation of Venezuela. Our delegation also supports the proposal to conduct a study on the analysis of copyright related to the digital

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environments. And therein the remuneration proposed by Cote d'Ivoire. With regard to the new proposal, to hold an information session on copyright and artificial intelligence at the next session of this committee, which was made only a few minutes ago. We have to point out that unfortunately this document has only just been put on the committee's website, which is why we will need more time to assess this proposal.

COLOMBIA:

Colombia considers this to be an extremely important topic, and copyright in a digital environment should be a standing item on the agenda. We understand that this is a global phenomenon and therefore is not an exclusively Latin American problem. ... We would like to conclude by welcoming discussions on other topics, such as the proposal made on artificial intelligence as part of this agenda item on the digital environment, which was proposed by GRULAC.

REPUBLIC OF KOREA:

Thank you Chair. Republic of Korea agrees with the proposal made by Group B and presented by the distinguished delegation of Germany regarding AI and copyright -related issue.

MALAWI:

We support the proposal by the delegation of Cote d'Ivoire in the study of audiovisual authors which among other things would address the existing models of audiovisual rights, legal protection around the world. However, we would like to request that the study extends its scope to take into account the rights of audiovisual performance as well.

CHAIR:

One observation I have heading into that coffee break, reading the room on discussion to date, it has been a very fruitful discussion. I do generally sense acknowledging that the [Group B] proposal was tabled very late. It generally sounds that there is broad comfort with the idea of holding an information session on generative AI at the next session as proposed by Group B and Germany. I did note that there were particular African Group and APG did request for some additional time to consider it. So, I encourage Group B or Germany to engage with their colleagues over the coffee break to ensure that the scope of the proposal and what is being proposed is well

understood. So, that might be a productive area of discussion over coffee.