

WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (SCCR)

27TH SESSION: DAY 1- 28 APRIL, 2014, GENEVA, SWITZERLAND

PRELIMINARY

This is the transcript of Day 1 (29 April, 2014) of the 27th Session of the WIPO SCCR held at Geneva, Switzerland. This includes statements by various country representatives and non-governmental organizations. Proceedings on the first day revolved around the proposed treaty for the Protection of Broadcasting Organizations; specifically around the Scope of this treaty. The text in the following section is largely unedited, save for additions to indicate where text is missing (poor internet connectivity meant that access to transcription was often interrupted) and clearly identify the speakers.

TRANSCRIPT – INTRODUCTORY

(some text missing)

TRANSCRIPT – NATION STATES

(some text missing)

China:

(some text missing) able guidance our meeting will achieve substantive results. In 2012 and 2013 with the collective push and close cooperation by WIPO and its Member States WIPO concluded successfully the Beijing Treaty and the Marrakech Treaty which are major events and milestones in WIPO's history. I'd like to take this opportunity to inform you that on the 24th of April 2014 the 8th session of the 12 national peoples Congress of China voted in favor of the ratification of the Beijing Treaty. Next step China will launch the necessary procedures as soon as possible to implement the Treaty. We hope that in this session of the SCCR Delegations will be able to show the same spirit of cooperation, flexibility and pragmatism as they have shown in the conclusion of the two previous Treaties so our consultations under various agenda items under this session will achieve substantive results. With regard that the agenda items under discussion China will actively participate in our discussions as we have always done in the past and we will be open flexible to all constructive

proposals and we also hope that Delegations will seriously address the prolonged debate on some practical issues at its session so as to find appropriate solutions. Thank Mr. President.

(some text missing)

Czech Republic:

(some text missing) Treaty on the protection of the broadcasting organizations remains our main priority for the work of the SCCR. In this regard and based on our proposal for the roadmap for the work of SCCR presented for group at the last session we hope to reach

Consensus on convening a Diplomatic Conference to be held in 2015. The protection of rights

of broadcasting organizations has to be ensured at the adequate level corresponding to technological developments of the 21st Century and we are looking forward to the further discussions relating to libraries and archive the as well as educational research and teaching institutions. We believe that the work of the Committee should enable by providing comprehensive understanding deep be understanding of WIPO Member States based on the existing international legal system. With regard to future of work of this commit de we have prexed our views on expediting the work on protection of broadcasting organizations and we stress that the roadmap proposed by our group last year remains on the table for consideration. Looking further in to the future of the deliberations of the SCCR the CEBS groups deems appropriate that the Committee taking in to consideration the creation and development of a global digital marketplace for copyright contented expedites introduction in to it's Jen da of the issues related to lrsning of rights in the digital era. In conclusion let us assure you of our commitment to the work of this Committee and of our intentions to contribute to successful outcomes of this session. Thank you.

Chair:

Thank you very much Distinguished Delegate from the Czech Republic. And the group represented in the statement. I give the floor now to Republic of Korea.

Republic of Korea:

Thank you, Mr. Chairman. Good morning, dear colleagues.

Mr. Chairman, I have the honour to deliver this statement on behalf of the Asia-Pacific Group.

Mr. Chairman, the members of the Asia-Pacific Groups are very happy to see that you are able

to guiding the development in the SCCR. We are confident that your effort carrieses us through another successful session of this Committee. We further take this opportunity to thank you the Secretariat for all the logistics provided and the documents prepared.

Mr. Chairman, over the last SCCR has been took place of some remarkable achievement.

First

in Beijing and then in Marrakech we have manifested our united determinations that international properties would serve the cause of creativity as well as humanity.

However, we need to sustain the momentums of the same dynamicism optimize and compromise that enables us to reach successful Consensus last time. Mr. Chairman regarding

the proposed WIPO Treaties on protections of broadcasting organizations, our groups affirms its commitment to the signal based approach to the developing international Treaty for the

protection of broadcasting organizations as per the year 2007 General Assembly mandate which was agreed during the 22nd session of the SCCR.

We think all the regional groups and member Delegates for the textual conceptual contributions and we welcome their proposals. We believe based on the working document and the different proposals we will have meaningful technical consultations to settle the

outstanding issues and finalizations of the scope of protection for broadcasting organizations

in this current session (thank). Our discussions will also provide us with more meaningful and profound understandings of the changes in broadcasting scenarios caused by the advancement of technology. Mr. Chairman, the agenda of SCCR has given us the opportunity once again to be able to contribute to sustainability in the area of limitations and exceptions to copyright and move forward toward a more balanced and efficient international copyright system for the benefit of rightsholders and the common man. Libraries, archives and other education and research institutions are (inaudible) of our civilization and culture we should take into account our broader social and development context when we discuss and decide about IP rights and protection about library archives and other education and research institutions. The advancement in the digital technologies also has a huge impact on the mode and nature of activities of these important institutions of our society. And the disabled persons are a common responsibility. Nobody questions our overdue obligations that we owe to them. So to find effective and expeditious solutions to all the outstanding issues and to ensure access to educational and information materials and guarantee sustainable international success to copyrighted works by the persons in real need of assistance many of our Member States believe that development of a comprehensive and inclusive framework on exceptions and limitations for libraries and archives education and research institutions and the for persons with other disabilities. Mr. Chairman, when we -- the members of the Asia-Pacific Group remain constructively engaged in all future negotiations and we assure our support in carrying out our -- carrying out your responsibility in this Committee. Thank you once again.

Chair:

Thank you very much, Distinguished Delegate from the Republic of Korea and the Asia and Pacific group he represents. I now give the floor to the Distinguished Delegate from the European Union.

European Union:

Thank you, Chairman. The European Union and its Member States would like to thank you and the WIPO Secretariat for the work carried out to prepare this 27th session of the Standing Committee. We hope that under your able stewardship participants will be able to agree to a constructive way forward on all the issues on the agenda

for this week. The European Union and its Member States attach great importance to the negotiations relating to the protection of broadcasting organizations. We found the technical discussions which took place at the last Standing Committee useful for understanding the differences in the positions between Delegations and we stand ready to continue these discussions in order to identify possible compromise options. We believe that in order to achieve a Treaty given broadcasting organizations adequate and effective protection on a broad Consensus needs to be built as to the problems that need addressing and as to the extent of protection to be granted.

While we acknowledge that our work remains to be done, we believe that we can accomplish our goal of convening a Diplomatic Conference for the new Treaty on protection for broadcasting organizations and therefore we hope that greater progress can be made during

this and the next Standing Committee. Concerning limitations and exceptions for the benefit of libraries archives, education and research institutions, the European Union and its member states believe that the current international copyright framework also provides for sufficient legal space for the Member States of WIPO to ensure meaningful limitations and exceptions in the analog and digital context. While respecting the necessary balance to ensure that copyright continues to be an incentive and reward to creativity. Hence we believe that there is no need for further rule making at an international level at in this regard. The European Union and its Member States are ready to continue discussing with all WIPO Member States so that these limitations and exceptions are implemented and function in the best possible way in the framework of the existing international Treaties. We reiterate that the exchange of ideas and best practice are the way forward on this issue. The European Union and its Member States would like to recall that after the exceptional two years in which both the Beijing and the Marrakech Treaties were adopted it is now time to concentrate on the implementation of commitments that have been undertaken under these two and previous Treaties. We would like to inform the Member States that the EU will sign the Marrakech Treaty on the 30th April at 3 p.m.. the role of this Committee should not be limited to rule making and we should be ready to follow up on these rules to discuss how to have meaningful evidence to underpin our future and current policies and laws of rights in the new digital and multi territorial environment. You can count on our willingness and commitment to work constructively throughout this session. Thank you. (Licensing).

Chair:

Thank you very much Distinguished Delegate from the European Union for his statement. And also for the welcome news of the signing of the Marrakech Treaty during this week. Thank you very much. We would like to thank the different groups, regional groups for these initial statements. And also like to thank for the understanding of the different countries who are members of this group to express themselves through the regional coordinators. I also like to commend the non-Governmental organizations for their understanding and to see that the important statements which were made in the previous sessions of the Committee continue guiding us and clarifying our opinions in the discussions of this Committee. And then irrespective of this in development of these sessions as occurred in the previous Committee meeting we have the freedom to resort to the time **(some text missing)**

(some text missing)

Brazil:

Thank you Mr. President and good morning, everyone. Allow me first of all, to express the satisfaction of this Delegation in seeing you Chairing this meeting again. This

Delegation is committed to work constructively with you Mr. President and be reassured that you can count on us for the advancement of our works during this session. Having said that Mr. President, I would like to refer to one specific and I guess relatively minor topic which refers to the proposal made during last session by this Delegation as to reintroduce in the text a mention that, of course, was an integral part of the text before and that's how it appears and that refers in turn to Article 12 and that is the mention that simply says no such provision. And which has been introduced now under Article 12 in the annex. This Delegation would simply like to see this mention reintroduced to the text under Article 12 in the text as opposed to in the annex. Our understand something that this mention had been an integral part of the text and we see no reason for it being removed from the text. By the way I have to say as well that I don't clearly understand what would be the difference in terms of status of having an annex with proposals made by different Delegations, separated from the text. In any case we see this as reintroducing in the text itself something that had been in the text and that was eventually removed. So that is our suggestion at this point. Thank you very much.

Chair:

Thank you very much Distinguished Delegate from Brazil. Thank you for your initial words and for your comment. Now regarding this suggestion made before receiving other comments on your proposal or develop it further we are going to ask the Secretariat to explain to us the issue of the annex following the minutes of the previous session. Michelle you have the floor.

Secretariat:

Thank you, Chair. At the last session in the conclusions the Committee decided that all of the proposals on the various section Articles that were discussed during the meeting the last time would be placed in an annex and that included proposals for Article 12 and the discussion during that part of the discussion on the conclusions was that at the point when we are discussing those Articles again in this meeting we might decide if there is Consensus to move those proposals in to the text itself. That was how the annex was handled and all of those proposals are subject to be moved in to the text. Thank you, Chair.

Chair:

Thank you Secretariat. Thanks for your explanation. Any comments from any other Delegations on this issue? The Czech Republic has the floor.

Czech Republic:

Thank you, Mr. Chair. I understand this is on item 5, opening statements and item 5. Yes. Thank you Mr. Chairman. Let me focus on fundamental points at this stage and we will keep our comments on particular elements and our positions at a later stage when we go in to further discussion. Now the Czech Republic on behalf of the

krebs group would like to reiterate its support for a speedy and up to date and effective most balanced protection of broadcasting organizations such protection as we already stated this morning should correspond to technological developments of the 21st Century and to the actually two days and possible tomorrow's business models and other activities of broadcasters and cablecastors. We cannot ignore alternative ways of broad karings. The kout joms of our cork should be applicable not only now but also in the days to come and the upstream of online transmissions must be reflected in our Delegation. We believe that our discussion at this SCCR will continue in the same constructive manner as during the proeefrs SCCR last December. In this regard we believe the best working method will be a work on one single document. Thank you, Mr. Chair.

Chair:

Thank you very much Distinguished Delegate from the Czech Republic for his opinion. The European Union has the floor.

European Union:

Thank you, Chairman. Chairman, the European Union and its Member States would like to thank you and the WIPO Secretariat for the work related to the upon Treaty on the protection of broadcasting and in particular for having prepared the 26th session of the standing commits tie during which we con kuded use ughs discussions on the main elts of the Treaty, beneficiaries, scope of am kigs and the rights. The WIPO Treaty on broadcasting organizations remains a high priority for the European Union and its Member States. We are keen to see an improvement in the international protection of broadcasting organisations that is meaningful especially in view of the use of modern technology by broadcasting organizations. That is adapted to the specific problems broadcasting organizations face and that is at the same time respecting the rights of right Holtedors in carried by broadcast signals. The European Union and meant states stand committed to work towards this goal. We believe that in order to achieve a Treaty giving broadcasting organisation adequate and effective protection a broud Consensus needs to be built as to the problems that need addressing and to the ex-tented of protection to be Granted. Durings the last last Standing Committee we have agreed to continue our discussions on the main elements of the Treaty. We are ready to further engage in these discussions in order to better understand various positions and to map differences and points of convergence with the view of working out possible compromise omgss. European Union and its Member States are also looking forward to technical discussions on are the meaP der of the working document at the same time reserving the rights of proposing modifications and making textual comments to this working document. Thank you very much.

Chair:

Thank you very much Distinguished Delegate from the European Union for your opinions and contribution. As you have realised the last two interventions have picked up once again the discussion on general topics regarding the draft Treaty on broadcasting organizations. And as you have already heard there was a request from the Distinguished

Delegate from Brazil regarding a specific point, respecting this request we don't want to disregard it and then -- and continue then discussions to the general topics. So we would like to ask the Distinguished Delegate from Brazil whether his specific suggestion whether we can

deal with it when we look at Article 12. Thank you for your flexibility Distinguished Delegate

from Brazil. Thank you. And I continue receiving opinions on the general issues. I call on Distinguished Delegate from Belarus.

