

No. N-4401/4/2014-BC-I
Government of India
Ministry of Information & Broadcasting
A-Wing, 5th floor, ShastriBhawan, New Delhi-110001


Dated the 07th October, 2014

To
As per list enclosed.

Subject: Amended Minutes of the First Meeting of Expert Committee to discuss draft treaty for Broadcasting Organization at SCCR, WIPO held on 2.9.2014.

In continuation to this Ministry's letter of even number dated 16.09.2014, a copy of the amended minutes of the meeting held on 02.09.2014 on the subject mentioned above is forwarded herewith for information and necessary action. The amended portion may please be seen at para 8 of the enclosed minutes.

Encl: as above


(J.S. Asthana)
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Copy to:

PS to Hon'ble Minister for Information and Broadcasting for information of Hon'ble Minister.

**MINUTES OF THE FIRST MEETING OF EXPERT COMMITTEE TO DISCUSS
DRAFT TREATY FOR BROADCASTING ORGANIZATION AT SCCR, WIPO HELD
ON 2.9.2014**

The first meeting of the expert committee on WIPO was held in the conference hall of Ministry of I&B on 2.9.2014 at 10.30. A.M. Secretary, I&B welcomed all the participants (as per list attached) and requested them to introduce themselves. There after Joint Secretary (B-I) made a presentation on Standing Committee on Copyrights and Related Rights (SCCR) at World Intellectual Property Organization (WIPO). The Indian stand in historical perspective at WIPO and the recent stand of USA, Japan and European Union on the draft treaty were informed to the stakeholders.

2. Shri Raghavendra, Director, DIPP stated that as per mandate of the General Assembly 2007 India supports treaty on the signal based approach for broadcasters and cable casters in the traditional sense. Indian stand has been consistently within this ambit through various sessions of SCCR. Though the General Assembly categorically decided not to include the issue of webcasting and simulcasting in the proposed treaty, the developed nations continue to try to include webcasting and simulcasting in the discussions, with a view to get the same included in the draft treaty. Further, he stated that India has been responsive to the needs of Broadcasters particularly with regard to protection against piracy of their signals. He informed that with this objective in mind, India introduced certain amendments so that the treaty extends protection to broadcasters against unauthorized retransmission of live signals over computer networks or any other digital or online platforms. However, as copyright is the primary right and broadcasters is only "related right" no extra layer of rights should be awarded to broadcasters. He opined that the broadcaster should not be given sweeping rights in other platforms without acquiring the same through a contract (from the rights owner), as it would be in violation of copy rights. Hence, India has suggested that the Right to Prohibit could be introduced in the draft policy for protection of broadcasters, under which the broadcaster could have the "right to prohibit" any unauthorized retransmission of their signal, over any other digital or online platform.

3. Doordarshan, the public broadcaster and PB (their Board) agreed with the views expressed by Director, DIPP. However, Prasar Bharati emphasized that legal protection is required for their free-to-air signals from unauthorized use. DEITY and MHRD also concurred with the views of Director, DIPP.

4. The representatives of Indian Broadcasting Foundation (IBF) generally agreed with the stand of India on proposed treaty and added that when their signals get hacked and appear in the web outside India, it is very difficult for them to seek remedy as presently the same depends on individual laws of different countries. Therefore there is a need to have an international treaty in place which provides adequate

protection to their signals. IBF further went ahead to suggest if they could have positive right instead of merely a right to prohibit.

5. They further stated that when a foreign broadcaster enters India their signal is protected by Indian Copy Rights Act as the same is very comprehensive. But such reciprocity is not available to Indian Broadcaster in most of the foreign countries. Hence an international treaty would ensure inclusion of such provisions across all countries. They also opined that Limitations & Exceptions in the proposed treaty may not be applicable to pay channels. IBF felt it was urgent to finalize the treaty now by bringing on board, at the outset, a few big countries like US, Brazil, China & Indonesia.

6. National Broadcasting Association (NBA) opined that the treaty should be technology neutral and must balance the interest of all stakeholders.

7. The stakeholders representing Community Radio i.e. Community Radio Association (CRA) & Community Radio Forum (CRF) were of the view that rights of content creators such as folk artists and performers should be protected. An extra layer of rights to the broadcasters would restrict the flow of information and would not serve any public interest.

8. The representative from Centre for Internet and Society (CIS) said that the treaty should confine to broadcasting in traditional sense as this was the mandate given by WIPO. They felt perturbed by the attempts being made by some developed countries in the discussions of SCCR to reinterpret the mandate to include webcasting etc and meet their own ends. They said this would set a bad precedence in not keeping with the mandate given by WIPO and hence should be discouraged. ***They further said that there are preexisting mechanisms in international law, present, among others, in the Brussels Convention Relating to the Distribution Programme – Carrying Signals Transmitted by satellite, 1974; the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, 1961; and the Berne Convention for the Protection of Literary and Artistic Works, 1886 which may be used to address the concerns of the broadcasters. Given the presence of these instruments, the need for a new treaty for the protection of broadcasting organizations has not been sufficiently explained by its proponents. They said that the socio-economic implications and impact have not been covered exhaustively in the 2010 study conducted by WIPO, which should be done as this would highlight the needs of the developing world.***

9. Representative from FM Radio Industry seconded the opinion expressed by Community Radio & emphasized that brand names and copy rights should be protected. Hence a balanced approach is required.

10. The representative from an NGO, Centre for Media Studies (CMS) stated that public interest would be severely harmed if internet is restricted in any way as this is a citizen centric medium and stands for freedom of expression of all net users maintaining cultural diversity and lending unbridled access to information. Restriction on access to content on internet would spell doom for the people, particularly in the developing countries like India. Several of the claims made by broadcasters in support of their demand to introduce positive rights on services originating the world wide web were not supported by analytics. The inequity of terms of content creators vs broadcasters is already gaping and may grow further if positive rights are given to broadcasters through the treaty. They also made reference to a paper written by Mrs.P. Vasanti titled "Analytical Paper for SCCR" where these issues have been examined in detail and urged to strictly confine the discussion in SCCR to the mandate given by WIPO and not extrapolate it to webcasting, simulcasting etc.,

11. After deliberations on the issue by the officials and stakeholders, Secretary, I&B summed up that (1) the mandate given by WIPO to SCCR General Assembly 2007 only included broadcasters and cablecasters broadcasting in the traditional sense adopting a signal based approach and hence the negotiation in SCCR on the proposed treaty must confine to the mandate given by the General Assembly (2) the Government of India should continue to maintain this mandate (3) all stake holders desired to have some effective mechanism built in the treaty to prohibit unauthorized retransmission of live signals over computer networks or any other digital or online digital platform.

12. Secretary thanked all participants, stakeholders for their suggestions and comments and requested them to send detailed notes on the same to JS(B-I).

The meeting ended with a vote of thanks to the chair.
