

UNITED ARAB EMIRATES

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

2023 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that the United Arab Emirates (UAE) be placed on the Watch List in 2023.¹

Executive Summary: Despite one of the top ten highest gross domestic product (GDP) per capita levels worldwide, the copyright sector in UAE struggles because of weak enforcement that allows diverse methods of piracy to persist, sub-par copyright protection in its laws, and crippling market access barriers. The UAE recently improved its legal framework, enacting Federal Decree-Law No. 38 of 2021 on Copyright and Neighboring Rights (“Decree-Law No. 38”) and Executive Regulation No. 47/2022 on the Implementing Regulation of Federal-Decree Law No. 38/2021 on Copyrights and Neighboring Rights (“Executive Regulation No. 47”), which provide rights holders with important exclusive rights to protect their works and sound recordings in the digital environment. Notwithstanding this legislation, the Government of UAE should further amend its copyright law to fully implement the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively known as the WIPO Internet Treaties) and ensure UAE’s standards for copyright protection and enforcement meet international norms and best practices.

It has been 19 years since the UAE first passed federal legislation providing for the possibility of collective management of rights. Despite this, the music industry’s repeated attempts to establish a market for the collective management of broadcasting and public performance rights have remained frustrated by the government’s failure to permit music rights holders to establish a collective management organization (CMO) and to commence collective licensing activities. The government has provided positive indications of progress on this front in the last year, including a May 2022 memorandum of understanding (MOU) between the International Federation of the Phonographic Industry (IFPI) and the UAE Ministry of Economy to work together to support local recorded music. THE MOU provides that the parties will work together to create a copyright framework that aligns with international standards, and enforces and protects the rights of record producers and that allows the music industry to commence collective licensing. However, concrete progress is still needed. The UAE is a major hub for tourism and retail and is a regional hub for legitimate music services and sold-out concerts. Yet, the widespread use of music in shopping malls, hotels, and other public settings, with no ability to license it from a CMO, denies American and other foreign rights holders the opportunity to effectively exercise their rights and undermines the rule of law in the country. This inability to license substantially reduces the revenues available to invest in the development of a robust local industry that can advance local talent and increase jobs in the entertainment sector. The government needs to end its delay, immediately work with music rights holders, and allow rights holders (whether local or foreign) to establish a CMO and control the exercise of their rights in accordance with international best practices in transparency, accountability, and governance. The government should also issue an operating license to such a CMO to enable music rights holders to start licensing and collecting royalties. The government’s inaction constitutes a direct market access barrier for international music rights holders.

PRIORITY ACTIONS REQUESTED IN 2023

- Take immediate action to enable rights holders (whether local or foreign) to establish a music CMO in UAE and to control the exercise of their rights in accordance with international best practices of transparency, accountability, and governance, and to permit such CMO to commence operations in the UAE so that music rights holders can finally begin collectively licensing their broadcast and public performance rights under the UAE copyright law.

¹ For more details on UAE’s Special 301 history, see previous years’ reports at <https://iipa.org/reports/reports-by-country/>. For the history of UAE’s Special 301 placement, see <https://www.iipa.org/files/uploads/2023/01/2023APPENDIXBSPEC301-1.pdf>.

- Revise the copyright law to implement the WIPO Internet Treaties and to harmonize the copyright term with the international norm of life of the author plus 70 years and 70 years for sound recordings.
- The Telecommunication and Digital Government Regulatory Authority (TDRA) should engage with domain name registrars and other intermediaries, such as advertisement providers, payment providers, help desk support services, and virtual private networks (VPNs), encourage them to cooperate with rights holders, and require them to take effective action to prevent their services from being used by infringers.
- Encourage more transparency from enforcement authorities.
- Adopt high standard remedies that support the creative industries' current business models, including remedies that effectively respond to current challenges and reflect international best practices, such as the introduction of a clear legal basis for no-fault injunctions against online intermediaries to complement the existing website blocking program operated by the government.
- Encourage customs authorities to ban the importation of illicit streaming devices (ISDs).

COPYRIGHT PIRACY IN UAE

Online and mobile device piracy in the UAE remains a problem, including websites that provide illegal access to music, movies, television content, video games, reference books, online journals, and trade books of top publishers. Piracy of copyrighted content affects not only rights holders, but also harms content creators and owners, cinemas, producers, and other legitimate content providers that invest significant sums to license content and develop business models in the region. These legitimate efforts contribute to the economic development of the country, fund production of local content, create jobs, and generate revenue for advertising and auxiliary industries. Dubai is a commercial hub for the region and may affect legitimate markets in surrounding countries—including India, Iraq, Iran, and the Gulf Cooperation Countries—by exporting copycat products and digital piracy equipment, such as ISDs.