Belarus:

Thank you, Chairman. Chairman I am speaking on behalf of the CACEES countries and in that capacity I would like to also to make a general comment on agenda item 5. What I would like to say then is this, I would like to say that we have indeed prepared a comprehensive document that does reflect our vision of issues relating to the protection of broadcasting organisations. We understand that quite a lot of time has already gone by and a lot of work has already gone in to this in terms of discussing this issue. And we do recognize that a document has now been prepared that takes account of the views of different countries. On the issues of what should be protected by this Treaty, how it should be protected, how rights should be granted and so on. We therefore note the views expressed by other Delegations as to the way in which we should work on this issue and we would tend to agree with those views. However we would like at this stage to assure that we intend to discuss issues of principle as what indeed decided upon at the last session of this Committee based on the text of the document in 27/2 rev, SCCR/27/2 rev at the same time clarifying our view on particular areas where we have concern. We very much note the issues that have been raised relating to scope, definitions, the subject of protection, as also the issue of rights broadcasting organizations. We know we have singled out as areas of particular discussion. We will show flexibility in this and we are very constructive in the way that we approach the future course of our work. Thank you.

Chair:

Thank you Belarus. And we note that Belarus was speaking on behalf of the CACES group. I would really particularly like to thank that group for the efforts that have been made in advancing our work on this document. We are very grateful for all that you have done. And we note that you have been able in the document you have prepared to reflect the view of your group but also to take account of other positions that have been expressed. So thank you very much indeed for your contribution. We are really grateful to you and we thank you for the attitude you have taken and for the flexibility that you have shown. Undoubtedly when we analyze the basic document for this session we will be able to refer to your document and we think all of this creates a very positive dynamic for our meeting and we very much openly believe that this will allow us to reach a definitive version of this text and I am sure that we will find your proposals very inspiring. Thank you.

So I have now been told that it is time for a coffee break. The coffee has been prepared

and it is waiting for us. But just before coffee break I see that the UK is asking for the floor. You have the floor. So we will just listen to your comments and then we'll see what we will do next but the UK has the floor.

UK:

Thank you. I'd like to reiterate the welcomes and thanks mentioned by other members. I also want to thank you for the opportunity to speak to the presentation that's been mentioned by the BBC. The UK felt that it would help the Committee to gain a better understanding of how the BBC and many other broadcasters transmit their programmes and the BBC is a public service broadcaster but independent from Government and utilizes modern technology in a number of ways. So this will be a very short presentation with an opportunity for questions afterwards which I hope will enable a better understanding by all of us. Thank you.

Chair:

Thank you United Kingdom. I thank you for that contribution. And, of course, particular thanks are due to the UK for having given us this opportunity, the opportunity of hearing about technological developments in the field of broadcasting. I am sure this will be very useful for our future discussion. If no one is objecting to this extremely valuable proposal from the United Kingdom, this proposal that would be very useful for our discussion, the proposal of having this presentation if no one is objecting to that I do indeed think that we should listen to this presentation. I assume however it will take a few minutes just to set things up and so this is a good moment to take a short coffee break and we will now take a very brief coffee break, ten minute coffee break and then when we come back we will have the presentation referred to by the United Kingdom.

(Coffee break).

TRANSCRIPT – BBC PRESENTATION

Chair:

Thank you very much for being here on time. We will resume our session. And it is the time here of introducing Mr. Neil Mammet who is the head of a TDplatforms and mobiles of the BBC. Mr. Mammet, sir, you have the floor.

Neil Mammet:

Good afternoon. Thanks for inviting me to present at this Plenary session. Can you hear okay?

My name is Neil Mammet and I am the head of TV and mobile platforms for BBC. Hopefully most people know it is the British broadcasting corporation. I work in the technology of the division of BBC that we call future media. Future media is concerned about

the BBC online, be that the Web, mobile or interactive television. I am here today to talk about what we are doing in interactive television and how that expands traditional broadcast. The BBC has a rich heritage in this area. Let me first give you an example. See if you can guess when this happened. It is in sports, tennis, where we have the right to show the Wimbledon tennis tournament. Audience could call up players and their profiles to learn about

them and get the latest score and even play an interactive quiz during the match. With no special equipment at all a million people brought up our interactive experience right on the television. And what's even more amazing is that just two years later over 4 million people in the UK use this experience. Fully 44% of the audience that tuned in actually played along. When do you think this happened? Last year? No. This was way back in 1999. You might have thought an experience like this would require the latest kits, tablet or a good broadband connection. But on the contrary audiences merely had to press red button on their television remote control.

At the BBC we draw inspiration from 15 years of experience enhancing broadcast television, right on the TV. So what I was going to cover today is three areas where we are enhancing television or traditional broadcast. First the broadcast red button service that has been around for 15 years. This is an interactive service delivered over the broadcast signal. Then I am going to talk about connected red button, that is the replacement service for Internet connected devices.

This is a hybrid broadcast service. So launched from the broadcast signal but delivered over the Internet and then finally I am going to talk about our well-known video on demand service, iPlayer that is seen as a world leading video on demand service and show how that's changing television viewing.

So at the BBC we love the red button. Why? For three reasons. It is simple, it is on every television and remote control in the UK and it is directly connected to BBC's live broadcasts. It allows a television presenter to give a very simple call to action to our audience to get more content related to the programme.

So just a little bit of history first of all, we started delivering text content over analog broadcasts or over the analog broadcast signal back in 1974. This was called CEEFAX. As we

moved to digital television we introduced a service first known as BBC text. Then relaunched to BBCi and then finally rebranded as red button in 2008. (BBCi) it is now used by more than 26 million users per month. So that's almost half of the UK population. So here we illustrate the story -- the success story of red button. This is showing monthly users accessing the service or this shows from 2004 to 2013. So it still is a highly popular growing service today. And most interesting of all for us is that 30% of the audience it is their only contact with BBC on line. So in this 30% are people who do not access the Internet. So what is it? Okay. It provides three main offerings. Digital text, so up to date news sports and weather stories. Interactive games and quizzes. And most importantly additional video streams which I am going to talk about. All of this from the broadcast signal. So live events is when the red button comes to life, offering additional content. During the Olympics we offered up to 24 additional streams to the

public delivering on our promise of never miss a moment of the games. It was possible by pressing red to tune to any of the events going on that day and that is exactly what over half of the UK population did.

Here are now some examples of the service. The first the digital text. So digital text is a 24 by 7 information service for news, sorry about the quality of that photograph, share prices, sport and lottery. There is various other slides but I will get to those. In terms of video services, we have a very popular music festival in the UK called Glastonbury that we have the right to broadcast and over 4 million people watch Glastonbury music events on the red button every year allowing the audience to switch between the various stages that the Acts are performing on. 10 million people watched the winter Olympics at Sochi on the red button and tuned in to the different events. So here is a picture, what the picture is showing the different channels in which activity is going on. So if I tuned to item 3, I would then see curling. And at Wimbledon that we started the presentation talking about, 10 million people are able to switch

to the different matches on the tennis courts and camera angles to get new perspective on the competition. We also have quizzes and games. 4 million parents and children use the red button on our children channels last year accessing educational games for kids. And then finally the red button is being a place for changing the way that BBC entertains in way only a public service broadcaster could do. If you were a Proms which is a classical musical festival last year you could watch the Maestro to see the perspective from the conductor. Here is high level overview of how we deliver our interactive TV services. I want to spend a little time on the top left. The top left illustrate how the red button service is mixed with the single signal sent to the receiver. Purely broadcast service. I will touch back on this slide later when we talk about our hybrid services. Now let's move on to look at our new red button service which is the hybrid service. This is connected red button. It is a replacement service although it will take many years before it fully replaces our existing red button service. The world has changed a lot since 1999 when red button was launched. The majority of homes have fast Internet connections, more and more televisions are being connected to the Internet either directly or via a set top box, Blu-ray player or a games console. We are responding to this with a new richer red button service. In a nutshell it is a hybrid service by which we mean it uses both broadcast and web technologies. It overlays and complements the television and it is built using standard web-based technologies. You could think of connecting red button as the Web on TV. We first

launched this on version Tivo who were a cable operator in the UK back in December 2012. But we are now working with other device manufacturers and operators to scale out the platform. It is currently in beta form. So in trial form while we carefully manage the migration of our audience from the existing red button service to this (virgin Tivo) So just touching back on the technical overview. Looking at the bottom left we are assuring that content for CRB, connected red button is pulled through the Internet interface of the set top box or TV. So the best way to describe connected red button is via a demonstration which I will just show now.

Okay. So here is a demonstration as if I was watching live linear broadcast on a television set. You can see in the top right-hand corner the call to action to press red which is if I do that now, this today still launches our traditional red button service from which I will then lawn. The new trial connected red button service. So just touching briefly from when I was showing red button before, I can see how I can go in to various news stories, sports stories or weather. But here today I am going to show you what happens if you go in to look at the new connected red button.

So here is an overlays connected red button on top of the broadcast signal. You can see it is very much like a website on television. So we have navigation across the top. To the various different sections. So be that television, news, sports, a five-day weather forecast, our radio channels and our children's channels. Okay. And also our lottery results. Below is a contextual stream. So here it is inviting the audience to access content which is first related to what has been shown on live broadcast. So this could be television programmes which could be another programme in the series that you are watching or related content. Here I am showing the television stream and each of these items tells you about the programme and if you click in to that, it will then load an application to watch, let you watch that Internet stream. Other types of content that there are stories. If I wish to actually read a textual based story I can do that. But I want to now concentrate on what happens if you are in television and actually wanted to watch another programme from connected red button. And for this I am now going to talk about iPlayer. Okay. So iPlayer is a fully interactive TV experience loading content over the Internet. Z iPlayer is a very successful video on demand service that we have big plays in the UK to develop further as the online front door to the BBC's content. At future media we have ambitions to offer each of our online products for which iPlayer is one through four screens. So that's web, mobile, tablet and TV. IPlayer is a great example of this where it is available for each of these screens. So there is a iPlayer experience for mobile, for tablet for the Web and for TV. Today I am going to look at iPlayer on TV. First a bit of background, iPlayer was launched six years ago on Christmas day 2007. It offers users the opportunity to catch up with the last seven days of BBC programming via their computer. There are now over 20 million weekly requests for programmes from this platform and on TV itself if accessing iPlayer on your television this accounts for 25% of that. I talked before about how UK homes are now filled with devices that are connected to the Internet. We work very closely with the device manufacturers to make iPlayer available to all of these. Today it is currently available on a thousand different devices. Some of those will be connected televisions, some of those will be Blu-ray players. And some of those will be games consoles. On an average -- on an average week a user spends 78 minutes watching content on iPlayer. So iPlayer on TV is aiming to be a companion to linear broadcast. The iPlayer design is designed to work over the top of video. That could be an iPlayer catch up programme or it would be broadcast tee vooe as we know. We enhance what we are showing by offering other episodes that you might have missed or recommendations based on what's on. Or even an opportunity to restart the programme you have just tuned in to but missed the beginning of. Let's move now to a demonstration of iPlayer to you get a better understanding of this. Okay. So similar to when you saw connected red button we have navigation across the top and then down below we can go in to various sections. It is all designed so that you

can use a remote control easily to navigate around the application. On the home screen we bring a cure rated list of programmes including exclusive content that has never been broadcast before. So here is an example of a programme called bad education that was first available on iPlayer only before we broadcast it on live TV. This is becoming more and more common plays, if you consider organizations like Netflix that will do their own -- make their own content and then make it all available over the Internet. Channels so these are tied in to the various BBC channels. So we have a BBC 1, channel and this shows catchup content for BBC 1. We have BBC 2 and this shows catch up content for BBC 2 and interestingly BB C3 and so on. You may have heard recent announcement last year that the BBC intends to stop broadcasting BBC 3 and just make it an iPlayer only channel. So the audience will only get the access to BBC 3 content through iPlayer. We will stop broadcasting it. We also intend to have special transient channels appearing during major events. So it expect to see a channel during the World Cup, for example, showing specific highlights from the competition. Let me just show briefly then what happens when we actually start watching a programme. And here we start watching an episode of Dr. Who. While the programme is on -- sorry. I am able to find other episodes of Dr. Who and change to watching those. Or other programmes that we think are similar to Dr. Who that you might want to watch. Equally I can go and access various other episodes of Dr. Who who have been on in this series. Okay. Hopefully this gives you a taste of iPlayer. What I was unable to show was live restart which starts to blur broadcast and ondemand. When I tune in to a programme that has already started on linear broadcast, I can go in to iPlayer and restart the programme. So hopefully it gives you a taste of how interactive television is enhancing traditional linear broadcast. From 1999 when red button first launched we have made it very easy for our audiences to access additional content. Today not just from the broadcast signal but increasingly through hybrid services. Connected red button is the replacement service building on the simplicity of pressing red to be a door to rich Internet delivered services like iPlayer that offer a rich set of content. Not tied to the broadcast shed schedule and some of which is exclusive and may never be broadcast. Thank you for listening. I will take any questions if you want.

Chair:

Thank you very much. Thank you for your presentation. I think it might be interesting if we could perhaps ask some questions on the presentation taking advantage of the presence of Mr. Mammet here. Mr. Clark.

