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IIPA Hails USTR Attention on Major Copyright Markets in the 2020 Special 301 Report and the Identification of Notorious Markets Facilitating Global Piracy Report

2020 Special 301 Report Highlights Market Access and Enforcement Challenges for U.S. Creative Industries in 33 Overseas Markets Notorious Markets Report Documents Online and Physical Marketplaces that Cause Significant Economic Harm to the U.S. Creative Industries

Washington — The International Intellectual Property Alliance® (IIPA®) congratulates the Office of the United States Trade Representative (USTR) on the release today of the comprehensive **2020 Special 301 Report**. This congressionally-mandated annual report identifies major impediments (and notes improvements) to expanding legitimate global commerce in creative works. IIPA thanks Ambassador Lighthizer, the staff at USTR, and all of the other agencies and staff who contributed to this report for their hard work and their continued dedication to achieving the ultimate goal of Special 301—opening foreign markets, including the growing digital marketplace, for American copyrighted materials, including published books and journals, recorded music, movies and TV programs, and video games and other entertainment software. To reach this goal, these markets require modern digital-facilitating copyright laws; strong copyright enforcement; sound legal structures for copyright licensing; as well as the elimination of market-access barriers. Opening these markets is a proven means to grow U.S. exports, create well-paying American jobs, and enhance U.S. global competitiveness. Special 301 remains a key policy tool for advancing these priorities; and America's copyright industries appreciate USTR's continued commitment to preserving this tool's integrity and effectiveness.

This year's report once again takes up key priorities of the U.S. creative industries, especially in the online and mobile marketplaces, including by calling upon our trading partners to eliminate barriers that impede the ability of lawful copyright-based services to compete. In particular, IIPA welcomes the report highlighting some of the cross-cutting issues including the need for U.S. trading partners to address online and broadcast piracy, problems with collective management, as well as to improve IP enforcement overall. The report also notes the importance of freedom of contract for transfers of exclusive rights, a critical factor for the healthy growth via licensing of all copyrighted materials across territorial borders for the digital age. This important principle, among others, is at stake in USTR's review of South Africa's eligibility for benefits under the Generalized System of Preferences (GSP) program, which is an independent process that includes a focus on two pending bills that are clearly inconsistent with South Africa's international obligations and with international norms. The Special 301 report identifies key overseas markets where trade barriers including inadequate copyright enforcement and other market access restrictions should be addressed. Progress in these markets will not only contribute to positive results for U.S. creators, but will also help our trading partners to develop and nurture their own local cultural and creative output.

As the digital marketplace grows, so do the opportunities—but also the challenges—for the American creative community. These challenges are found not only in major markets, such as China, Brazil and Russia, but also in other smaller markets. The U.S. copyright industries look forward to working with USTR and with agencies across the U.S. government to encourage our trading partners to continue to make concrete progress toward stronger and more open copyright marketplaces.

In today's announcement:

- USTR lists 10 countries on the Priority Watch List, including key copyright markets like Chile, China, India and Indonesia;
- USTR lists 23 countries on the Watch List, including key markets for creators like Brazil, Canada, Mexico, Thailand, United Arab Emirates, and Vietnam.

On February 6th, IIPA made a detailed submission to USTR with its recommendations for the 2020 Special 301 Report. IIPA's full submission can be found at <https://www.iipa.org/reports/special-301-reports/>.

| Priority Watch List | Watch List |
|---------------------------|-----------------------------|
| Algeria | Barbados |
| Argentina | Bolivia |
| Chile | Brazil |
| China | Canada |
| India | Colombia |
| Indonesia | Dominican Republic |
| Russian Federation | Ecuador |
| Saudi Arabia | Egypt |
| Ukraine | Guatemala |
| Venezuela | Kuwait |
| | Lebanon |
| | Mexico |
| | Pakistan |
| | Paraguay |
| | Peru |
| | Romania |
| | Thailand |
| | Trinidad & Tobago |
| | Turkey |
| | Turkmenistan |
| | United Arab Emirates |
| | Uzbekistan |
| | Vietnam |

USTR also announced today the results of its **2019 Special 301 Out-of-Cycle Review of Notorious Markets**. The USTR Notorious Markets report identifies both online and physical marketplaces around the world that engage in and facilitate substantial copyright piracy by marketing and distributing infringing goods and services. IIPA applauds the USTR report, noting in particular that the list includes many of the notorious online and physical markets identified by IIPA members in their respective filings to the U.S. Government.

