Chapter 3
The Rome Convention and the Current Transnational Regime

1. Introduction

As set out in the previous Chapter, the rights of broadcasting organisations are protected internationally under the Rome Convention. The Rome Convention is the basis for the protection of broadcasters’ rights throughout most of the world including Australia and Japan. In this Chapter, first, the Rome Convention will be analysed.

In relation to the protection of broadcasters’ rights, there are two further international conventions at present, the so-called Satellite Convention and TRIPS.\(^1\) Despite the existence of these two conventions, the Rome Convention is still the only substantive basis for the protection of the rights of broadcasting organisations. Therefore, secondly, the reasons why the Rome Convention remains the basis for the protection of broadcasters’ rights will be examined.

According to WIPO, there are six transnational agreements\(^2\) in relation to the protection of the rights of broadcasting organisations that are known in the world so far.\(^3\) If the protection under the Rome Convention was sufficient, these transnational agreements would not be needed. Accordingly, the existence of these agreements can be regarded as evidence that demonstrates the insufficient protection of the rights of broadcasting organisations under the Rome Convention. Therefore, thirdly, the six transnational agreements will be examined.

In this Chapter, through the examination of these international conventions and transnational legislation, the current situation which requires a new international instrument regarding the protection of the rights of broadcasting organisations will be clarified.

2. The Rome Convention

As the official title indicates, the Rome Convention makes provision for the rights of performers and phonogram producers and the rights of broadcasting organisations. The Convention was established in October 1961 and came into force in May 1964 after a long history of discussion originating in 1903 as explained below.

2.1. Background to the Rome Convention

2.1.1. Three Origins of the Rome Convention

It is often said that there were three streams of discussion that became sources of the Rome Convention.\(^4\) The first stream was discussions by various performers’

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\(^4\) See, for example, WIPO, Guide to the Rome Convention and to the Phonograms Convention, WIPO Publication No. 617 (E), (Geneva, WIPO, 1981) 7.