Trevor Clarke (Assistant Director General):

Thank you. It is very interesting. I am a technology person of yesterday. A lot of this today stuff is pretty exciting but new to me. I think most of the audience will want to know do you charge for these services? And how much roughly -- how does it --

Neil:

So we are at public broadcaster. We are funded through a license fee. So each year members of the British public will pay us I think it is 145 pounds for all of the BBC services. So there isn't a charge for each of these products as such. It is included in the license fee that everyone pays.

Trevor Clarke (Assistant Director General):

So therefore it is not accessible to people overseas?

Neil:

That's correct.

Chair:

El Salvador.

El Salvador:

Thank you very much sir. Thank you very much Mr. Mammet. Thank you for your excellent presentation. In truth it has been a very lustrative. I would like to ask you specific questions regards the observance of a copyright. The observance of copyright. I am very pleased to do so. Thank you very much for your excellent presentation. We wanted to thank you. It was a good illustration. Now more specifically and looking at aspects of observance of compliance with copyright laws we wanted to know whether you have figures, figures or have you monitored anything? So when these kinds of systems are implemented has there been a decrease? Has there been a lack of motivation with those kinds of activities which we call them user patient activities or use of nonauthorized signals on your part. Thank you.

Neil:

Sorry. I might need a layman's terms. Yes. Okay. So we do protect our content quite loosely because in the UK we are a public service broadcaster. So we believe in a free to air in terms of watching the content in the BBC -- in the UK. In terms of Internet related content, we protect other Member States from accessing the content through GO IP blocks to stop people getting access to it but within the UK although it is loosely, we are using loose security, we are thinking about actually removing some of that because we believe we are a free to air broadcaster.

Chair:

South Africa.

South Africa:

Thank you very much Mr. Chairman. I wanted -- thank you very much for the excellent presentation. I wanted to check with you whether you produce your

own copyright content or there is someone who is purchasing it and whether you have licensing regime that has to do with that. And so on and so on.
>> Neil: I better be careful because I am not an expert in BBC's Intellectual Property and how it protects it but we certainly make our own content and we also work with other organizations to make content, too.

Chair:

Thank you very much. I call on the Distinguished Delegate from India.

India:

This question is -- you said it is done through a licensing fee. So it is free to air. What about the economics on the other side when this has to be viewed through iPlayers which you are switching over and what kind of investment a person allowed to do in terms of receiving this? The second question, will that follow shutting up all the other services in the due course to only to be done on iPlayer?

Neil:

I think -- so this is my personal opinion, not necessarily one of the BBC as a whole, but well, so first of all, in terms of receiving iPlayer, then yes, you need to own equipment and you need to have an Internet connection to be able to access that. It is true to say it is probably worth saying that today over 95% of viewing of programmes is still done through linear broadcasts. So we are still at a very early stage of this journey. There was a second part to your question which I can't remember. What was the second part to your question?

India:

This is the future plan, then will everything get in to iPlayer so that people in other parts where BBC is a big favorite they will be deprived of?

Neil:

Did you mean other Member States or just other content? All our content is available through iPlayer. Today it is a 7-day catch up service but that's being extended to 30 days. I think we do work with -- we have a commercial side of the BBC called BBC worldwide

that looks at how we can exploit some of our content outside of the UK and charge for that content. That then comes back in to the BBC has an investment but I can't speak to what the BBC worldwide as to what their plans are.

Chair:

Thank you very much for your answer. I give the floor to United States.

United States:

Thank you very much. We really appreciated the demonstration as well. It is very helpful. We have been hearing a lot about the red button and it was very educational to actually see how it works. So a few questions and one is just you had said that the channel 3, BBC C3 was going to no longer be offered over the air and only through the iPlayer I think. And so the first question is why is that? Why that channel in particular? How do you make that decision? Should I ask all the questions at once?

Neil:

Well, memory sometimes does not help. Maybe one at a time. Why that decision? So I think partly, again I am probably speaking maybe a little bit out of turn, but I think partly it was cost. So we are looking all the time at how we can rationalize our cost base. And it was seen that that was a good channel in terms of the demographics of the people who are accessing that content, who tend to be slightly younger audience members. And we -- as BBC we are always trying to innovate and we felt that taking BBC 3 in to iPlayer which still has to have approval from the trust, would be a good platform to try innovating that iPlayer and at the same time saving money.

United States:

So it is specific to the type of content and type of audience.

Neil:

That's correct.

United states:

I know you had said that in terms of who owns the copyright is a legal issue and the impression that I have most of these programmes are actually created by the BBC as opposed to third parties that you then figure out what the rights are to use.

Neil:

Yeah, I am on difficult ground but I think that yes, by and large we are making the programmes but we do work with other production houses to actually create that content for which we would have some say in the rights. And then obviously we are buying rights for live sports events as well.

United States:

And then two other sort of related questions. So in the red button service and the nonhybrid version the pure over the air version you have got alternatives for consumers to watch live broadcasts of several events happening simultaneously.

Neil:

That's correct.

United States:

And there is also some ability to look at past programmes. So there is archived content as well. And so one question is from the consumer perspective those aren't separate services, right? They are both available at the same time through the red button service.

Neil:

Yes. So that's correct. That through red button I can access live content as in the live event as well as watching a prerecorded event or a past programme. And it is -- it is -- we have schedulers who then work out what is on based upon the available bandwidth that we have to show those services. So 90% of the time we just have one additional linear broadcast channel that is not accessible from the electronic programme guide or, yeah. But we will also buy additional broadcast capacity during major events which is what we did during the Olympic games and also the winter Olympics.

United States:

Thank you and then my last question is for the hybrid service, how do you determine what you use the hybrid service for and what you use the pure over the air service for? When do you make that distinction?

Neil:

So it is a lot easier and more cost effective for us to push more and more out through the Internet as opposed to through live linear broadcast. Live linear broadcast there is a much higher cost to transmit the signal and much greater constraint on capacity, be that satellite or analog -- digital transmission. Whereas on IP we are not constrained. So our kind of move more and more will be to IP where we can -- it is much easier for us to offer a wide range of content.

United States:

Thank you.

Chair:

Thank you very much for your answers. I give the floor once again to El Salvador.

El Salvador:

Thank you very much Chairman. It is basically another question which is taking in to account the importance of the presentation and the novel aspect of at least for our Delegation, these kinds of services are for us very novel. As you have explained we understand that this service is available on all the platforms and all digital TV platforms in the

UK and there would be specific channels and they are the ones that you are providing as you have pointed out sir, I am sorry for my ignorance, maybe it is very obvious. Since we are talking about interactive services I just like to know whether the user in some way has the possibility of making a kind of suggestion, making a comment on line. And sorry maybe it seems very archaic I am going to give you the Facebook case, some kind of platform, where the users have the option to leave our opinions, comments without interrupting the programme itself.

Neil:

I think the question you are asking do these services allow the user to actually send back comments on that service itself? So is it a two way service? So that is what a hybrid service would allow us to do. So if it is a pure linear broadcast red button the answer is no. It is a one way transmission that a hybrid or a pure Internet based services then absolutely we can do. I am just trying to think on my feet but I don't think we have any examples where we are doing that today but we do have plans for that. And a good -- and this is on TV, sorry. I am talking purely from a BBC services on television, not on web or mobile or tablet. But a good example of where we will be going with interactive services where we send information back would be an example like a Saturday night entertainment programme whereby we are inviting people to vote on contestants and that is exactly what we would be able to do on a hybrid service.

Chair:

Thank you very much, sir. I call on Brazil.

Brazil:

Thank you, Mr. Chairman. And thank you for your very informative presentation which is indeed very interesting. I would have a few questions here as this -- the questions I am about to raise should be seen as an intent to articulate your presentation and this new technology and what you are doing in the UK with our world of Intellectual Property and copyright rights. So as they raise some concerns. And perhaps we can further explore and try to better understand how this might or might not affect the world of copyright protection.

So in this sense I'd like to know whether if -- I mean the creation of alternative personal recording services on the cloud, for example, would affect in a relevant way the BBC's business model. That is one first question. Another question would be does the BBC think that it should have the right to authorize which devices systems or services could be used and how they should be used to receive or to reproduce its signals. So those are two questions in order to clarify a little bit the kind of challenges that we think this new technology might pose for us here in our IP world. Thank you

(some text missing)

Chair:

(some text missing) And so as to be able to invite comments and answers on Article 6, the scope, and the responses to the questions left pending in this morning's session, we invite the Secretariat provide us with some information on the status quo of Article 6.

Secretariat:

With respect to Article 6, the Scope of Application, we have in the text SCCR/27/2 rev on page 5 starts, we have Alternative A and Alternative B, and also in the Annex on page 2, we also have proposals on Article 6 as well as a related Article 6 bis. But starting with Article 6, Alternative A has a -- has four subparagraphs, and the basic statement, the protection granted under this proposed Treaty would extend only to broadcast signals used for transmission by broadcasting organization, and not to works or other protected subject matter carried by such signals.

An alternative to that provision provides that the proposed Treaty would provide protection to broadcasting organizations for their pwr x s over traditional broadcasting and cablecasting media to enable them to enjoy rights to the extent it is owned or acquired by them from the owners of copyrights or related rights.

There is a second alternative that provides more specific boundaries prove Tex and the specific nature of the protection referring specifically to cablecasting. Unlike first alternative, the second alternative (Inaudible). The third paragraph addresses the the limit of protection provided under the treaty in respect to broadcasting over computer networks to transmissions by a broadcasting organization of its own broadcast transmitted by other means, provided that such reservation would only (Inaudible) a period not exceeding three years from the date of the Treaty.

And Article 3 provides -- sorry, paragraph 3 provides this one period would be a transition period during which protection of broadcasting over computer networks would only cover the broadcast of the broadcasting organization itself.

There is also terminology in brackets regarding simultaneous and unchanged transmission, so it is not yet clear whether that would be applied.

The fourth paragraph, which refers back to the third paragraph, provides that to the extent a signatory makes use of the reservation, the obligation of other signatories provided for in Article 8 would not apply. So it's essentially a national treatment provision. So if the Contracting Party chose to use the reservation for three years or declare for three years the limitation of protection, the Contracting Party could do that, but then this Article 4 would apply.

Alternative B for Article 6 in its entirety, there's -- there are paragraphs 1 through 4, starts out by providing that protection under the Treaty would extend only to signals used for the transmission by the beneficiaries of the protection of of the Treaty and not to works and other protected subject matter carried by such signals.

It goes on to provide that the provisions of the Treaty would apply to the protection of broadcasting organizations in respect to their broadcasts and that to the protection of cablecasting organizations in respect of their cablecasts which entail the explicit inclusion of cablecasts by cablecasting organizations. However, the provisions of the Treaty would not provide any protection in respect of mere retransmissions by any means of transmissions referred to in Article 5(a), (b), and (d).

So then we have in the Annex, Article 6, alternatives provided by the government of India. In alternative A -- or the alternative to alternative A is to essentially delete 3 and 4, so delete the declaration regarding the transmissions by broadcasting organization of its own broadcast, and then provide -- delete the related paragraph 4 on the obligations of other Contracting Parties if a party utilizing the options under paragraph 3.

For Alternative B, there is also an alternative from India, so the alternative to Alternative B. As this clarifies more specifically that the protection in paragraph 1, that the protection granted under the Treaty extends only to signals, not to the programs contained therein, and only to the extent of rights acquired or owned by them from the owners of copyrights or related rights. So I assume that's acquired or owned by the beneficiaries from the owners of copyrights or related rights.

And the second paragraph, instead of in the original this alternative refers to the protection of cablecasting organizations, here the reference is made to broadcasting organizations, so it applies only to the protection of broadcasting organizations in respect of their broadcasts and only on traditional broadcasting media rather than referring to cablecasting, as in the original. Then the third paragraph does refer to cablecasting organizations and says that the provisions shall apply with the changes necessary to the protection of cablecasting organizations in respect of their cablecasts and only on traditional cablecasting media.

Then in paragraph 4, the provisions shall not provide any protection in respect of mere transmissions are included here as well as any transmissions where the time of the transmission and the place of its reception may be individually chosen by members of the public. Those are the same as the original. But then is added the third sub paragraph, any transmission, including any rebroadcast or recablecast over computer networks, subject to the extent of rights acquired or owned by the broadcasting organizations. So the provisions of the Treaty shall not provide any protection for those things.

Then Mr. Chair, just to refer to everything we have on the table before us regarding scope of application, I would note that the new proposal in SDCR/27/6 includes an article on scope of application. It is found in Article 3 on page 4, and it's very simple and says that the protection granted under this Treaty shall apply to broadcasts and cablecasts and not apply to literary and artistic works or other broadcast or cablecast objects. Thank you.