The Notorious Markets report includes a focus on the connection between online piracy and malware, a significant issue highlighting that infringing websites not only cause significant harm to rights holders, but also to consumers. The report lists some markets previously listed, such as *Sci-hub*, which is allegedly based in Russia and continues to be the most problematic online actor for science, technical and medical and other scholarly publishers. The list also includes *ThePirateBay*, which remains the single most popular BitTorrent index site in the world. Additionally,

the report identifies some markets that have closed due to the notoriety of past listings and the ensuing enforcement actions.

IIPA Counsel Eric J. Schwartz commented, “The Notorious Markets report is a vital tool to grow the legitimate online and physical marketplaces for copyrighted materials for the ultimate benefit of consumers worldwide. We commend USTR and all who worked in the inter-agency process for their outstanding work in identifying notorious markets for copyright piracy. Identification of specific online and physical illegal markets helps rights holders to rid marketplaces of blatant infringers and expand access to legal content, including literary works, music, movies and TV programming, video games, software, and other products and services, all of which are available now for consumers, in more formats than at any time in history. The Notorious Markets list also advances the goal of opening foreign markets to licensed U.S. creative materials by helping foreign governments identify online piracy operations with connections to their jurisdictions and guiding the U.S. Government’s engagement with these foreign governments.”

The USTR Notorious Markets Report can be found here:

https://ustr.gov/sites/default/files/2019_Review_of_Notorious_Markets_for_Counterfeiting_and_Piracy.pdf.

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About the IIPA: IIPA is a private sector coalition, formed in 1984, of trade associations representing U.S. copyright-based industries working to improve copyright protection and enforcement abroad and to open foreign markets closed by piracy and other market access barriers. Members of the IIPA include Association of American Publishers (www.publishers.org), Entertainment Software Association (www.theesa.com), Independent Film & Television Alliance (www.ifta-online.org), Motion Picture Association (www.motionpictures.org), and Recording Industry Association of America (www.riaa.com). Collectively, IIPA’s five member associations represent over 3,200 U.S. companies producing and distributing copyrightable content. The materials produced and distributed by IIPA member companies include entertainment software (including interactive video games for consoles, handheld devices, personal computers and the Internet) and educational software; motion pictures, television programming, DVDs and home video and digital representations of audiovisual works; music recorded in all formats (from digital files to CDs and vinyl) for streaming and other online services, as well as broadcasting, public performance and synchronization in audiovisual materials; and fiction and non-fiction books, educational, instructional and assessment materials, and professional and scholarly journals, databases and software in all formats.

In December 2018, IIPA released the latest update of its economic report, *Copyright Industries in the U.S. Economy: The 2018 Report*, prepared by Stephen E. Siwek of Economists Inc. According to the Report, the “core” copyright industries in the U.S. generated over \$1.3 trillion of economic output in 2017, accounting for 6.85% of the entire economy. The core copyright industries also employed approximately 5.7 million workers in 2017, accounting for 3.85% of the entire U.S. workforce, and 4.54% of total private employment in the U.S. These workers earn on average 39% higher wages than other U.S. workers. The core copyright industries also outpaced the U.S. economy, growing at an aggregate annual rate of 5.23% between 2014 and 2017, while the U.S. economy as a whole grew by 2.21%. When factoring in other industries that contribute to the copyright economy (which together make up the “total” copyright industries), the numbers are even more compelling. Finally, the report highlights the positive contribution of selected copyright sectors to the U.S. overall trade balance. In 2017, these sectors contributed \$191.2 billion in foreign sales and exports, exceeding that of many other industry sectors, including: chemicals, aerospace products and parts, agricultural products, and pharmaceuticals and medicines. Studies such as this amply demonstrate the contribution of creators, and the copyright-based industries that support them, to the economy. The full economic report is available at <https://iipa.org/reports/copyright-industries-us-economy/>.