Unlawful Public Performance and Broadcasting of Music: At present, because of the impossibility of licensing public performance and broadcasting by rights holders collectively, most of the music that is used in such a way is *de jure* unlawful in the UAE. This lack of ability to license collectively is due to the government's 19-year hold out in issuing an operating license to a music CMO, as discussed below. The absence of meaningful progress so far on licensing a music CMO raises questions regarding the UAE's compliance with the WTO TRIPS Agreement. Simply put, the UAE's regulatory inaction means that the existing law has limited effect, and no remedy exists for the ongoing, country-wide infringement of music public performance and broadcast rights. Furthermore, there is a risk that due to the absence of a genuine CMO, unscrupulous operators would start licensing third-party rights without any mandate to do so. As such, music rights holders are denied revenues from the widespread use of their works and recordings.

Online Piracy and Social Media: Several notorious online piracy sites are heavily accessed in the UAE, including *cima4u.ws*, a streaming website that embeds popular movies and series content from third-party cyberlockers. SimilarWeb also reports that movie piracy websites *fmovies.to* (streaming) and *yts.mx* (torrents) are among the top 100 most popular websites in the UAE. The motion picture industry noted that in recent years, *Telegram* has become a full-fledged global piracy hub for films and that the presence of copyrighted content on *Telegram* acts as a growth driver. While there has been improvement in compliance rates for the removal of infringing links and channels, *Telegram's* response to takedown notices varies greatly, from almost immediate removal to no removal despite multiple re-notifications. Furthermore, the motion picture industry reports that discovery of infringing content is facilitated by piracy bots, and *Telegram* lacks a transparent and appropriate procedure for handling repeat infringers. In 2017, the TDRA reported that it had blocked approximately 473 websites for intellectual property (IP) violations. However, the TDRA stopped publishing the number of blocked websites thereafter.

According to IFPI, stream ripping has become the most dominant form of music piracy in the UAE, with rates considerably higher than the global average. A May 2022 IFPI study found that more than two-thirds (69%) of Internet users in the UAE said they illegally downloaded music from YouTube. Popular stream-ripping sites include

Savefrom.net (1.5m visits from the UAE in Quarter 3 2022 according to SimilarWeb), *SSyoutube.com* (1.3m visits from the UAE during the same period), *Y2Mate.is* (1.2m visits from the UAE during the same period), *Y2mate.com* (1.1m visits from the UAE during the same period), and *YT1s.com* (0.8m visits from the UAE during the same period). *SnapTube*, *TubeMate*, and *VidMate* are among the most widely used unlicensed mobile stream-ripping apps focused on YouTube access. Cyberlockers and direct download sites are an additional popular source of pirated content in the UAE. Cyberlocker *Mega.nz* (2.2m visits from the UAE in Quarter 3 2022 according to SimilarWeb) and BitTorrent sites *1337x.to* and *The Pirate Bay* (1.4m visits and 1.1m visits, respectively, during the same period) are also popular. Sites, such as *Sm3ha* and *Ghanely*, which offer MP3 downloads in Arabic, are also widely used.

Internet Protocol TV (IPTV) Piracy and Hybrid Set-Top Boxes: Recently, the number of mobile applications that enable illegal showings of copyrighted TV programs or exclusive TV has increased. Access to the pirated content on Internet Protocol TV (IPTV) services is generally provided via an application that can be installed on consumer hardware or downloaded directly to a user's device, such as a smartphone or tablet. Pirate IPTV services are extremely difficult to monitor, as a subscription to access the service is required. Thus, discovering and monitoring these services takes substantial resources.

The use of ISDs is an ongoing concern for copyright owners in the UAE. These devices can be used either to receive the free-to-air (FTA) channels—which is a legal act—or to receive the pirated TV channels or access pirated video-on-demand (VOD) by installing certain IPTV applications. These illicit streaming devices (ISDs) and the channels or content they carry are marketed, promoted, and illegally sold to consumers in high volumes through several sales channels, such as door-to-door, small retailers, Internet sales, or over social media accounts. Because the hardware of the device itself is not necessarily illegal, it is often difficult to prevent the importation and sale of these devices in the UAE. Importation of the hardware is subject to approval from TDRA. In practice, offenders often install infringing IPTV applications on devices after importation. However, the TDRA and the customs authorities do not conduct inspections on these devices after importation. Examples of these ISDs are the ones known and used for *UKTV Abroad*, *King-iptv.net*, and *Kingiptv.org*.

Pirate Free-to-Air (FTA) Channels: Pirate FTA channels remain a problem for the motion picture and television industry. The FTA channels are clear, unencrypted channels that can be received and viewed without a subscription. They are uploaded from many different locations across the region to satellites that have region-wide reach. The MENA Broadcast Satellite Anti-Piracy Coalition, a group of stakeholders in the Middle East satellite television industry, has a goal of preventing FTA channel piracy and addressing IPTV and ISD piracy more broadly. Voluntary collaboration among rights holders and satellite operators in this anti-piracy coalition has been effective at helping to control FTA channel piracy in the UAE, although this problem requires continued attention.