Chair:

Thank you very much, Michelle. Thank you for this revision of the proposals we have before us in the different documents and in the previous discussion which we held on this issue, this

very important issue. Now, the intention, which I would like to share with the distinguished delegates who are present here, is to try to find the elements, the common elements, where we reach an agreement and to try to identify and discuss the scope, the visions on the scope that we have, so that we can reduce these alternatives which we have before us without adding any new texts, which will create a very long list of topics and texts to review. On the contrary, to identify the common elements in all these proposals. Now, for this, no doubt, before doing this, it might be necessary to have some clarifications which some distinguished delegates could make concerning their proposals. And here we'll start with a new round of interventions regarding the scope proposed here in this Draft Treaty, specifically as regarding Article 6. Right. While the distinguished delegates think about this, about the scope of Article 6 and of the scope of protection of this Treaty, we could repeat our invitation to the NGOs, to the Non-Governmental Organizations, so that if an NGO has an opinion on the questions which were left unanswered or pending after this morning's session, well, I would be very happy to listen to you, indeed, so that you can also clarify our work this afternoon while the delegates are thinking about their opinions regarding Article 6. Any NGO would like to ask for the floor to clarify the questions left pending this morning?

TRANSCRIPT – NGO INTERVENTIONS

Chair:

KEI has the floor.

KEI:

Pardon me, Mr. Chair. I just want to clarify were you referring to questions on the proposal of the broadcast Treaty or on the BBC presentation?

Chair:

Thank you for the question. Well, we'd like to hear your opinions on the questions which were left unanswered or left pending after BBC's presentation. Of course, connected to the issue of the scope of application, which we are discussing right now, regarding the draft Treaty on broadcasting organizations. If you have anything to say, then KEI has the floor.

KEI:

Thank you, Mr. Chairman. I think that one of the areas that we think is useful to discuss is to what extent is the task before the Committee appropriately related to areas where the broadcasters are providing a service to which there's no obvious way to limit access to the service, a free over-the-air service, as opposed to something such as a cable service or something that is encrypted and only available for people that provide, you know, the answer for the encryption to have access to. And that to the extent that the Treaty is really limited to people that are providing service through television or through radio, I think it's a more manageable project for the Committee, and I think that to the extent -- and that's because it

does make sense in some areas to think about a unique form of protection for a unique service, where you provide a service which is inherently free, than it does for different kinds of services, like cable or satellite services, where there's a relationship with a customer that's basically a pay service to begin with and which is probably protected under a completely different set of intellectual property rules. So in that sense, I think that's quite an important issue to have resolved in the text moving forward. Thank you.

Chair:

Thank you very much, Mr. Loft. (**transcription error- read as Mr. Love**) Thank you for your comments. I call European broadcasting. EBU has the floor.

EBU:

Yes, thank you, Mr. Chairman. Maybe just a few remarks to the presentation of the BBC this morning.

I think that one of the purposes of the presentation was to show that television of today is, of course, very much different from televisions of 1960s. And so in the near future, we will all have television sets which allow all kinds of signals to be made available to be transmitted to the public via any technological means, which certainly, from the consumer's perspective, are rather irrelevant. I think it's very obvious from the presentation that to distinguish between signals delivered by a wire, signals delivered by a satellite, computer networks, is simply no longer possible unless you are a technician and know the differences. But as we see it today, I think the differences between the different technologies is becoming less relevant for the services provided by broadcasters themselves. I think that also the questions that were raised by the European Union are quite relevant in the sense that if there's no distinction for the broadcaster to know which signal has been used, it would, of course, create possible loopholes in the protection if you want to make distinction between signals which are protected and other signals which are not to be protected. Because you can always argue I didn't use that signal, I used an online signal. Then it will be for the broadcaster to do the impossible task to prove that the signal used is the one which is protected under the Treaty and not the one which was excluded from the Treaty. I think that this might have some consequences on the way we look at Article 6 and the scope, as possibly one other option on the table could be to start with a broader approach, a more encompassing approach, covering signals as a default and then see what specific elements may need to be introduced in order to come to the right balance, right perspective to the beneficiaries of the Treaty. Thank you, Mr. Chairman.

Chair:

Thank you very much, Mr. Commissioner from the EBU. Now we have a request from the distinguished delegate from South Africa. Before giving him the floor, we would like to know whether there are any NGOs who might have any specific comments on the questions which were provided or the issue that we are discussing right now? And if not, then we can once again move on to listening to the country members. I don't

see any requests for the floor, so the distinguished delegate from South Africa has the floor.

TRANSCRIPT – NATION STATES

South Africa:

Thank you very much, Mr. Chairman. I also would like to reflect a bit from the BBC presentation as to the elements that I have picked up as it relates to our discussions here. I think the previous speaker also indicated that the -- it looks like it's not very easy to differentiate between what type of signal is being used, so and so on. With regard to that, I think it is relevant to our discussions as to the need to have different technologies, as to which technology, so on and so on. It seems to me from the presentation that the issue of technology is a moving target. So it's always moving. So I think it's going to be difficult to pin it down. By the time we are done with the Treaty, there will be other new and evolving technologies. And the other element that I did notice in the presentation was the world issue of services, if I quote it right, that it looks like BBC is moving some of the services to the Internet protocol, and they made the justification for that on the basis of cost. And we note that branding business, part of branding business is to reduce cost significantly so that we can make profits. So it looks like the broadcasting might move or is moving towards the Internet protocol television, and that then has relevance to what we are discussing. In terms of the scope of application, I call it (audio cutting out). So we really have a distinction between which platforms we want to protect and what is -- I think it's a very difficult issue. Name and address our proposal, awhile ago, we have proposed a technology-neutral approach so that we don't have -- technologies are a moving target, so it is very difficult. But if we are technologically neutral, we can always be relevant in our discussions. I will have some comments a little bit later. Thank you very much.

Chair:

Thank you very much, distinguished delegate from South Africa. Thank you for your comment, which invites us to think about the exploration of platforms, which is a term which avoids qualifying the technologies, a technology-neutral approach, technologically neutral point of view. And I think that this opinion which has also been provided in previous sessions, invites us to obtain more comments on this issue regarding to try to define Article 6. Any other requests for the floor regarding this issue of the scope of the application of the Treaty?

European Union has the floor.

European Union:

We have discussed this issue already. We started to discuss this issue at the last session. We also agree, and we -- to a large extent with what the delegation of South Africa said, but we need to look for protection that is adequate for how broadcasting organizations and cablecasting organizations operate at this moment. Of course we have certain limitations in

the approach we have adopted because we have agreed to protect traditional broadcasting organizations and traditional cablecasting organizations, which, to some extent, is imposing a restriction on us in how we approach this treaty and how we approach the rights of these organizations.

The European Union and its Member States have always maintained that we need to look for such protections for this by response to how broadcasting organizations operate nowadays. And based on the presentation today and on what we discussed before, a number of issues have been, I think, confirmed, and looking at -- you remember at the last session we used this table, but the Delegation of Japan preferred it, which I think remains very relevant and valid for these discussions, and to some extent, it summarizes all these options that we have for Article 6 in the working document. So based on this table, looking at the Scope of Application part of this table, we maintain that, of course, what is here called traditional broadcasting and cablecasting, that these are the transmissions that should be covered. And then moving to the transmissions over Internet, the first one that is mentioned here is simultaneous and unchanged transmission of broadcasting programs, simulcasting, and in our view, the presentation that was made today, which we think does not only represent the business model of BBC, but probably of many broadcasting organizations, confirm that simulcasting is something that is, let's say, already happening as a norm, as a standard, so the fact that there is a simultaneous transmission of programming over Internet, simultaneous to the transmission that is happening by traditional means, is, let's say, something that is happening on a regular basis with many broadcasting organizations. We've seen today that the iPlayer that was presented by BBC, that simulcasting is, say, the basics of the iPlayer, and then there are all additional functionalities that are added. So we have always maintained that this is something that we have to look at as a minimum protection, but response to how broadcasting organizations operate nowadays is to have protection for these simultaneous transmissions over Internet. But not only, because today we have also seen -- and I will first refer to what is number 3 in this table, so on-demand transmissions of broadcasting programs or original program. We have seen today in this presentation that on-demand transmissions become more and more popular, and broadcasting organizations use this on-demand transmission. So basically, viewers can have the possibility to click and view the programs they want to watch, and they can watch them from the beginning. It was also mentioned today that even when a viewer is connecting with a live broadcast, that it can click and watch it from the beginning if the viewer has missed the 10 or 15 minutes of this program. We think that this part of the transmission we have to look at in greater detail. Because, of course, there are various on-demand transmissions, and because we have, as I said, we always start from the point that we are in this Treaty looking at protection for traditional broadcasting organizations and cablecasting organizations, we always have to look at the situation also of not creating competitive advantage over other entities that are involved in similar activities. So we have to find a balance here. And when you look at on-demand transmissions, there can be on-demand transmissions that have nothing to do with the original broadcast and the broadcasting activity of the broadcaster. And of course, these are not the ones that we are interested in. But then there are on-demand transmissions where they are very closely related to the broadcasting activity of broadcasters. And one very clear example that was given today are such on-demand transmissions that

show programs that have been previously broadcast. So what we call TV catch-up services. So basically, programs, like today was shown on the iPlayer, but programs that have been shown in the last seven days, it was mentioned, but it can be extended to 30 days, can be watched on the Internet by viewers by clicking and choosing the right program. We find that this is certainly one of the ways to show programs, and we don't see a reason why there should be no protection for this manner of broadcasting. And that's why we asked a question today to the expert, when the signal is copied it can be somehow proven whether it was copied from the traditional broadcast or whether it was copied from the catch-up service, and according to what the expert said to date, this is not possible. So it would leave a gap in the protection if we allowed pirates to appropriate these signals and then have an excuse by saying no, but we have not copied the signal of the -- not the traditional signal; we have copied the catch-up signal. So we think that at least this part of the on-demand transmissions requires further consideration and looking at. We have also heard today that there are other on-demand transmissions that are interesting. There are some on-demand transmissions which are not exactly the programs which have been broadcast before, but some materials and programs which have their objective enriching and expanding the traditional broadcast. So you can imagine, I think there was an example given by bios of tennis players while watching Wimbledon contest, that there can be some material about the players, about the technique, or there can be previews, there can be reviews, some kind of supplementary materials, but have a very close link to the traditional -- to the linear broadcast. And again, we think that this part of the on-demand transmissions is an important part of operations of broadcasting organizations. Finally, there can be on-demand that are not related to the original material. This was given with the example of BBC3. At some point, BBC3, the way I understood it today, will be shown only through the iPlayer, so we will have a programming shown, but only shown through Internet, through computer networks. Again, there is a question whether we should look as well at these kinds of transmissions. Of course, in all cases, always looking at the fact that we need to find the balance between the protection that we are looking for here and the situations of other entities that might be using Internet and computer networks for transmissions. And this last point brings us to what is point number 2 in this table, so transmissions of original program over computer networks. That is exactly the example of the future of, let's say, BBC Free. This will not be anymore broadcast by normal means, it will be broadcast by computer networks. Again, the question is whether thereby certain programs and certain programming that is being webcast but should also be protected in case this is done by traditional broadcasting organizations and cablecasting organizations. One such example could be when there is a greater event, like, for example, there was I think today discussed the situation of Olympics and events happening at the same time in parallel. So one of these events or a couple of these events are available through linear broadcasting, and for example, since you have Red Button service and you can choose such event, one can imagine that ten other events can be offered through computer network. Again, there is a very close link between what is being broadcast in a linear matter and what is being broadcast on the Internet. This has not been previously broadcast because it is broadcast simultaneously, and it's different -- it's a different event than the one shown through traditional means, but I think it is very relevant to consider whether we could not extend the

protection of broadcasting organizations also to such transmissions. So I think there are a number of questions and a number of levels that we can look at, but I think what is important is whenever we look at these transmissions on demand or webcasting, it doesn't mean one thing. There are different on-demand transmissions, especially with regard to the link to the traditional broadcast or the newer broadcast. I think this is something that we should explore further in our discussions. Thank you very much.

Chair:

Thank you very much, distinguished delegate of the European Union for these highly detailed opinions, which I am sure are going to clarify the discussion. We have pointed out that using the tool prepared by the delegation from Japan, which in each and every one of these stages and types of transmission, we should take into account which are the ones which can already achieve a consensus and which are the ones which have to be delved into further to see whether we have subclasses and to see what treatment can be given to those. I am sure this will lead to other comments as well. The United States has the floor

United States:

Thank you, Mr. Chairman. So we completely agree that this is a very fruitful line of discussion because I think to be able to move forward here, it's critical that we have a good level of mutual understanding on the object of protection or the subject matter of protection, whatever terminology we use. And that means we have to understand the facts of what broadcasters are doing today, and also we need to make sure that we are all speaking the same language, regardless of the interpreters, in the sense that we have an equal understanding of what the particular terminology means. So I will say a number of things that others have said already, but let me try to provide a framework.

So I agree that the four categories that Japan has identified in their chart are very useful, and I want to make sure we agree on the definition of each of them and what they cover. I think it's clear what simulcasting is, and I think it's clear what webcasting is. In terms of the difference between three and four, on-demand transmission of broadcasting program or original program versus deferred and unchanged transmission of broadcasting program, I would want to make sure we all have the same understanding of the difference between those two.

