

Standing Committee on Copyright and Related Rights

Forty-fifth session
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DRAFT WORK PLAN ON COPYRIGHT IN THE DIGITAL ENVIRONMENT

submitted by the Group of Latin American and Caribbean Countries (GRULAC)

The need to debate copyright for artists and performers in the digital environment more deeply and extensively has been demonstrated on several occasions since 2015 within the framework of the Standing Committee on Copyright and Related Rights (SCCR). This has been evidenced by documents presented by Member States, as well as through evidence presented in economic impact studies and discussion panels commissioned by the Committee, which have made clear the difficulties in guaranteeing the copyright and related rights of creators, composers, artists and performers in the digital environment.

At the Committee's 31st session in 2015, the Group of Latin American and Caribbean Countries (GRULAC) presented a document (SCCR/31/4) containing a legal analysis of the issue and a proposal for a more in-depth analysis of the impact of the digital environment on copyright. At the 43rd session, held this year, GRULAC again presented a document on the matter and calling on Member States and the Secretariat to seek solutions (SCCR/43/7). Studies were also presented containing related evidence and data: Castle-Feijoo: Study on the Artists in the Digital Music Marketplace: Economic and Legal Considerations (SCCR/41/3); and Cobo: The Latin American Music Market (SCCR 42/V1).

GRULAC considers that copyright in the digital environment, in its broadest sense, deserves further debate, with the establishment of a permanent space on the Committee's agenda, owing to its continuous evolution and technological progress in relation to the creation, production, administration, marketing, sharing and remuneration of artists and performers. In line with the two documents presented in previous sessions of SCCR (SCCR/31/4 and SCCR/43/7), GRULAC presents to the Committee this proposal for a work plan on copyright in the digital environment, focused on studies and debates on the topic and recognizing the complexity of the debate and the various existing positions. We propose, therefore, a broader and deeper discussion process, although without implying prejudice or commitment to a position of merit on any of the issues.

CONTEXT

In 2015, the document presented by GRULAC proposed analysis of and debates on the legal frameworks for the protection of works, including performances, in digital services, on the role of companies and corporations that use protected material in the digital environment, and their practices and levels of transparency, as well as on payments for copyright and related rights made to their owners. It also advocated for a consensus solution on the management of copyright and related rights in the digital environment. Between 2015 and 2023, the Secretariat presented the following studies: The Latin American Music Market (SCCR/41/4); and Study on the Artists in the Digital Music Marketplace: Economic and Legal Considerations (SCCR/41/3). Those studies highlighted the issues experienced by creators and artists, and holders of copyright and related rights in the digital environment. The situation, in summary, is characterized by a strong asymmetry in negotiations, standard form contracts, a lack of transparency and low remuneration in royalties for the exploitation of works and performances, especially in comparison with the income generated for the platforms by the general public's enjoyment of those creations. The imbalance observed in the studies mentioned above, aggravated during the coronavirus (COVID-19) pandemic, clearly shows that the lack of meaningful debate on protected works and performances in the digital environment, and the new business models to which it has given rise, directly affects artists and creators who hold copyright and related rights.

The WIPO Internet treaties of the 1990s, including the related "umbrella solution", have proven insufficient to address the challenges arising from the predominance of large global service providers and the emergence of on-demand services, platforms based on content provided by third parties and, more recently, artificial intelligence (AI). The laws and institutions of Member

States continue to regulate the digital environment in an unsatisfactory manner and are unable to provide the necessary balance and protection for copyright and related rights.

WORK PLAN

The activities proposed in this work plan are related to the Committee's mandate and were inspired by data and information presented in the documents mentioned in the introduction. The results of the actions and studies carried out after this work plan is approved could serve to guide the Committee in its next steps on copyright in the digital environment but will not necessarily advance Member States' understanding of the points under discussion.