COPYRIGHT ENFORCEMENT ISSUES IN UAE

Raids and Piracy Prevention Efforts: Industry sectors report that unjustified delays have impeded enforcement in the past three years, and the UAE police and economic departments are hesitant to consider serious actions against infringers.² While the Dubai Police has created a dedicated platform on their website to file criminal complaints against IP violating websites,³ Internet service providers (ISPs) normally ask rights holders to contact the TDRA (the governmental body that monitors the operations of the ISPs in the UAE) for enforcement actions. The TDRA investigates and may take action on the rights holder notice or alternatively may request more information or reject the

² For example, in February 2022, King Printers Company Limited, the UAE-based company and copyright holder of website *www.printarabia.ae*, filed a criminal complaint with Dubai Police against the website *astuae.com* for infringing upon its copyrighted website content. Dubai Police refused to receive the complaint and instead, requested it be accompanied with a report from a registered IP expert analyzing the elements of infringement. While the copyright holder complied with this request and filed the complaint under No. 4277/2022, the request of Dubai Police was unjustified because it delayed the prosecution process and imposed additional costs on the copyright holder. The Dubai Police request signals a potential new practice that could deter copyright holders from filing criminal cases and ultimately further weaken enforcement procedures in the UAE.

³ The dedicated platform is titled *eCrime*, and is accessible at the following site: <https://www.dubaipolice.gov.ae/wps/portal/home/services/individualservicescontent/cybercrime>.

notice entirely. The TDRA may order ISPs to implement the website blocks based on copyright violations or based on censorship. Dubai Police perform similar functions as the TDRA, ordering ISPs to block websites based on criminal offenses or complaints from rights holders. The Criminal Investigation Department (CID) has been working closely with rights holders and licensees to stop sales of hybrid ISDs. Unfortunately, these types of operations require arrangements between different departments, which slows down investigations. For example, the electronic crime unit is not permitted to correspond with organizations outside of the UAE, such as social media service providers, without a court order. Correspondence between the TDRA and CID is also relatively slow, which impedes the collection of information and evidence in piracy investigations.

The government also has an important role to play in promoting piracy prevention efforts and needs to encourage the ISPs to restrict access to illegal IPTV services and intermediaries that facilitate the operation of such services, such as (i) domain name registrars, (ii) advertisement providers and payment providers; (iii) websites that offer gift cards or redeemable vouchers to buy or refill personal accounts to illegal IPTV services; (iv) helpdesk support numbers for these illegal services; and (v) illegal VPN Internet protocol addresses dedicated to streaming content to hybrid set-top boxes. Additionally, ISPs need to be encouraged to act more expeditiously. While the ISPs provide platforms for reporting IP violations, they act slowly on complaints. The ISPs or the TDRA also need to publish statistics on the blocked violating websites. Addressing these areas would greatly improve the enforcement environment in the UAE. *Etisalat* and *Du*, the two primary ISPs in the UAE, have cooperated with rights holders to a limited degree by responding to notice and takedown requests. These ISPs currently have special platforms on their websites for reporting IP violations,⁴ but they do not publish any statistics related to the takedown rates. Moreover, it takes the special platforms far too long, around 10-14 days, to take down violating websites after receiving a complaint from a rights holder.

Judicial and Case Law Developments: Over the past few years, the judicial system in the UAE has shown signs of improvement. Prosecutors have been analyzing the facts in IP cases and referring cases to the courts on the grounds of violations of IP or cybercrime-related laws. Also, the Higher Criminal Court in Dubai issued a judgment in a case against an administrator of the torrent website called *arabscene.org*. The court decided to block the website, as it exhibited exclusively licensed TV channels without permission. In addition, the administrator was fined and deported out of the country. The judgment was enforced in 2021. The case is significant because it involved a website that was hosted outside the UAE, setting a strong precedent for other similar offenders. In addition, the criminal courts of Abu Dhabi and Sharjah have found defendants guilty in cases relating to piracy through IPTV apps.

Enforcement in Free Zones and Areas Outside City Limits: Enforcement in Free Zone areas is limited to criminal actions by police based on complaints by the copyright owner. People import a high volume of goods into the Free Zone areas and often use the territory as a regional hub for goods in transit. The administrative authorities in the Department of Economic Development (DED) do not have jurisdiction over those areas, and therefore, no one performs regular or random inspections of the facilities therein. The UAE should ramp up its efforts to enforce against pirate and counterfeit traffickers with deterrent enforcement actions and enhanced customs controls.