It's my understanding that number three, the on-demand transmission of a broadcasting program or original program, is referring to an on-demand transmission made from a fixation of the program; whereas, the deferred and unchanged transmission means a new transmission of signal to the public. So I would welcome, first of all, a confirmation from Japan that that's their intention; and second, to make sure that others share that understanding. I also think that there are a number of questions that were raised, both by this chart and our prior discussions, and also by the very helpful BBC presentation. And my colleague from the European Commission has done a very good job of explaining a lot of these questions. I just would summarize a few as we see them after these presentations. So one question is of these four categories of transmission over the Internet, in Japan's

diagram, are there certain ones of these that all broadcasters engage in and others that only some broadcasters engage in? In other words, how universal and prevalent are each of them? And in particular, is there a difference depending whether we are talking about a public broadcaster or commercial broadcaster which activities they use? And is there a difference in the source of the content? So for example, with the BBC demonstration or presentation, you have a public broadcaster where most of the content that they're talking about seems to originate from the BBC in addition to their being the broadcaster. Another question, as the EU has raised, is to what extent is each of the activities dependent on or related to an initial over-the-air broadcast or a simultaneous over-the-air broadcast with -- over-the-air broadcast with the same issue that she raised about what the impact would be on other entities engage in the same conduct if there is no connection to an over-the-air broadcast.

Another issue, are broadcasters, as I have understood so far in today's presentation, moving more and more to over-the-air and mixed Internet or to all-Internet transmissions, and if so, what is the timing for that shift? Are we talking about two years, five years, ten years from now?

And then finally, to what extent is there piracy of each of these different types of activities, and is there any way to know where the piracy is coming from? I realize that the presenter this morning did not feel equipped to answer that question, but I think it's an important question to delve into further, whether it's with the broadcasters who are in the room today or in a subsequent conversation, because I think that may be relevant as well to the perspective of each of the Member States as to where they would want to go in terms of the object of protection.

So I think those are the main questions that we see arising out of the very helpful additional light that was shed on the use of new technologies. And we look forward to learning more. Thank you.

Chair:

Thank you very much, the delegate from the United States. Thank you for these questions, which are added to the ones that have already been asked before this morning's break. Some of them are addressed to broadcasters who are present in the room, and therefore, we can invite them to provide an answer in this regard. India has the floor.

India:

Thank you, Mr. President.

India would like to thank the distinguished delegate of the United States for raising very intelligent and useful questions, which I was thinking about when other friendly delegations were making interventions.

And one of the very important questions is about on-demand transmission. So obviously, you heard at least that on-demand, obviously, it is fixed transmission, somebody demands, so it can be -- it is obviously the single cost happens because I missed that program. I want to

watch it. I go to the BBC website, select that, and then watch. Obviously, the multicasting already finished, live telecast happening, so that is multicasting happening or even going and watching it. That is Web -- when Web streaming is happening, that webcast is finished.

Coming to unchanged, deferred telecast. So I -- ad nauseam, I give the example of -- because I am a big cricket fan, so Indian cricket league match is happening in Dubai, everywhere nowadays in the Middle East. So the satellite rights are with them. So how far are rights ravr paying millions of dollars. So they get returns because of people like Matt, cricket fans like me with our iPods. So if webcasting rights are given to the times now, YouTube, so they will be losing the satellite broadcast. Obviously, they have been given deferred, unchanged webcasting rights. So in this process, with my experiences working in the public broadcaster in India, so they do the fixing. Because you don't get a live feed signal again when you do the deferred. You have to record it, fix it, and after time, five-minutes' delay, unchanged telecast you are doing. So you have to fix it, fix it first, when the live is coming, and they will do a deferred telecast.

Because I remember one the deferred telecast for the Olympics for the same reasons. All over the world it was coming at one time after five minutes' delay plus extending live telecast rights. I think it was 1992 World Cup soccer, which if I am correct, the Germany won that. And coming to other issues of scope of protection, you all know you are all experts and experienced people. You have been negotiating the broadcasting Treaty for ten years. I have been ad nauseam saying we are very serious about this Treaty. We have 800-plus television channels active and 400-plus in queue getting registered. We have stakeholders meetings. Because the law in broadcasting, there are three elements. There is a Copyright Law. There is contract business models, then technology. So three elements have to be together to get a perfect clarification so that we have a perfect norm-setting starting from Article 6, which we are trying to get clarification.

Unfortunately, I could not attend the BBC presentation, but what I got from my friends and other delegations, that there are three or four kinds of ways they are eded to access the content. One is in house, which BBC does always, so there is no question of rights, whether they are doing webcasting or simulcasting with BBC channel 1 or BBC channel 2. They did not get any permission because they own the rights.

Second, about the commissioning, they will get the content created for someone that will make the payment and get the rights transferred to them. This is a second kind of thing. O obviously, they will be having all rights in that, whether it is delayed telecasting rights, similar to the in-house program, so all kinds of rights. Then the problem starts with the other kind of content acquisition, where, for example, whether it is Olympics or Cricket League matches, where content creator is Olympic company or BCCI or International Cricket, Committee. So here they give permission to broadcaster whether they will be acquiring the satellite broadcasting rights or television broadcasting rights or webcasting rights. There are different actors and different players in this.

So while drafting and finalizing the scope of protection or articles of protection, we are to see

how they acquired the content. So in one way, we can't believe that everything belongs to the broadcaster. So we have to see this finalized. So we are already flexible in this matter. So we may be needing a few additional paragraphs or, you know, footnotes or agreed statements to clarify this. So we are to go in such a way that, you know, these rights are protected, creator's rights are protected, because we cannot, you know, create problems with the content creators, whether it is the film industry or music industry or TV content-creating industry. So that's the top content creators. The daughter of a famous actor, she has a huge company. They started with television soap operas, now are making films. So the way that broadcasters acquire the content, there are different models. And in the top content channels, they have all the rights, whether it is webcasting, simulcasting,. Interestingly, they are given channel rights to a satellite. In India, only the public broadcaster has that right. And giving these rights to them and preserve to simply look at them when we like. So they are transferring everything. But as coming to regional channels, they are not transferring all the rights. They are giving only license to broadcast. So you all know that each telecast they have to get permission, whether it is a prime time telecast, whether it is re-broadcast, whether it was simulcasting. So all these are related. So we have to traw up these things carefully, considering all these business models existing.

Of course, there is one situation maybe we are all aware that the broadcaster getting only satellite broadcasting and then content owner keeping all the rights, he has not given anyone the simulcasting or webcasting rights. And then broadcaster is losing his investment because then it is unauthorizably put out on the Internet by some unscrupulous fellows. So this we need to address here.

Thank you.

Chair:

Thank you very much, Professor Rekavenda. Thank you for this detailed and very enriching intervention.

Yes, it was necessary, since we have a proposal from India. They proposed wording. We need to have a clarification on this, particularly as regards in the light of the other proposals contained in the text, so as to try to come up with a more simplified wording. And we particularly like to thank you for this contribution because it includes flexible proposals, such as concerted statements or footnotes, to clarify the impact on the rights which come from the content that is copyright. Of course, it's important to recall that the discussion on broadcasting rights should not affect the already-established copyrights on the content. And this has been done in every new treaty was has been approved. We've made this crystal clear. So I think it will not be a problem to make these clarifications in these texts, in these drafts, as the distinguished delegate from India proposes.

So I now call on CATHA.

Canada:

Thank you, Chair. Chairman, my delegation would (Canada) Like to echo many of the comments that have been made here by my distinguished colleagues. I will not go into detail on what they all have been, but we certainly agree with the view that we need to deepen our knowledge of new technologies and consider appropriately tailored protection being made available to broadcasting organizations to reflect the evolution that we witness. I noted the point made by my colleague from the United States and also the suggestion put forward by the EU that some online services should be covered by protection. And this was particularly important when subject matter was being broadcast over the Internet but not available by regular means. BBC would be an example of that. You can still get BBC3 through the iPlayer despite the fact that it is no longer going to be broadcast over the air, so that is a scenario we have to consider, and we have to think about how, then, we can ensure that there is appropriate protection for signals in order to prevent signal piracy because you will no longer have the original, traditionally understood broadcasting signal. And we have to think about what kind of protection this would be. Would it not be something that we have for traditional broadcast or broadcast at a later date? We need to look at this in more detail in order to clarify the situation and see how best to take our work forward. Thank you.

Chair:

Thank you, distinguished delegate from Canada,. I think we are all making this effort. I think this is the Golden moment. The time is right to go through all of these questions, which will enable us to understand these platforms, these exploration of platforms, as said by the distinguished delegate of South Africa, these different transmissions over Internet, as has just been said by the delegation of Japan and its chart. I think the time is right to define the scope. We'd like to hear what is going to be covered, which of these transmissions are going to be covered in this Treaty which we are discussing. And in this invitation, we are going to make it looking at the text and proposals on Article 6. Now, following this round of interventions, the rostrum will try to go into the opinions and delve into them, particularly Article 6, the scope we have before us. The delegation of Argentina has the floor.

Argentina:

Thank you, Mr. Chairman. Since this is the first time that my delegation is taking the floor, allow me to indicate our satisfaction with the fact that you are chairing this meeting. We have faith and leadership. It would be important to make very important progress. We'd also like to commend the Secretariat for the preparation of the documents for this meeting. Mr. Chairman, regarding the scope of application of the future Treaty, for Argentina, this should include broadcasting transmissions made through any medium process by broadcasting organizations traditionally recognized; in other words, radio, companies, open TV companies, cable companies, and excluding the webcasting.

Now, regarding Article 6 and the different alternatives which are found in Document SCCR/27/2 rev, Argentina supports Alternative B. Thank you, Mr. Chairman. Alternative B.

Chair:

Thank you very much, distinguished delegate from Argentina. Thank you for expressing your opinion on the platforms which should be covered here by the Treaty, and then specifically what texts you consider reflects this position. That's an effort that I would like to be made by the remaining delegations as well. The delegate from Brazil has the floor. Brazil.

Brazil:

Thank you, Mr. Chairman, and good afternoon as well. We have been following with great attention the debate this afternoon, and first of all, I would like to thank all the delegations and representatives of NGOs that have taken the floor before me for their insightful comments on this very complex debate. I really think that the current debate is pretty much necessary at this moment in our discussion, and I fully agree with you, Mr. Chairman, when you say that we need to have clarification in terms of the scope of protection before we can really advance our discussions. I would like to say I fully agree with your assessment of how to conduct our discussions. Having said that, Mr. Chairman, I would like to echo some of the concerns that have been raised here by some delegations. I have heard with great interest what was said, but perhaps I think the colleague from Canada touched upon an issue that, from the perspective of preservation, stands at the center of our debate here, conceptually speaking, of course. And so I would like to pick up on that and perhaps rephrase our concern in terms of raising a simple question, I think, which would be this one: How would the protection granted to a transmission over the Internet when not simultaneous and unchanged differ from the protection granted by copyright to the content itself? If I well understood what Canada said a moment ago, they referred to this conceptual problem, and I think this is a question, an issue that is on the center of our debate here. What I mean to say is this. I need to understand why there is a need for additional protection to the regular protection already provided by copyright. This is something that when we talk about transmissions, not simultaneous, and I mean, transmissions when not simultaneous and unchanged.

I have to say that when I look at the proposals, the textual proposals that have been put forward, some of them are very -- are more detailed. They try to limit the scope of the protection. And, of course, we acknowledge that and think that this valuable efforts to try to address the issue. But still, I remain to be convinced that what is transmitted when not simultaneous, in fact, for example, on-demand services and other alternatives, that that needs additional protection to the protection already granted by regular copyright. So in one instance, I think this is at least one of the central issues that have to be further clarified for us to have a minimum degree of consensus that would allow us to move forward. Thank you, Mr. Chairman.

Chair:

Thank you. Thank you, distinguished delegate of Brazil, for clarity of your question. This question has been the object of discussion of previous discussions, but I think in search of a minimum consensus which the distinguished delegate of Brazil has referred to, this deserves comments and answers, and I think we're at an important time defining. I'd just like to highlight the fact that these kinds of questions and the comments which are being made should invite us to use this point in time to define it. We no longer have the possibility of waiting or having additional moments for reflection. I think we've had much time to listen to these private models for businesses, and we've heard these different opinions. And this is a very interesting exchange. So we should try to see where we are, and if we achieve some consensus, to what extent using this model. So I will invite people to answer Brazil's question. India has the floor, then the UK, then followed by Russia and then the United States. We will begin with India.

