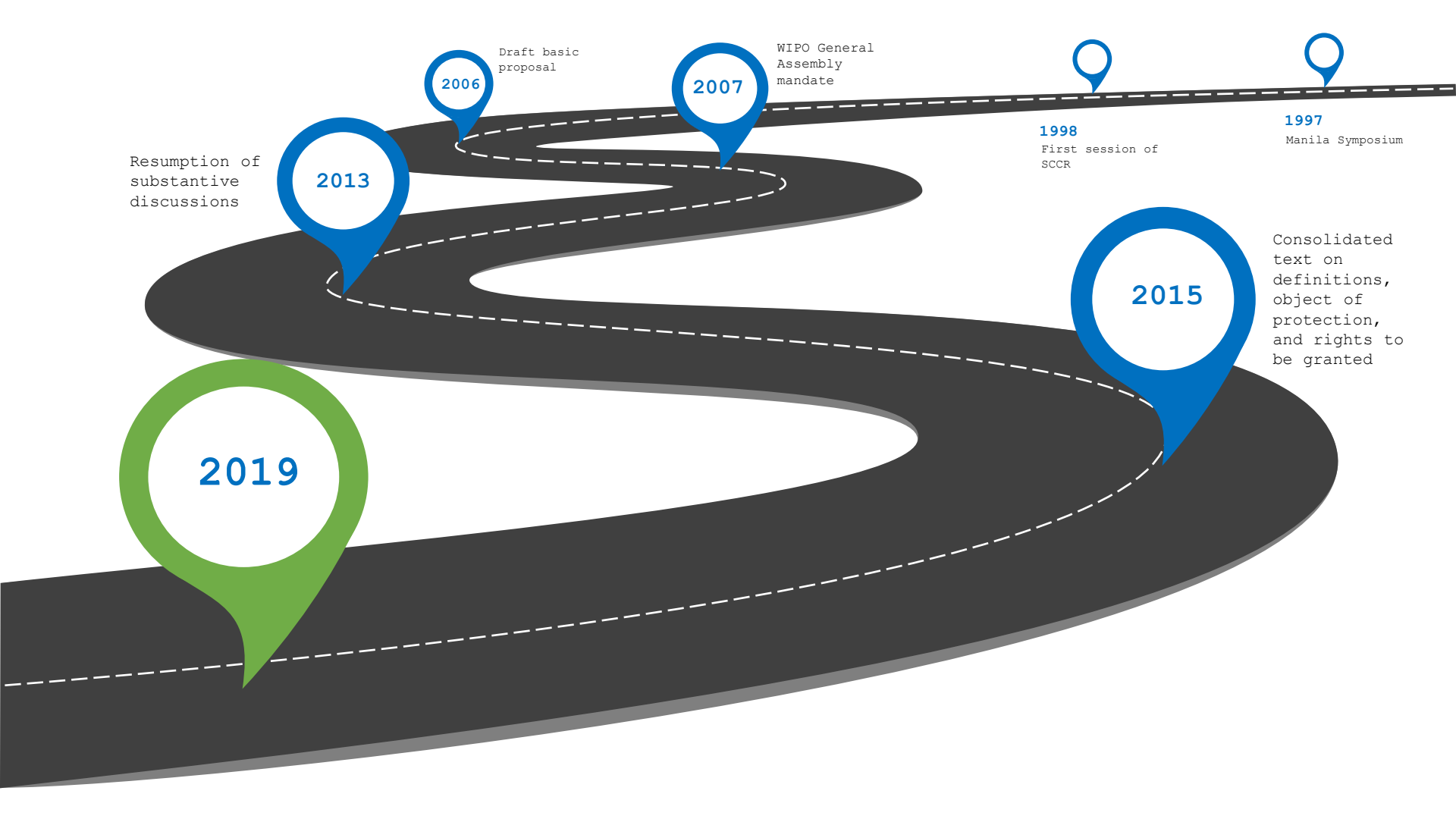


Revised Draft Text
on the
Broadcasting Organizations
Treaty

The process and the main principles

10 may 2022



2006

Draft basic proposal

2007

WIPO General Assembly mandate

1998

First session of SCCR

1997

Manila Symposium

2013

Resumption of substantive discussions

2015

Consolidated text on definitions, object of protection, and rights to be granted

2019

[SCCR/15/2](#): Revised Draft Basic Proposal for the WIPO Treaty on the Protection of Broadcasting Organizations;

[SCCR/22/5](#): Proposal on the WIPO Draft Treaty for the Protection of Broadcasting Organizations (by South Africa);

