

**Article 5
Definitions**

Alternative A for Article 5 [definitions (a) to (h)]

New Alternative to (a)

(a) "signal" means an electronically generated carrier consisting of a specific program, whether encrypted or not.

(b) "broadcast" means the transmission of a set of electronically generated signals by wireless and carrying a specific program for reception by the general public. "Broadcast" shall not be understood as including transmission of such a set of signals over computer networks.

(c) "broadcasting organisation" means the legal entity that takes the initiative for packaging, assembling and scheduling of the program and converting it to signals, with the authorisation of the owner of copyright or related rights, for broadcast for the reception of public.

Alternative to (d)

(d) "rebroadcast" means the simultaneous transmission for the reception by the public of a broadcast or a cablecast by any other person than the original broadcasting organization; simultaneous transmission of a rebroadcast shall be understood as well to be a rebroadcast.

(e) "fixation" means the embodiment of a signal on a physical support from which the programs can be perceived, reproduced and communicated through a device.

(f) "communication to the public" means any broadcast or rebroadcast to the public of the programme in the medium or platform other than through computer network for which the broadcasting organization have obtained authorization from the owner of copyright and related rights.

(g) "pre – broadcast signal" means the transmission of signals before broadcast.

(h) "rights management information" means information that identifies the broadcasting organization, the owner of any right in the signal, or information about the terms and conditions of use of the signal, and any numbers or codes that represent such information, when any of these items of information is attached to or associated with the broadcast or cablecast or the pre-broadcast signal.

(i) "transmission" means sending signals for reception by public.

Alternative to (j)

(j) "program" means a discreet package of one or more works protected by copyright or related rights, in the form of live or recorded material consisting of images, sounds or both.

(k) "cablecast" means the same as "broadcast" when the transmission is by wire and excluding transmission by satellite or over computer networks.

Proposal From India

Article 6
Scope of Application

Alternative A

(Alternative to (1))

- (1) The provisions of this Treaty shall provide protection to the broadcasting organizations for their signals on traditional broadcasting and cablecasting media to enable them to enjoy the rights to the extent owned or acquired by them from the owners of copyrights or related rights.
- (2) The provisions of this Treaty shall not provide any protection in respect of mere retransmissions by any means.
- (3) and (4) Delete

Alternative B

(Alternative)

- (1) The protection granted under this Treaty extends only to signals used for the transmissions by the beneficiaries of the protection of this Treaty, and 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.
- (2) The provisions of this Treaty shall apply to the protection of broadcasting organizations in respect of their broadcasts and ~~only on traditional broadcasting media.~~
- (3) The provisions of this Treaty shall apply *mutatis mutandis* to the protection of cablecasting organizations in respect of their cablecasts and only on traditional cablecasting media.
- (4) The provisions of this Treaty shall not provide any protection in respect of: (i) mere retransmissions ; (ii) any transmissions where the time of the transmission and the place of its reception may be individually chosen by members of the public; or (iii) any transmission, including any rebroadcast or recablecast, over computer networks subject to the extent of rights acquired or owned by the broadcasting organizations.

Proposal From India

Article 7
Beneficiaries of Protection

(Alternative)

(1) Contracting Parties shall accord the protection provided under this Treaty to broadcasting/cablecasting organizations that are nationals of other Contracting Parties.

(2) Nationals of other Contracting Parties shall be understood to be those broadcasting / cablecasting organizations that meet the following conditions:

(i) the headquarters of the broadcasting / cablecasting organization is situated in another Contracting Party, and

(ii) the signal was transmitted from a transmitter situated in another Contracting Party.

Alternative A for paragraph (3)

(3) In the case of a broadcast by satellite the transmitter shall be understood to be situated in the Contracting Party from which, under the control and responsibility of the broadcasting organization, the signals intended for direct reception by the public are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth.

Alternative B for paragraphs (3) and (4)- Delete. (Because India does not advocate for reservations in this Treaty).

Proposal From India

Article 9
Protection for Broadcasting Organizations

(Alternative)

(1) Broadcasting organizations shall enjoy the right to prohibit, if done without authorisation:

- i. the rebroadcast of their signal through traditional broadcasting means,
- ii. causing the broadcast to be seen or heard in public on payment of any charge, and
- iii. make a fixation of signal for the purpose of rebroadcast.

(2) Notwithstanding anything contained in paragraph 1, the rights therein shall be subject to the extent of rights acquired or owned by the broadcasting organisation from the owners of copyrights and related rights.

(3) This provision shall apply *mutatis mutandis* to the protection of cablecasting organizations in respect of their cablecasts on traditional media.

(4) The broadcasting organisations shall have a right to prohibit anyone from broadcast of their pre – broadcast signals.

(5) The broadcasting organisations shall have a further right to prohibit, subject to the extent of rights acquired or owned by them, unauthorised broadcasting or rebroadcasting of pre – broadcast signals or signals over computer networks or by any other means.