India:

Thank you, President. India would like to reply to the question raised by the distinguished delegate of Brazil. So I think the Indian proposal tries to answer this, which is in the legal text, which we often say that the rights are acquired as per the agreements and contracts with the rights owners because rights owners are the actual content owners. Whether you see Article 11 bis of the Convention versus excluding rights to authorize broadcast, WCP, then -- the producers, then performers, then how the performance have right to exclusively broadcast to public or making available. Then comes the related right of the broadcaster. So this guy may get the copyright owner's authorization to broadcast this. So he may be getting single right for a primetime slot. So for the rebroadcasting, that contract agreement which he acquired the right has to satisfy strictly. So India courts have gone into various problems between the content owners and broadcasters. So these things are to be clear in the agreements where the content is acquired. So it is only one-time primetime telecast from 9 to 9:30. He is not supposed to rebroadcast it. He is not supposed to simulcast it. He is not supposed to defer telecast. Through some other medium, like, for example, Web streaming. So these things are legal in the contract. So fess not getting those rights, somebody else may be getting, a different platform may be getting it. So he may be getting, whereas he may be getting the simulcasting right, he is not getting the simulcasting right to other BBC2 channel because BBC2 channel will be getting the needs of other people may be different, just like our two networks. There's all different satellite channels, the coverage, the times are totally different. EU, Africa, Latin America, so for those people, this channel is broadcast. Whereas, the other one may not be going there. They are being the television channel. So they need to take a simulcast permission from the content owner, not only broadcast in one, but also the others, which covers the Indians who are in the rest of the world. So similarly, he may not be giving the simulcasting right, may be giving the deferred telecast for DD India. So he has to fix it and then deferred telecast for DD India. Similarly on demand. So where the guys watching that live telecast, the prime telecast, if they want to play on demand for the clients who missed it, the contract has to clearly say he can make available for these people. So permission for each

and every aspect of broadcasting, whether simulcasting, webcasting, on demand, or preferred. The broadcaster cannot do this. Otherwise, he will be doing unauthorized broadcast, will be liable to civil or criminal penalties. In the code it is answered very clearly. Thank you. Then coming back to I think I replied to this question, but I have one more question to scope of protection. Are we discussing this within the scope of signal-based broadcast in the traditional sense, the scope of protection, or are we diverging and including various elements, or we need to change the mandate, or the mandate will satisfy? So I am just trying to apply. So we are to see this also so we are doing many elements. Is there a need for the change? Thank you.

Chair:

Thank you very much once again. I do thank the distinguished delegate from India for replying to the question raised by the distinguished delegate of Brazil and by pointing out how your vision on the Indian proposal, which could help us to understand the scope of protection or application of this Treaty. Now, I call the UK, Russia, then the United States. Then we continue replying to Brazil's question and continue thinking about these business models, these platforms, or these different kinds of transmissions, bearing in mind the questions that have been raised and put on the table also by the United States because this is going to give us an idea as to where we want this Treaty to go, with the objective to try to have an idea as far as possible of conclusions and to where we want this Treaty to go today and which are the kinds of transmission, where there still is no agreement in this regard. The UK has the floor.

United Kingdom:

Thank you. Just first of all to quickly make a clarification about the origination of BBC's programming. These days, the BBC Commission writes a lot of its programming itself, as well as buying ready-made programming as well. Going to BBC's question, I would be very interested to hear from broadcasting organizations that are here, their views on what I am about to say. But as I understand the argument, the reason that some broadcasting organizations would like to see the Treaty covering fixations as well as live broadcasts and, therefore, a lot of these categories that we're talking about where it seems like you're moving into territory where you could say, well, that content's already protected by copyrights; why do you need additional coverage? The difficulty is that if that particular has been parted somewhere outside the territory of where the broadcaster is situated, there are difficulties in taking that legal action because it would mean coordinating the rights holders for the content created to take that legal action, and they may well have already been paid, so they have little incentive to take the action to spend money on taking legal action abroad. Now, perhaps that's not the whole picture. Perhaps already some broadcasters have agreements with the creators to say we can take legal action on your behalf, but maybe they have difficulty in some jurisdictions in actually being able to represent rights holders because in those jurisdictions there's a requirement for the creators themselves to take the legal action. So I think it's important to define exactly what is the problem here to provide the right solution, but as I say, I'd be interested in broadcasters' views on that because I think we can provide wording

that makes sure if we do have protection for fixations that that doesn't, then, affect the creator's rights because I know there are other concerns about that too. Thank you.

Chair:

Thank you very much for this answer to the questions which have been asked and for the suggestions proposed. I will now call on (Inaudible).

Belarus:

Thank you, Chairman. Chairman, I, too, would like to thank all the distinguished delegations which have already spoken. And speaking on behalf of the ten countries in our group, I would like to now describe our vision of this issue, the issue of the scope of protection or application as described in Article 6.

Our draft protects our vision of our view which they should be protected only from broadcasting organizations as traditionally understood and cablecasting organizations in accordance with the arrangements that were, indeed, agreed to at the last session of our Committee.

So we have a proposal that is relatively brief on this point, and I will explain why. Defining the terms is an approach we have taken in order to try to ensure that we don't have any overlap with other articles; in other words, by giving clear, full definitions, we hope not, then, to overlap with Article 6. So if you look at our proposal for the definitions article, then you see that our view is clear. And when we are talking about rebroadcasting or retransmission, it's clear that protection would not be afforded because we are talking only about a new signal being protected by this agreement.

We would also like to emphasize that the view put forward by many delegations here is also reflected in our draft to the effect that in accordance with this Treaty, there should be no protection for other subject matter from third parties, in other words, that is being transmitted either traditionally or via cable.

First, we endorse the fact that we need to ensure that we have appropriate observance of Copyright and Related Rights; however -- and here we do accept India's point, but we do recognize that we very to be very careful about the fact we are talking about protection of broadcasting organizations' rights, and we must ensure that we do not in any way try to infringe the way in which these organizations seek to enforce their own rights. Now, in terms of cable organizations, here I am grateful particularly to the points made by Japan. And I think that, in fact, Japan has given us an extremely useful table. And this sets out the questions very clearly for us as we try to think about what exactly we are protecting. There are a couple points I'd like to highlight about this table, and here I am particularly focusing on the section on transmission over Internet.

Looking at this, I give you our national view on this particular sure. It seems to us that we need to define what exactly we are talking about here. Are we talking first and foremost about the signal transmitted by the broadcasting organization, or are we talking about a signal that's picked up by the organization for any kind of transmission, either traditional or webcasting or other kinds of over-Internet transmission? It seems to us that some of these concepts are becoming a little confused, and we need to be very clear about what exactly is

the subject matter of protection here? Are we talking about what we have traditionally understood or about something different as understood by webcasting? We think it's important to focus first and foremost on having a definition of the subject matter of protection. And if we look at the four points that were proposed for discussion at the last session, then again, there are points that need to be clarified. And when we -- and here I am speaking nationally -- when we are talking about simultaneous transmission of a signal via the Web that is also being broadcast at the same time, then, by traditional broadcasting organization, then we consider it is a situation where you have one body that's not actually creating the signal; it's picking up the signal for another body that is originally producing the signal then transmitting it by other means. For that reason, we think when we look carefully at two, three, and four in this section of the table from Japan, then we have to bear that in mind. And if we understand correctly what has been said, we don't see that we would need hypothetically, as it were -- again, once again, I am saying if we are to arrive at a general view that we are going to consider the possibility of protecting transmission over Internet, then are we actually going to say that, in fact, we are talking about the subject matter protection in this context? It seems to us that we are not talking about a new signal in that particular context; we are talking, rather, about a situation where, in fact, something is picked up by another organization and then broadcast. If you are talking about someone creating and also transmitting over Internet, then that is a different situation.

Thank you.

Chair:

Thank you very much, distinguished delegate from Belarus. Thank you for these very interesting opinions. I give the floor to the United States,. United States has the floor.

United States:

Thank you, Mr. Chairman.

I'd like to first address the question posed by my colleague from India as to whether we are still operating within the scope of the General Assembly's mandate and only to say that we agree that we need to be working within that mandate, and the way that we see the discussion that we're currently engaged in, it is a question of interpreting the mandate, and so the two issues we see as needing discussion are, first of all, what is broadcasting in a traditional sense, and if you've got over-the-air broadcast that also in some way implicates or using Internet technology, does that still qualify as broadcasting in the traditional sense? And second, what is a signal-based approach? And once there's been a fixation, is it still a signal-based approach? We tend to think not, but it appears that's not necessarily everyone's interpretation.

That's my first point. The second point is that we think it is imperative that we achieve greater clarification on what we all mean when we talk about this concept, and we see that as the greatest goal of this session, so not so much working on specific language as trying to achieve a better mutual understanding of what exactly it is we are talking about and dealing

with so that we then will be equipped for further negotiations. Toward that end, we would very much like to hear some answers to the questions that we raised from the broadcasters as you suggested, Mr. Chair. We also know that as to Brazil's and Canada's question about whether, in the case of the on-demand transmission of a broadcasting program or the deferred and changed transmission, whether we are still talking about signal protection, after it's been fixed and then something is done with the fixation, we agree with that concern, and one of the reasons we'd like to have further discussion about it is that we are hearing some delegations that they say that they see this as being part of the issue of the adequacy of protection for the signal, and if that's the case, we want to understand more, and that's why I posed the question where and how piracy takes place on all of these platforms, and I think that may not resolve the concern, but it would help us understand the views of other delegations. In terms of the UK's point about being able to assert rights and enforce rights that have been granted by license, perhaps there the issue is really one of standing to sue based on contractual rights rather than the issue of creating new legal rights at international level. So I wonder if it might be hopefully addressed from that perspective.

So ultimately, I think many of us feel we may need more of this information and better enlightenment of our understanding on these questions before we are ready to take any definitive positions on the alternatives in '6. We do want to move -- in Article 6. We do want to move forward and hope we can use this week to do that, to understand each other better and narrow our areas of differences for further consideration. But we do feel it's critical to have a firm framework of understanding in place before we are really able to move forward toward finalizing language for negotiation. Thank you.

Chair:

Thank you, United States, for your opinion.
South Africa has the floor now.

South Africa:

Thank you very much, Mr. Chairman. I just wondered if you had some viewpoints on what India was elaborating in response to my colleague from Brazil. I think the India explanation is very industrial. For us in South Africa, we see opportunity. We think (Inaudible) as it will aid and enhance creation. So it is with that explanation from India, if the (audio cutting out) -- to the broadcasting industry. So I think it's very relevant illustration.

And I think I also have, in one of the approaches, under development of (audio cutting out) I think that explanation from India really enhances as to how you license the intellectual property that has been put to use, especially by the small- and medium yum-size enterprises. Thank you.

Chair:

Thank you. Thank you, distinguished delegate from South Africa. Thank you for your brief intervention but also an important one. When he highlighted the clarification made by distinguished delegate from India. European Union has the floor.

European Union:

Thank you very much, Mr. Chairman. We would like to take up the points that were raised by the delegations of Brazil and India especially. We very much agree with the delegation of India, but what we are discussing here in this Treaty, the protection of broadcasting organizations, will not affect, of course, or limit in any way rights of underlying rights holders. -- underlying rights of rights holders. So creators of the content, and the rights holders that have rights of the content, these rights remain. That is a very clear in a number of provisions in the working document. We totally agree with this. I don't know if I understood correctly, but India was giving examples, but there may be certain broadcasting organizations that get a license to show content by traditional means and there can be a different one that shows content over Internet by simulcasting. Indeed, this can be the case, if different broadcasting organizations receive from content owners different rights as to the the use of the content. And -- but this, in our view, should not prevent these broadcasting organizations from having protection over the use of this content in various ways. So in other words, if, for example, there is a broadcasting organization that issues a license for showing certain content by traditional means, of course it's limited in the way it is used as content in traditional means. But that does not mean we cannot in this Treaty protect the broadcast organization from this signal being then shown on the Internet. For us, these are two different levels because, of course, we are not here -- the objective of this Treaty is not to somehow -- somehow broaden the broadcasting organization rights with regard to their actual relations with rights holders, with content creators. That remains unaffected by what we are discussing here. So what can be done with content will remain the same, but then it is what we are looking at are the rights of the broadcasting organizations, how we can protect their own signal.

Even if the broadcasting organization can only broadcast by traditional means, it is, we think, still a valid point, but it should be able to stop somebody intercepting this signal and showing it over the Internet. So for us, these are two different levels, and I think this is also, to some extent, our view with regard toward what about pwra zill added. I think there is always a situation in the broadcasting program that there are certain parcels that are covered by copyright, by rights of rights holders, and by certain broadcasters themselves because they are the ones that produced this content. Whether the transmission we are looking at is the traditional transmission, on-demand transmission, or webcasting, this is no different. I think the mode in which the transmission is made is not changing the situation. We will always have, when we are looking at -- always -- majority of cases, I think, when we are looking at program of broadcasting organizations, we will have a mixture of those parts of this program that are covered by rights of all rights holders, and this will not be affected by this Treaty, and parts that are not covered by copyright. What we are looking at here is, first

of all, to allow broadcasters to protect the signal, whether within the signal -- whether the signal is transmitting those parts of the program that are covered by copyright or not covered by copyright. So that is -- it is a different level of protection that we are looking at in this particular treaty but does not affect the rights of our rightholders, and of course, there are also, and it is important to know that there are also parts of the program that are not covered by copyright or rights of our rights holders. So this is also the case, so not everything that is part of the broadcast is covered by copyright.

Thank you.