[SCCR/22/6](#): Proposal on the WIPO Draft Treaty on the Protection of Broadcasting Organizations (by Canada);

[SCCR/22/7](#): Comment on the WIPO Draft Treaty on the Protection of Broadcasting Organizations (by Japan);

[SCCR/22/11](#): Elements for a Draft Treaty on the Protection of Broadcasting Organizations: (by the Chair of Informal Consultations held on April 14 and 15, 2011)

[SCCR 24/3](#) Renewal Version of Revised Draft Basic Proposal for the WIPO Treaty on the Protection of Broadcasting Organizations (SCCR/15/2 Rev.) presented by the delegation of Japan;

[SCCR 24/5](#) Revised proposal on the protection of broadcasting organizations presented by the delegations of South Africa and Mexico

[SCCR/36/5/CORR](#): Note on the Draft Treaty to protect Broadcasting Organizations
document submitted by the Delegation of Argentina

[SCCR/37/7](#): Proposal of the United States of America on the scope and implementation of rights, WIPO Draft Treaty on the Protection of Broadcasting Organizations
document presented by the United States of America

[SCCR/38/10](#): Revised consolidated text on definitions, object of protection, rights to be granted and other issues
prepared by the Chair

[SCCR/39/4](#): Revised consolidated text on definitions, object of protection, rights to be granted and other issues
prepared by the Chair

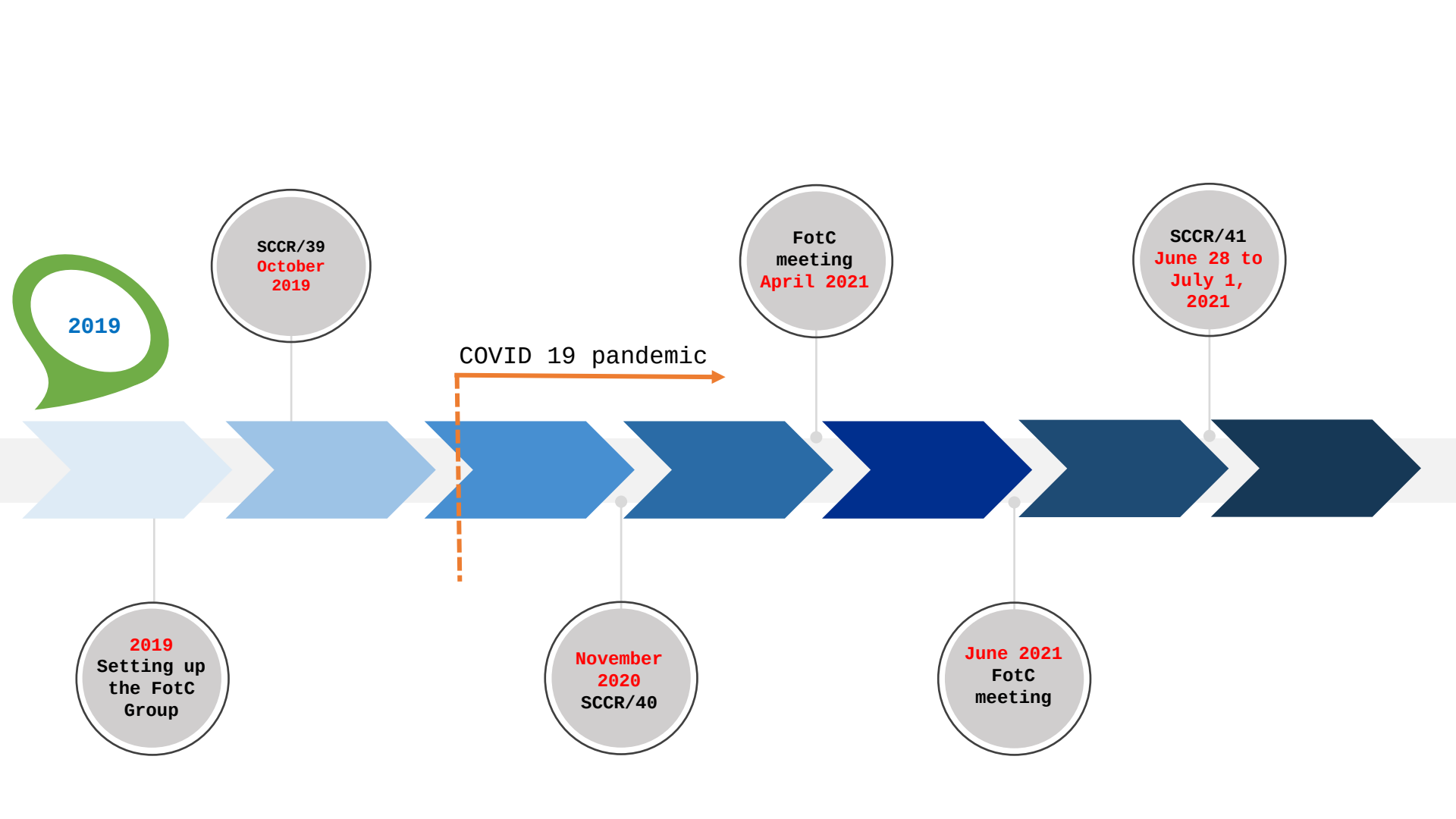
[SCCR/39/7](#): Revised consolidated text on definitions, object of protection, rights to be granted and other issues
prepared by the Chair