As part of the work plan, it is proposed that studies and debates be carried out on the following topics in future sessions of the Committee:

- The relationship between creators and artists and large global service providers. Study of the market practices adopted, including the rules for transfers and assignments of rights, and analysis of the level of transparency both in the availability and recommendation of content for ordinary citizens who use the Internet, and in the remuneration criteria for works, performances and creations.
- AI and regulatory challenges, including studies on market practices and regulatory solutions for the relationship between tool training and copyright, authorization rules and compensation for use, and rules for transferring voice and image rights, as well as discussion of voluntary registrations with Member States' offices of works generated through AI and the importance of those works being assigned identification marks.
- The appropriate way to remunerate artists and creators for the exploitation of their works and performances in the digital environment, exploring different solutions and legal alternatives that guarantee payment for licenses and transfer of rights existing in stages preceding their digital exploitation.
- The establishment of minimum guarantees in negotiations between creators and performers, on the one hand, and platforms, content aggregators and industries in general, on the other hand, owing to the asymmetry in the negotiation relationship. Case studies and international comparisons that analyze different protection models. Creation of mechanisms to ensure that contracts may be renegotiated when they become unfavorable.
- Debate and study of approaches to a possible international legal framework regarding the right to equitable remuneration for copyright and related rights in the digital environment, without prejudging its nature, and how it is collected and distributed.
- Economic study on the current configuration of the balance of payments of royalties relating to the copyright and related rights of works and performances exploited in the digital environment.
- Studies and development of practical guides on the use of technological means of protecting works and performances in the digital environment.
- Review and assessment of national or regional solutions that address rights in the digital environment for any type of work.

- Promotion of studies on the regulation and protection of audiovisual works or works of visual art in digital markets.

In order to make progress in the development of this agenda, it is also proposed that Member States, within the framework of the Committee and with the technical and financial support of WIPO, develop tools, model law references and educational guides on the aforementioned topics.

In addition to those studies, we also propose that the Secretariat, guided by Member States, encourage compliance in its technical areas and internal departments with the requirement to operate with a “Member State-based” approach, and that those areas submit, for review by the Committee, the results of activities related to the scope of this work plan on copyright in the digital environment.

DATES FOR THE WORK PLAN

It is suggested that at least one regional technical work meeting be held prior to the sessions of the Committee in order to discuss the results of studies and, where appropriate, present relevant observations. That would involve the participation of regional copyright offices and professionals working in the proposed areas.

2024 - SCCR/45

- Study of the market practices adopted, including the rules for the transfer and assignment of rights, and analysis of the level of transparency both in the availability and recommendation of content for members of the public who use the Internet, and in the remuneration criteria for works and performances.
 - Preparation in 2024, presentation at SCCR/46 (April 2025).
- AI and regulatory challenges, including studies on market practices and regulatory solutions for the relationship between tool training and copyright, authorization rules and compensation for use, and rules for the transfer of voice and image rights, as well as discussion of the voluntary registration of works generated through AI and the importance of such works being assigned identification marks.
 - Discussions at SCCR/45 (April 2024) - Study ready at the end of 2024.

2025 - SCCR/46 and 47

- Economic study on the current configuration of the balance of payments of royalties relating to copyright and related rights of works and creations exploited in the digital environment.
 - Completion in 2024/Presentation of the study at SCCR/46, April 2025.
- The appropriate way to remunerate artists and creators for the exploitation of their works and creations in the digital environment, exploring different solutions and legal alternatives that guarantee payment for licenses and the transfer of rights existing in stages prior to their digital exploitation.

■ SCCR/46, April 2025

- Review and evaluation of solutions at the national, regional and international levels that address rights in the digital environment on any type of work, including regulation of a right to equitable remuneration, and its collection and distribution.

■ SCCR/46, April 2025

- The establishment of minimum guarantees in negotiations between authors and performers, on the one hand, and platforms, content aggregators and industries in general, on the other hand, owing to the asymmetry in the negotiation relationship. Case studies and international comparisons that analyze different protection models. Creation of mechanisms to ensure that contracts may be renegotiated when they become unfavorable.

■ SCCR/47, November 2025

- Evaluation of the possibility of initiating debate on the need for an international legal framework on the right to equitable remuneration for copyright and related rights in the digital environment, without prejudging its nature.
- Studies and development of practical guides on the use of technological means of protecting works in the digital environment.
- Promotion of studies on the regulation and protection of audiovisual works and visual art in digital markets.

■ SCCR/47, November 2025

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