Sorry. Excuse me. Could I just -- there is one more issue with regard to what delegation of Belarus raised with regard to the table made by Japan. And I am not sure whether I did not understand correctly, but it seemed as if Belarus was not looking at these transmissions that are listed here as transmissions not by the broadcasting organization but by a third person that is using the signal of the broadcasting organization. I don't know whether this is the right -- whether I understood right, but I just want to say the way we are looking at this, the European Union Member States, we are looking at this as the transmissions of the broadcasting organization. So for example, if we look at simulcasting, we are looking at the situation when the broadcasting organization is broadcasting certain programs in a linear manner in traditional means, by traditional means, and at the same time is showing the same kind of program over Internet. But maybe this was just a misunderstanding, but just I think we are here to clarify all such issues so there is no confusion, so certainly, the way we are looking at it the are that these are transmissions made by the same organization or at least on its behalf.

Thank you very much.

Chair:

Thank you very much, distinguished delegate from the European Union. Now we have a request from the EBU, and it will be interesting listening to them. But just before that, we'll listen to the delegation from Japan, and then India.

Japan:

Thank you, Mr. Chair. I am speaking in my national capacity. At the outset, this delegation, this is the first time to take the floor. This delegation would like to express its appreciation for your hard work toward the success of this session of the SCCR. We would also like to commend the Secretariat for their continued delegation. Of course, we would like to say thank you to all the delegations for their statements. In addition to that, we would like to appreciate the BBC for their meaningful presentation about how the latest technologies are in the field of broadcasting.

We are sure such a presentation helps us deeply understand each Member State's position. With respect to the scope of application, at the last station, we submitted a new proposal regarding the signals over computer networks transmitted by the traditional broadcasting organizations to find middle ground among Member States. We believe that the -- our proposal helped us moved forward on this issue. We would like to explain again about our proposal, Article 6 bis. Our proposal adds Article 6 bis to Article 6 Alternative B. Article 6 Alternative B is based on our original proposal. As we

stated last session, the intention of our proposal is that while the protection for traditional broadcasting signals is the obligation of Contracting Party of this Treaty, we established a new article regarding the protection for transmission of signals over computer networks by traditional broadcasting organization as Article 6 bis. Article 6 bis is a provision which provides Contracting Parties with the flexibility in determining how to protect transmission signals over computer networks. The protection is optional. On the other hand, in order to reconcile the differences in the protection among the Member States, Article 6 bis also stipulates national treatment. With respect to what kind of transmission should be protected, we are of the opinion that with on-demand transmission, we should bear in mind that in a lot of countries, on-demand transmission over computer networks is already conducted by so-called webcasters other than traditional broadcasting organizations. We have concerns about the distinction between on-demand transmission by the traditional organizations and that by webcasters. Therefore, due consideration should be given to determining whether or not on-demand transmission is over computer are covered in this treaty. I thank you, Mr. Chair.

Chair:

Thank you, distinguished delegate from j pan, for your excellent intervention explaining your proposal in Article 6 bis. Now I think that this helps the discussions which we're holding. There's a very interesting exchange of opinion. India, then Ecuador.

India:

Thank you, Mr. President. This in reply to observation made by distinguished delegate from EU on the -- especially in the circumstances when a traditional broadcaster acquired rights from a content owner, and that signal is not over the Internet. So how to address that issue? So I made this comment in my intervention, that since -- even though he doesn't have a right of streaming over the Internet, his content -- his signal has to be protected. Obviously, he doesn't have a right, but he can't be given exclusive right to that, but a right, like right to prohibit the kind of thing, that has to be protected. The signal has to be protected. That's what we said. Obviously, we cannot give him an exclusive right because he has not got those rights through contract, but since he has invested in creating that signal, so it is our more or less responsibility to protect this signal. So a kind of right to prohibit can be done there. And then coming to the comments made by the distinguished delegate of Japan, discussing his proposal of Article 6 bis, we are flexible again on that proposal provided the contractual rights are taken into consideration, whether he has the contract or not, and then also considering the rights acquired by the broadcaster, and we can address there with a slight change of language. We are flexible.

Chair:

Thank you very much, distinguished delegate from India, who reminds us on an ongoing basis that the discussions that we have should not affect the copyright of the owners of the content, and I think that this has been expressed frequently, and from what I understood from the remainder of opinions here, it's very welcome to receive this clarification. And it also allies people's minds to know that this respect and to contract of Copyright should either not be discussed or should be further clarified. But at a time of discussing the specific rights of the broadcasting organization and being quite clear that having in mind the clarification respecting Copyright of the authors as certain delegations invite us are ready to give related rights to the broadcasting organizations or not. Right. I now call on Ecuador and Colombia before giving the floor to European broadcasting unit.

Ecuador:

Thank you, Mr. Chairman. For our delegation, this discussion is highly important and is very interesting.

We think that what the delegation of India has said, Brazil and the United States specifically, as to the need, being able to see what the true mandate of the General Assembly is, that is something which is essential, key. There is no doubt that after having listened to several years on this Committee the different discussions on the instrument that we are discussing, it's quite clear from all of this that no doubt there are going to be problems created in the management of the rights, of the rights holders, of the content. In the case that there are to be new rights created after fixation.

Now, we heard many examples here which allow us to understand that, indeed, in some way or another, we are going to limit the possibilities of new business for the rights holders of content. And on the other hand, we have also heard or listened to arguments that these new rights, after having been fixated, fixed, they are going to be complications

historical background makes sense that those possibilities include the possibilities of rights after fixation, post-fixation, could be interpreted as we're doing it, as not being faithful to our mandate. It doesn't imply that we should go straight into the crux of the matter and discussing whether it is a consensus or not; the fact that the mandate really reflects the possibility of rights post-fixation. If this is the case or it were not to be the case -- and it seems to be the case -- to undertake the resolution. So how are we going to move ahead? How are we going to progress? And how this Committee could make suggestions to the General Assembly.

Chair:

Thank you. Thank you for the delegate of Ecuador to remind us that this discussion is part and parcel of the General Assembly's mandate. That is also the intention of the rostrum. It's important, for clarification purposes, and that's the exercise -- purposes, and that's the exercise we are carrying out, to understand these technologies, and I'm sure what is the red

line the General Assembly has established as to what we are going to do with this, what the distinguished delegate from Ecuador just said. So I think we can continue with that way ahead.

First I give the floor to Colombia, then EBU. Colombia?

Colombia:

Thank you very much, Mr. Chairman. Right. This is the first time I'm taking the floor. I would like to congratulate you, sir, and I would like to thank the Secretariat for the presentation of all the documents. I think they are finding themselves in a methodological problem, considering the fact there are many proposals which are difficult to handle. I don't know -- and this is something which just occurs to me, and perhaps discussion should focus on the elements which are being discussed at this point in time, which are easier to identify than the isolated happening of all the different proposals in isolation. Now, to also take into account this whole issue, I think that we should recall that the idea which helps us in we are taking part in this meeting is to look at what exists, to seek protection beyond what exists currently, and if we make an assessment of what exists currently, then we are going to see that both in TRIPS, et cetera, there is protection for the broadcasting organizations. And I would think that the state of the art, we have to go beyond all this and look at what exists in Rome and in Tripps, knowing that not acting as part of these two instruments.

Now, taking into account these considerations, the opinion of Colombia is that we should, first of all, seek this greater protection, which includes -- because perhaps an obligation exists different from what Ecuador said -- is the digital environment, the Internet issue. That should be a key element to be able to continue making headway in this protection of broadcasting organizations, who make so many investments in their work. So I think that that should be part of all of this, and it's one of the elements that we have to discern within the group to see whether we should include this, not just the traditional, but also the non-traditional elements, and up to where this degree of protection goes. In addition, Martin, I suggest that we begin to conclude about where there is agreed so as to be able to (Inaudible) the topic. The fact that most participants agree, but the fact that these are two different things altogether, the protection of broadcasting organizations and the protection of content. And there needs to be consensus. As we say in our country, one thing is one thing; another is another. So this is something that we could look into further and to see whether this is the case. This is just a somehow acknowledging the fact that broadcasters, that we should acknowledge that broadcasters have a particular right and that this right should be protected. Now, what right is that? So to put it in layman's words, perhaps, as we tend to say it, we tend to see that the broadcasters -- and this is a right that is difficult to deny to the broadcasters -- they have the right to the monopoly of the signal that they are transmitting of a given content. Of a given content. Now, this content can, in principle, be of two different naichs. This content can be protected by copyright. That is one possibility. Another possibility is that the content is not protected by copyright. Now, if the content is not protected by copyright, what kind of protection am I granting to the broadcaster? Well, our

understanding is that we are granting the broadcaster the protection of the signal he is transmitting, and that's why we tend to think that this makes sense as far as we are talking about simultaneous transmission or near simultaneous transmission. Now, once the simultaneous transmission is over, if the content is not protected by a right, then it I can hardly see this content as being something else than a public good. On the other hand, if the content is protected by copyright, then it is protected by copyright, and then I have to understand what the need would be to have an additional coverage of protection. So I hope that with this explanation we have made the way we see this issue clearer and that we have contributed to this important debate. Thank you.

Chair:

Thank you very much, Brazil. I do, indeed, thank you for that very clear statement. And indeed, I think that was an important clarification. The concern that you have put forward was very clear. It was, indeed, very clear in your previous question. But we now have to consider seriously how all of this relates to copyright, and that is a matter that has been raised by a number of delegations. It's clearly something that is of concern to many of those who have spoken here and have put forward this very legitimate concern. And there would appear to be a consensus that copyright should not be affected, although some people said that could give rise to certain difficulties, but that's exactly why we are discussing this. So thank you, once again, Brazil, for that clarification. I see India is asking for the floor. Or are you still asking for the floor, India?

India:

The Indian delegation thinks that the Brazilian distinguished delegate has explained this very well. There should not be any additional rights given to the broadcasters or copyright, but signal has to be protected. That is what India has been saying for so many sessions. A signal has to be protected. That is had -- while protecting the signal, we should see what other copyright owners are there. So a signal is a product which identifies the particular channel, the look and feel of the channel. It is different from each channel to the other channel. And it has not only the content, it has the advertisements also. Again, the content owner is somebody different.

So all these things we ought to see, while we are finalizing the language of the scope of the protection, the objectives of the protection. I thank the distinguished delegate of Brazil for giving this clarification. We ought to formulate the language of this scope considering these issues, not only the contractual issues of what kind of protection we are giving to the signal without disturbing the copyright owners' distinct content ownership. Thank you.

Chair:

European (some text missing)

EBU:

Thank you, Chairman.

I am a bit hesitant in taking the floor, first of all because I don't want to keep everyone from the coffee, which I think is necessary after this session, and secondly, I don't want to interrupt delegations. I think there are two points with respect to broadcasters that I think we might be able to give some clarification. We might have some discussion about exactly what was meant by some things. One point was distinguish between demands of productions that are made with broadcasters themselves and the amount of required material. Of course, there is no general rule. Some do acquire outside material, and there are, of course, differences and nuances between commercial and public broadcasters, as we know. Of course, we also know that the Convention does not make any distinction between the ways in which broadcast productions were being, let's say, produced or coming to being because the Convention focuses on the program out, so it is, let's say, the ultimate program output which is delivered to the public, and from that perspective, it is also obvious that there is no distinction between commercial and public broadcasters. Another aspect I think which the Rome Convention gives an answer to is whether we should focus on questions of licensing. I don't think that the Rome Convention deals with that issue any way or another, and that is obvious because this is, again, subject to certain dynamism and changes and varieties among countries and practices, et cetera. It does not make any difference how the broadcaster, let's say, produces or delivers its programs. Ultimately, it is about his investment in making all that available to the public which counts, and that is, of course, the basis for the Rome Convention, rights protection as being separate from the protection of the underlying right holders.

Another element which I think is important to realize is I'm not aware of any WIPO treaty which requires or makes it as a requirement for protection that all rights have been cleared. So this is also an element which we need to look into maybe in more detail. Other questions or points which came up which I think are answered by the Rome Convention as well, why should we protect fixed signals? The Rome Convention already provides for the rights of fixation, the right to reproduction of fixed broadcasts, so that question is already answered. The only, I'd say, one element which is missing from the Rome Convention is that cable retransmission was not included because cable retransmission at that time did not exist. But of course, the reason the protection of fixed broadcast is the same. You protect the investment of the broadcaster because once the broadcast is delivered, then of course, all the investment has been done, and in order to be able to make new investment for new programs, of course, money has to flow. I think a final point, which was raised by the delegation of the United Kingdom, confirmed that the main purpose of the special rights of the protection of broadcast is the possibility of the broadcaster to act independently from the underlying rights to the extent that rights exist. As we have already heard, rights may not exist in the underlying material, and in those cases, of course, the only possible way for the broadcaster is to act on his own rights. And of course, that is exactly what the rights of the broadcaster is about.

One example I know from the past is that we had a piracy of a broadcast for World Cup events somewhere in southeast, I think, of Europe, and it took ultimately two years before the court was prepared to make a decision because it required from the broadcaster translation of the 200-page doctrine, which had to be paraphrased by the Director General of the Football Federation in person in order for this to be allowed to be used in court.

Just to give an example of the time that can be involved in those proceedings and, of course, the damage after two years is much less easy to clarify than when the piracy actually takes place.