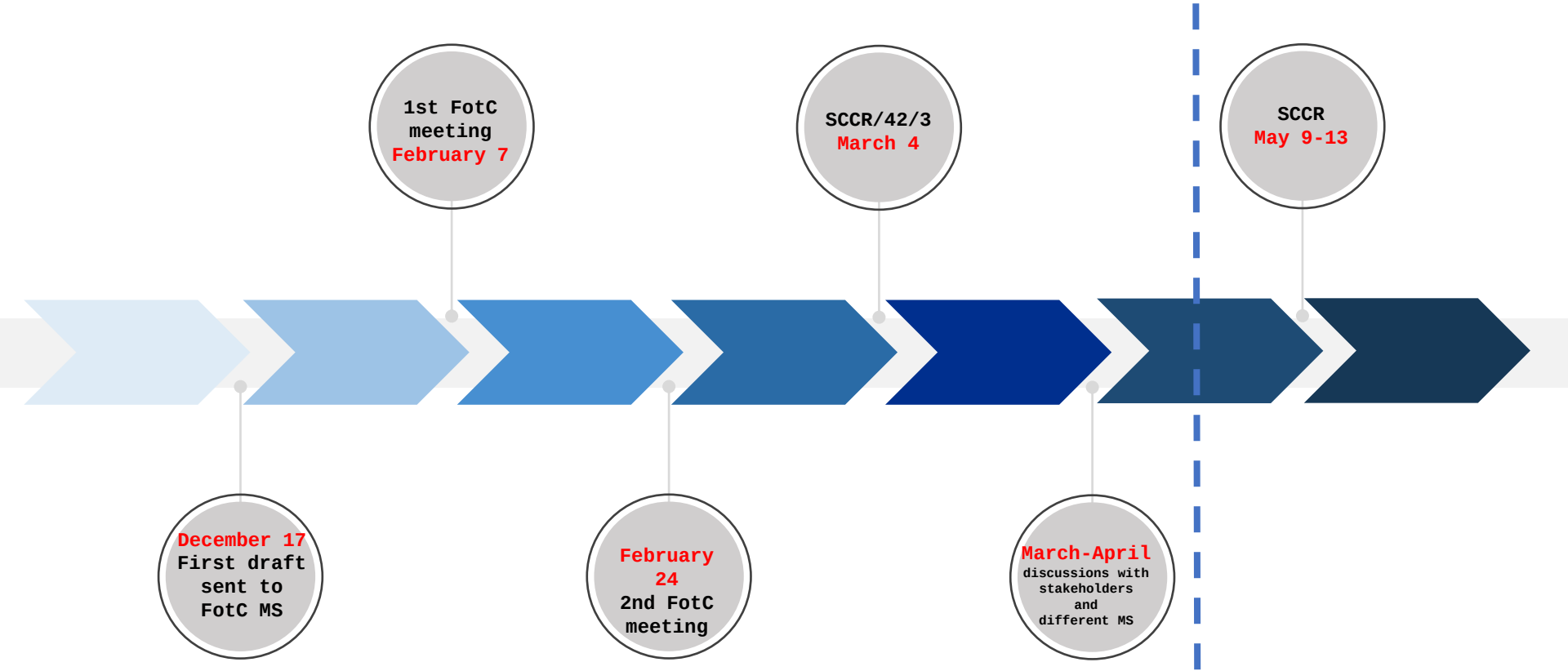
The main purpose

International protection for broadcasting organisations

The main challenges

- Technical → “Traditional” or “meaningful”
- Historical → Signal based approach or content protection
- Exclusive right or other protection (copyright, telco, competition law, etc.)





