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Computer & Communications Industry Association

Intervention of CCIA on the Issue of Protection of Broadcasting Organisations

Delivered at the 24th Session of the Standing Committee on Copyright and Related Rights of the World Intellectual Property Organization

Thank you, Mr. Chairman, for an opportunity to be heard on this issue. We would like to compliment the chair on the compilation of proposals.

We have heard for years in this chamber of how there is rampant piracy of broadcasts despite the fact that every case of infringement that was used as a pretext for new global norms was solved by relying upon existing legal protections of the content.

More fundamentally, Mr. Chairman, we are reliably informed that signals cannot be fixed – it is a simple physical impossibility; the signal which carries the programme, irrespective of the medium through which that carrier signal travels, no longer exists once a device capable of making the programme perceptible receives it. To grant copyright in fixations or anything which requires a fixation such as reproduction, distribution, making available, or rental is therefore to grant a right in a non-existent object. While the world's governments can create legal instruments with any language they wish, surely granting copyright in objects that do not exist would be impossible to justify to the wider public.

We have heard the calls by many to have technology-neutral protection. We can understand how this might sound logical to some, but we can assure this body that the result would create an almost unlimited number of unintended negative effects. For example, is it really useful to create international norms that turn any person who wants to stream something live on a platform like YouTube into a broadcaster with many decades of protection of their “signal”?

Mr. Chairman, even in an entirely signal-based, Brussels Convention style approach, this is a treaty in search of a problem. In a rights-based formulation, it is a treaty that in many proposals extends copyright protection to fictional objects - the ‘fixed signal’ - which aside from its logical indefensibility will lead to profoundly negative consequences for innovation, the public domain, and give incumbents a massive advantage over new market entrants and innovation in delivery of programmes to the public.

Thank you Mr Chairman once again for your kind indulgence.