Maybe I'll leave it with that for the moment. Of course, I think we need to have other explanations maybe also from other broadcast organizations. Thank you.

Chair:

Thank you very much, indeed, EBU. My thanks do, indeed, go to the EBU for those comments.

I now give the floor to Arithi.

ARITHI:

Thank you, Chair. Chair, ARITHI is an alliance. It's an alliance of broadcasters within Latin America focusing on issues relating to intellectual property, and as a representative of AR -- A aripi, I am taking the floor for the first time, and I would like to congratulate you on the way in which we are conducting our discussion, which is allowing us to make headway. Having said that, I would like to underscore the fact that ARIPI is of the view that broadcasters throughout the world -- and we represent Spanish-speaking and Portuguese-speaking broadcasters -- in other words, we represent a significant market share, Latin America and Iberia, Spain and Portugal, as well as many Spanish-speakers in the United States. So we're speaking for a significant number of broadcasters and for broadcasters who account for a significant market share.

And we, like other broadcasters throughout the world, have been somewhat surprised, Chairman, to see how long it has taken to make progress on some very basic issues; for instance, the issue of the mandate, something that was supposed to have been resolved at a previous session of this Committee. And indeed, all members here present already discussed this issue. We discussed the matter of the mandate, and members of the Committee made it clear that Member States were those who determined and defined the mandate and interpreted what was meant by the mandate. And now it would seem like we are still talking about the interpretation of the mandate. And it was clear that the mandate here related to broadcasting and cablecasting organizations and that there was no consideration to be given to protection being made available to parties other than those two categories, broadcasting and cablecasting organizations. Now, I don't want to take too much of your time because I don't want your coffee to get cold, but I do want to say that today we are seem to be talking about giving protection to some kind of unknown entity, some unknown category. We are talking here about some kind of subject of copyright and related rights that has never previously existed. We would seem to be actually inventing some kind of body, some kind of broadcasting body, to which protection will be given. But we just seem to be making this up out of thin air. After all, we have to think about the nature of the body or the organization that would be involved, the scope of protection that would be made available to such a body, and so on. And I would just like to remind you that I am here representing Spain, Portugal, Latin America, and Brok broadcasters, and we, like virtually all broadcasters throughout the world, have a position where broadcasting organizations are recognized as such within the legislation of virtually every country in the world. It is clear we have the signal that is

protected, not the content. We have specific provisions to that effect. The overwhelming majority of countries protect the broadcasting signal, and they do that with a scope that goes beyond fixation.

So we find it rather strange today to hear some countries -- and it is just some countries, but we hear some countries saying something rather different, and they don't seem to be recognizing the fact that broadcasting organizations already exist as legal entities and that there are provisions governing their rights and protecting their rights within the domestic legislation of different countries. Now, I don't want to go over all of this again. But I noted the presentation made this morning by BBC, the Red Button presentation, and certainly it was very interesting from a technical point of view, but from a legal point of view, it was not quite as helpful as we might have liked. We know that certain questions were posed here, but those were questions that were already answered. I would say it was 15 years ago. We've had many regional seminars and meetings where experts have come together and thrashed all of this out. There have been many meetings that have been organized in all of the regional groups, for instance. We have discussed all the of this. All of these questions that were raised this morning have been eded - answered in the meetings of this very Committee in the last 15 years. So I would just like to concludes my comments by emphasizing that ARIPI certainly endorses many of the points that have been made here today, particularly those made by the EU. We also noted some various points made by delegates of Japan, UK, Kenya, and others. And we would like to associate ourselves with those comments. I leave it at that for now. Thank you.

Chair:

Thank you very much, delegate from ARIPI. This is an entity which is expressing its important point of view in this meeting. Now it is NAMI (**transcription error. NABA has the floor**) who has the floor.

NABA:

Yes, Mr. Chairman, I shall speak briefly because my colleague from the EBU covered some of the points I wish to make. Also, I endorse comments made by ARIPI. I think one aspect of the conversation that's contributing to the confusion today is we are seeing here the distinction between protection of the content and protection of the signal. This is Particularly, I think, evident in some of the submissions from the delegation of India. Broadcasting are here to protect the signal without in any way interfering with the rights of content owners. I would like to underscore the point made by the EBU, which is very important. There is a very bin distinction between the rights acquired by Brokers and the rights protecting them against third parties using their signals. Take, for example, those who might have rights to simulcasting content in a signal. They nonetheless do not want to see an unauthorized third party taking their broadcast signal and simulcasting it. This puts them in the position of facing an unlicensed competitor that is using their signal without in any way paying for the investment made by the broadcaster in the content in assembly and all the other aspects broadcasters accomplish.

So I would urge in terms of discussion that we try recognizing this distinction is often very

complicated, that we clearly separate rights in content and the the rights that broadcasters are seeking in the signal. One other point, just in terms of the extent of rights. With modern technologies, simultaneous and deferred retransmission can be a very fine difference. Broadcasts need protection that goes beyond simultaneous because a short delay doesn't in any way destroy the damage from the unauthorized retransmission. And in terms of looking at the unchanged signal, one has to be very careful to define what one means by a change in signal.

And I recall some of us who have been here for many years, in 1999-2000, there was an example in North America of an Internet retransmitter that was retransmitting signals of both Canadian and American broadcast stations in North America. It was not simultaneous. There was a slight deferral. And it was also changed to the extent that they were adding banner advertisements. This was -- didn't fit the definition of unchanged simultaneous retransmission, but nonetheless, caused untold damage to both the broadcasters and the content owners.

Thank you, Mr. Chairman.

Chair:

Thank you very much, NABA. We have our last intervention of this meeting for a very, very brief coffee break.

KEI:

Thank you. I just wanted -- wanted to mention Ecuador mentions the impact of the rights on users, and I think it's a very important part of the equation. I think to the extent that you have the right that goes to whether or not they have legal transmission of a broadcast are I think that makes sense. Once that's happened, then you know, I don't think the user wants to sort of have his life complicated by some right that goes beyond what rights holders have. Whatever this broadcaster right is, it shouldn't really go in that direction. The other thing is I think that the broadcasters would be better off here in this negotiation if they were all bundled together with the cable operators because the cable operators don't have a signal. I mean, they have a cable running right to your house, and there's a difference between the people that run a cable to your house and turn it off if you don't pay your bill and people that broadcast over free. So I think, you know, in a way, the broadcasters, cable operators aren't even showing up here. I think you should really focus a lot more on the broadcasters and what their problems are and what's in sort of what their legitimate areas and to make sure that the users aren't burdened with anything after they receive a legitimate broadcast.

Thank you.

Chair:

Thank you very much, KEI. CRIC has the floor.

CRIC:

Thank you, Mr. Chairman. This is the first time I make an intervention this year, so first of all, I would like to express my support of the chairman.

Also, I would like to express my appreciation for BBC's presentation. That is very detailed and precisely most developed technology. But that is only one example. Now in the world there are many, many various advanced technologies used in various broadcasting organizations. So detailed technology is not essentially connected with our broadcaster Treaty. That point is very important. Why we talk about the protection for the broadcasting organizations. I think and I believe that if broadcasting and cablecasting is a fundamental important social, communication, information media. It's not the transmission itself by broadcasting or the cablecasting organizations would not be protected globally, I think.

So what type of transmission done by traditional broadcasters and cable casters should be put on the discussion point when we discuss the scope of application. At this point, I wish to express -- make some annualization of the diagram of the Japanese proposal. So the Japanese proposal diagram is very useful of thinking about the scope. So I wish to analyze the scope of the application. So traditional broadcasting is very obvious one for all of us, and so that is a linear, linear. And traditional transmission over Internet, one simulcasting and webcasting. And near simulcasting is linear casting. But on-demand transmission is nonlinear. People can enjoy the program or the content when he or she chooses the time, anytime. So this point is a very important and difficult point. And one more. So traditional broadcasting and simulcasting and maybe near simulcasting would be able to be done by traditional broadcaster or cablecaster or third party getting also by traditional broadcaster or cablecaster. But webcasting and on-demand transmission can be done by any other entity. That is a difficult point. These two difficult points are very important points for discussion. So I hope my annualization is some difference for you. And at this moment, I would like to stress an important phrase. That is it is a minimum standard for the parties (Inaudible). We must reach an agreement on the objectives, specific scope, and objective of protection in accordance with 2007 General Assembly mandate. So we must finalize those three areas. I hope based on the principle that the Treaty is a minimum standard and that harmonization, such as Marrakesh Treaty, and based on that, we would like to go finalize those three areas. Thank you very much.

Chair:

Thank you very much, delegate from CRIC. NAB has the floor.

NAB:

Thank you, Mr. Chairman. I would like to make two brief comments in reply to the intervention of KEI. KEI mentioned consideration of the impact on end users, and to be clear, broadcasters' concern is not much about the use of individual members of the public within their home. Our concern is focused on large-scale piracy that undermines the value of the broadcaster's signal. Second point is I think the understanding of cable. Cable casters is not the same. Mere retransmitters would not be covered by the provisions of the Treaty. Thank you, Mr. Chairman.

Chair:

Thank you very much, NABA, for their comments. Well, the time has come to move on to our coffee break. But if we go to the coffee break, well, then we're going to fill the time when we should really conclude this meeting. So in the light of this situation, I am going to use these few remaining minutes to point out what is possible to see from this side of the table. First of all, I would like to thank you all, that is all the delegates, because of their important ideas which have been provided so that we can understand the positions expressed by the different delegates. I think that the exchange has been very fruitful and very interesting, as the different delegates have already stated. Irrespective of this, we also recognize that we can't move back, we can't go back to a theoretical exchange considering all the time, discussion time, for this Treaty. So I am going to allow myself to make a reference to the conclusions of the Committee, the previous Committee, which was held in the 26th Session because I think at that time, we obtained some clarity about what certain consensus areas could be, the ones that we're discussing. So if you have the document before you, allow me to mention or refer to the conclusions, 4, 5, and 6, conclusions 4, 5, and 6, if you have the document before you, particularly in conclusion 4 of the 26th Session, it says in Article 6: In the scope of transmission over the Internet, with the understanding that such transmissions, if they are to be included, would be limited to those transmissions originating from broadcasting organizations and cablecasting organizations in the traditional sense. If such protection is to be included, further discussion will be held whether the protection would be mandatory or optional. Fifth, discussions took place on transmission over the Internet of simultaneous and unchanged transmission of broadcasts, and it was understood that if transmissions over the Internet originating from beneficiaries of the proposed Treaty are included in the scope of application of the proposed Treaty, then at least such simultaneous and unchanged transmissions should be too. And finally, the sixth provision or conclusion of the previous session said: Will take place in relation to the possible inclusion in the scope of application of transmissions over the Internet when originating from the beneficiaries of the proposed Treaty of Internet-related transmissions, on-demand transmissions, to be defined or deferred and unchanged transmission of broadcast. As we've seen, we have three basic points which were the starting points for this Committee, which are the three conclusions. We have heard an exchange of opinion, but if you wish to see some progress in the clarification, then no doubt we have to base ourselves on these points of consensus. And I think much headway has been made in the clarification of conclusion 6 because we heard comments on unchanged and deferred transmission and other cases of Internet-originated transmission. I think it's been very useful to have a technical presentation here from BBC to be able to trigger this discussion. Now are you irrespective of the fact that there have been some alerts, so as not to affect the rights of the authors, the rights holders of the contents, nor even to permanently bear in mind this alert, this warning, which was provided by the distinguished delegate from Brazil, when is it necessary? When do we need to have traditional level of protection, which is the related rights of the broadcaster? So with all this said about this, I invite you, in coffee break -- because we will come back

tomorrow -- think about a matrix, when you go out and have coffee, a matrix, a proper matrix of the different platforms of exploration, a term used by the distinguished delegate from South Africa, and the different forms of transmission over Internet using the terms used by the distinguished delegate from Japan to determine where we have some consensus levels. And then, since it's not that simple, the picture that is, and some categories are platforms or ways of transmission, and this has been pointed out quite clearly, that we cannot provide a single response for certain platforms which are complex. We'll have to analyze whether in these complex platforms we limit ourselves or we distinguish subtypes where we have conditioned additional protection with the additional requirements, which subject transmits or creates that transmission, or whether we're talking about the fact that there are additional conditions or additional requirements. I would also like to stress that certain concerns which have been heard and which are quite legitimate mentioned the impact on the user. We pointed out the potential problems for the users. The copyright always has to concern itself, with regards to impact on users, and the copyright has established certain exceptions, and that's something that has to be worked on. The framework that we are going to work on, there will also be a component which will create a balance to protect the user and also be considered with the purpose that we are preserving rights and all this should be balanced. Now this matrix will be the exercise that we can begin tomorrow morning, where we have a fruitful session to be able to give meat to exchange of opinions which were heard today. I invite you to think about this. If we don't make this matrix more specific of where we are to date, then we might run the risk that this exchange, this very enriching exchange, becomes yet another exchange that has occurred throughout all these years. So from this side of the table, we think the time is right to define exactly, with all the guarantees

(some text missing)