December 17
First draft
sent to
FotC MS

**1st FotC
meeting**
February 7

**February
24**
2nd FotC
meeting

SCCR/42/3
March 4

March-April
discussions with
stakeholders
and
different MS

SCCR
May 9-13

Objective: a treaty that...

...modernizes the international level of protection by offering a technologically neutral approach

- tech neutral broadcasting and retransmission
- includes “all” broadcasters, excludes webcasters
- focuses on the broadcast signal

...is of an antipiracy nature and provides efficient protection against

- illegal simultaneous uses (retransmissions) by any means
- illegal use of catch up signals related to stored programmes
- illegal VOD by third parties related to stored programmes
- illegal use of pre-broadcasting signals

Objective: a treaty that...

...is flexible and enables a broad membership

- not a special agreement to the RC
- encompasses different approaches from exclusive rights to adequate and effective protection provided that they ensure effective legal means to prevent illegal uses

Revised Draft Text (SCCR/42/3):

An overview

The background

- the text is based on the revised consolidated text on definitions, object of protection, rights to be granted and other issues, prepared by the Chair (SCCR/39/7)
- a single 'treaty text' which combines alternatives, leave agreed statements for later discussions
- provides explanatory notes to ensure common understanding

The provisions

- Article 1 - Relation to other Conventions and Treaties
- Article 2 - Definitions
- Article 3 - Scope of Application
- Article 4 - Beneficiaries of Protection
- Article 5 - National Treatment
- Article 6 - Right of Retransmission
- Article 7 - Deferred Transmission of Stored Programmes
- Article 8 - Use of Pre-Broadcast Signal
- Article 9 - Other Adequate and Effective Protection
- Article 10 - Limitations and Exceptions
- Article 11 - Term of Protection
- Article 12 - Obligations Concerning Technological Measures
- Article 13 - Obligations Concerning Rights Management Information
- Article 14 - Formalities
- Article 15 - Reservations
- Article 16 - Application in Time
- Article 17 - Provisions on Enforcement of Rights of Broadcasting Organizations
- Article 18 - Provisions on Enforcement of Copyright and Related Rights

- Article 1 – Relation to other Conventions and Treaties

- Article 2 – Definitions

- **Broadcasting** includes transmission over computer networks
- New definition for **retransmission** embracing all forms of simultaneous retransmissions to the public by any means
- New definition for **pre-broadcast signal**
- New definition on **stored programmes**
- Definitions for “near simultaneous”, “deferred” or “equivalent deferred” transmissions are no longer needed

- Article 3 – Scope of Application

- Article 4 – Beneficiaries of Protection

Article 5 – National Treatment

- Global national treatment obligation (Par. 1)
 - as in the Berne Convention
- Material reciprocity (Par. 2)
 - provides fairness and balance to the Contracting Parties

Exclusive Rights

Article 6 – Right of Retransmission

- technologically neutral, confined to all kinds of simultaneous transmissions

Article 7 – Deferred Transmission of Stored Programmes

- catch up signals/VOD by the original broadcaster
- making available signals/VOD by third parties

Article 8 – Use of Pre-Broadcast Signal

- signals for transportation of programmes, point-to-point

Article 9 – Adequate and Effective Protection

- Possibility to limit the protection recognized to retransmission, deferred transmission and pre-broadcast signal.
- Does **not** remove Contracting Parties' obligation to:
 - provide adequate and effective protection
 - provide legal means to prevent unauthorized uses
- Alternative forms of protections might be provided through: copyright, unfair competition and/or telecommunication laws.
- Subject to notification for transparency purposes.

- Article 10 – Limitations and Exceptions
 - as in other treaties
- Article 11 – Term of Protection
 - because stored programmes are also covered
- Article 12 – Obligations Concerning Technological Measures
 - tailor-made for broadcasting

- Article 13 – Obligations Concerning Rights Management Information
 - tailor-made for broadcasting (object is changed for signal)
- Article 14 – Formalities
- Article 15 – Reservations
- Article 16 – Application in Time

- Article 17 – Provisions on Enforcement of Rights of Broadcasting Organizations
- Article 18 – Provisions on Enforcement of Copyright and Related Rights

- Further clarifies the relationship between signals and the protection of the content carried by the signals
- Relates to Article 9 in case a Contracting Party provided adequate and effective protection through copyright protection
- Exemplifies contractual rules in domestic law that would comply with the adequate and effective protection minimum standard