



Case Study:  
A Development Analysis of the Proposed WIPO Treaty for  
the Protection of Broadcasting and Cablecasting  
Organizations

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## Abstract

From a developing country perspective, a critical question in the debate on media convergence is whether the poor stand to benefit.

International policies and regulations that are being developed in response to the rapidly changing digital environment will play an important role in shaping future prospects for the ‘information society’ and addressing the ‘digital divide’.

By examining the current international discussion on a proposed treaty for the protection of broadcasting organizations, the presentation will draw insights into the challenges of establishing a pro-development regulatory framework for the emerging converging world and the lessons to be learnt.



# The proposed treaty on the Protection on Broadcasting Organizations

Different approaches to legal protection

Multilateral agreements:

- Rome Convention 1961 – exclusive rights approach limited to traditional broadcasting
- Satellites Convention 1974 – signal-based approach limited to transmissions via satellite not intended for direct reception by the public
- TRIPS Agreement 1994 – non mandatory rights limited to traditional broadcasting

Related agreements: WCT and WCCT “1996 Internet Treaties”



# The proposed Treaty on the Protection on Broadcasting Organizations

Object of protection, objectives and scope

Main elements of controversy:

- Granting of new exclusive rights – including right to authorize retransmissions by third parties over “any means”
- Granting of Technological Protection Measures (TPMs)
- Limitations and exceptions
- Public interest and competition clauses



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## Policy issues

The Proposed Treaty Should not:

Reduce accessibility and affordability of broadcasting services

Give undue advantage to some players in the broadcasting sector

Create unnecessary costs for consumers and lead to social exclusion

Interfere with the rights of copyright owners and other related-rights holders

Restrict access to information and knowledge, freedom of expression, cultural diversity, education, competition

Retard technological innovation



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## The importance of broadcasting for developing countries

Most developing country citizens get their information, education and entertainment primarily from traditional television and radio.

Broadcasting as a public service is critical for development.

Broadcasting is still a highly regulated and controlled sector in many developing and developed countries.

What would be the ideal broadcasting landscape for developing countries?

Characterized by plurality and diversity in the number of players in the sector, forms of broadcasting, i.e. public, commercial/private and community and content.

Accessibility and affordability.



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## The Changing Broadcasting Landscape

- Broadcasting as segment of mass media
- Public good characteristics: Non- exclusivity 1=1000, Non-rivalry
- Public service broadcasting (PBS): Universality, “Good content” – cultural component, Local content for local needs
- Private industry, profit-maximizing activity
- Values of the media system:

Freedom of expression, Access to information, Cultural diversity,  
Pluralism



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# The Changing Broadcasting Landscape

- New economics of broadcasting and inter-industry and technological convergence
  - Free-to-air, subscription, pay-per view and on-demand services
  - Viewer segmentation, subscription fees, encryption and other access controls
  - New platforms for delivery, receiving devices offering multiple services
  - Telecommunications, broadcasting and computer services
  - Concentration= more channels does not mean necessarily mean more choice
  
- The Internet
  - Open environment for the public to access and share information
  - Anyone can “broadcast”
  - Prospects for digital information networks – new interactive services



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## Lessons

- No clarity as to how further IP protection to broadcasters may impact other stakeholders in the emerging converging environment
- Need for further impact assessment for developing countries and different stakeholders
- Increased opportunities for education, access to knowledge and information, and technological advancement in the digital age can be hampered by the regulatory environment



## **Thank You**

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