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Standing Committee on Copyright and Related Rights

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DRAFT TREATY ON THE PROTECTION OF BROADCASTING ORGANIZATIONS

proposal by the Government of Japan

Introductory Note of New Proposal

This New Proposal on Protection of Broadcasting Organizations is an additional proposal from Japan which should be consolidated into the current text SCCR/24/10 Corr.

The main purpose of this proposal is to find a way out of our prolonged discussion regarding the scope of application and to move forward the discussion for the adoption of the new treaty. Therefore, we focus only on the issue whether or not signals transmitted over the computer network are covered by this Treaty. In our proposal, Article 6 bis is newly introduced which stipulates that signals transmitted over computer networks are included in the scope of application of this Treaty.

Based on the single text, SCCR/24/10 Corr. which was proposed at the 24th session of SCCR in 2012, we have been discussing this draft Treaty on the Protection of Broadcasting Organizations. However, there still remain some issues to be resolved. Particularly, the scope of application of this Treaty has been one of the toughest issues. It would be our great pleasure if our proposal would provide a solution and contribute to promote our discussions further. As a matter of course, we are open to other alternatives and look forward to the discussions among Member States at the future SCCR. Also, The GOJ reserves the right to make amendments to this proposal or additional proposals based on subsequent international or domestic discussions. We hope this would be useful for the early adoption of new Treaty for Broadcasting Organizations.

Explanatory Note on Article 6 bis (Protection of signals transmitted over computer networks)

Paragraph (1) clearly establishes that the scope of the protection provided by the Treaty covers the protection for signals transmitted over computer networks.

Paragraph (2) follows the concept of Article 14 ter (2) of Berne Convention, which is largely recognized as an adoptive provision and lays down reciprocity principle at the same time. This paragraph establishes that the broadcasting organizations and cablecasting organizations in a Contracting Party can claim the protection for signals transmitted over computer networks in another Contracting Party under the following conditions, namely: (i) if the Contracting Party to which the broadcasting organizations and cablecasting organizations belong also provides the protection for signals transmitted over computer networks and (ii) to the extent of the protection the Contracting Party where the protection is claimed provides.

Paragraph (3) lays down that the domestic legislation of each Contracting Party can decide the extent and specific measures of protection pursuant to Article 6 bis (1).

Article 6 bis
Protection of signals transmitted over computer networks

(1) Broadcasting organizations and cablecasting organizations shall enjoy protection for [their transmission signals excluding on-demand transmission signals / simultaneous and unchanged transmission signals of their broadcast] over computer networks.

(2) The protection provided for in paragraph (1) may be claimed in a Contracting Party only if legislation in the Contracting Party to which the broadcasting organizations and cablecasting organizations belongs so permits, and to the extent permitted by the Contracting Party where this protection is claimed.

(3) The extent and specific measures of the protection granted in paragraph (1) shall be governed by the legislation of the Contracting Party where protection is claimed.

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