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Computer & Communications Industry Association

**Intervention of CCIA Related to the Work of the Standing Committees
On Copyright and Related Rights for the
47th Assemblies of the World Intellectual Property Organisation
*September 2009***

Thank you, Mr. Chairman, for an opportunity to be heard in this important debate. We wish to associate ourselves with previous speakers in congratulating you on your election and in thanking the Director-General and the rest of the Secretariat for the excellent work done in preparing and facilitating this session of the Assemblies.

The Computer and Communications Industry Association's members represent a broad cross-section of the information and communications technology (ICT) industries collectively generating more than \$200 billion in annual revenues. They thus have a substantial stake in the effective operation of the international system of intellectual property.

We would like to comment in particular on two of the subjects being discussed in the SCCR at present.

Firstly, with respect to limitations and exceptions to copyright, we welcome continued work in this area.

Firstly, because controversies between stakeholders are very often related to whether or not a given act is covered by an exception or limitation.

Secondly, because it can enhance copyright's credibility, which is undermined by an unfortunate public perception that copyright is out of step with the Digital Age – leading to the notion that copyright unreasonably restricts use, encouraging non-compliance, leading to calls for greater enforcement and larger penalties - a vicious cycle.

We suggest that where there are sufficiently robust and appropriate L&Es, strong enforcement will be less controversial, since the rules will be clearer and perceived as more legitimate.

We submit that the continued work in this area should focus primarily on the *types of uses* that actually characterize modern copyright – especially digital uses, and how to ensure that the copyright system responds with the flexibility required by different stakeholders.

Mr. Chairman, Limitations and Exceptions are nothing to be afraid of – in fact, industry knows that a limitation or exception can produce great economic value. We also know that unreasonable restrictions to access can stifle markets, inhibit innovation, and reduce consumer choice.

With respect to discussions related to a possible treaty to further protect Broadcasting, in the many years we have been engaged in this subject, we have repeatedly asked two simple questions:

- 1) What misuse of broadcasts cannot be resolved through enforcement of the rights in the underlying programmes, and would therefore require additional protection of signals at the international level?
- 2) Why are provisions designed to protect signals, such as one finds in the Brussels Satellite Convention, insufficient? Why is a regime of rights the only method of protection acceptable to broadcasters?

With respect to the first question, Mr. Chairman, we've heard for years from broadcasters of rampant piracy of broadcasts – however, the examples given relate to the use of fixations of programmes that are the object of broadcasts, not the broadcast signals themselves. The few examples that are often referred to by the advocates of a treaty, such as the iCrave TV case, were resolved expeditiously by enforcement of the copyright in the programmes being used by the iCrave service.

With respect to the second question, here the answers are either unpersuasive (such as “we wish to enforce our own rights instead of those of others” or “why should everyone else get rights and not us?”) - or non-existent.

We understand that some may have concerns related to broadcasts of live sporting events. If this needs discussion, that would be a very different thing from what we have heard to date, though we note that we have yet to hear a clamour for international protection from those immediately concerned.

Mr. Chairman, finally, aside from the lack of any reasonable justification in fact for any rights at all, let alone broad new rights, we have detected no change in the political landscape on this issue. There is no consensus – or anything close to a consensus, on the object of protection, scope of protection, or even who the beneficiaries are to be.

Someday there may actually be a real problem that cannot be solved by the use of present legal protections. Someday is not today, it is probably not tomorrow, and it is very likely not even next year or the year after.

We believe it is time – indeed, well past time – to leave this subject for a future point when it is clear there is a problem to solve, an understanding of what the problem is – and the political will exists to solve it. In the meantime, there are many more important issues to address.

Thank you Mr. Chairman once again for your kind indulgence.