Customs Piracy Prevention: The Ajman Customs authorities activated their IP department in 2017, and they can now act against copyright and trademark infringers. In 2017, Dubai Customs began to recycle counterfeit products instead of re-exporting such products. Recycling means that the products are sent to a local recycling company that destroys the products, and the raw material is thereafter used in various industries. Previously, Dubai Customs would re-export the counterfeit products to the country of origin instead of destroying or recycling such counterfeit goods, risking that they would end up back in the market. Abu Dhabi Customs also extended the protection for recorded trademarks from one year to ten years, in line with other local customs authorities in the UAE. A continuing challenge, however, has been that customs authorities have not been acting against counterfeit and pirated goods unless they

⁴ The special platforms for reporting IP violations include <https://www.du.ae/surfsafely> and <https://www.etisalat.ae/en/generic/contactus-forms/web-block-unblockn.jsp>.

first receive a complaint from a rights holder. The law has recently been amended to provide *ex officio* authority so that customs authorities may take actions even in the absence of complaints by rights holders.⁵

Training Programs: In 2022, the Brand Owner's Protection Group (BPG) organized virtual educational IP awareness sessions in association with IP authorities and customs authorities in the UAE on one side, and with IP owners on the other side. The goal of these sessions was to provide the authorities with technical information about existing IP rights and ways to identify violations to those rights. Those educational sessions were co-hosted by the Emirates IP Association, INTERPOL, Dubai Customs, Dubai Police, and all Economic Development Departments (EDE) in the UAE.

The past four years, Emirates IP Association and INTERPOL co-hosted an IP awareness session with Dubai Customs, Brand Protection Group, Dubai Police, and Ministry of Economy. The session hosted many speakers from the private and public sectors that shed light on various IP violations. These organizations continue to conduct events to combat IP crime and illicit trade.

Ensuring Consistent Enforcement: For some time, enforcement authorities were reluctant to act, but then the Prime Minister called on officials to cooperate as much as possible with companies to encourage investment. This call was misunderstood, however, and the effect was that enforcement authorities waived or reduced fines against IP violators, including the Dubai DED, which reduced fines by up to 50%. IP rights holders would like to see this reduction applied to complainants (the brand owners) instead of infringers. Additionally, the Dubai DED's failure to inspect markets absent a complaint from copyright holders encouraged infringers to trade in illicit products, including ISDs containing IPTV apps for pirating paid TV channels.

OTHER COPYRIGHT LAW AND RELATED ISSUES

On January 2, 2022, Decree-Law No. 38 entered into force, and on May 11, 2022, the Executive Regulation No. 47 implementing Decree-Law No. 38 was issued. While Decree-Law No. 38 and Executive Regulation No. 47 make some improvements to UAE's copyright framework, concerns remain, as discussed below.

Decree-Law No. 38

Decree-Law No. 38 introduced several improvements to UAE's copyright legal framework, including criminalizing the acts of storing electronically illegal copies of copyrighted works (Article 40(c)), which should allow for actions against cyberlockers hosted in UAE. Consistent with the WPPT, Article 18 of Decree-Law No. 38 provides producers of sound recordings with exclusive rights of reproduction, distribution, rental, and making available to the public. Further, Article 18(5) provides sound recording producers with the exclusive rights of broadcasting and communication to the public. However, to ensure that the UAE's copyright legislation is fully compliant with the WIPO Internet Treaties and other relevant international copyright standards, the government of the UAE should make the following amendments to its copyright legal framework:

- **Extend the term of protection for works and sound recordings:** Increase the term of protection for works and sound recordings in Article 20 from life-plus-50 years to life-plus-70 years for works or in cases in which term is calculated based on publication, to the term of 95 years (but in any case, no less than 70 years) and for sound recordings from 50 years to at least 70 years from the date that the recording is made or, if published, from that date, in keeping with international norms.

⁵ Decree-Law No. 38 of 2021 on Copyright and Neighboring, Article 38(1) (" Subject to the legislation in force in the country, the customs authorities may, on their own or at the request of the Author, the right holder, their successors, or their representatives, may order by a reasoned decision not to clear customs - for a maximum period of twenty (20) days - in respect of any items in violation of the provisions of this Decree-Law.").

- **Provide a clear legal basis for injunctions against intermediaries:** To complement the existing website blocking program operated by the government, introduce a clear legal basis for injunctions against intermediaries to enable rights holders to apply to the courts for injunctions requiring online intermediaries to prevent or disable access to infringing websites (both those hosted in the UAE and those hosted in other countries but available in the UAE) to help tackle piracy and support the growth of the market for copyrighted works and sound recordings in the UAE.
- **Limit the scope of copyright exceptions and limitations:** Confine the exceptions and limitations outlined in Article 22 to the three-step test of the Berne Convention and the WTO TRIPS Agreement, including the following: the private copying exception, libraries and archives exception, the exception for performance of a work in meetings with family members or by students in an educational institution, and the transient and incidental copies exception.
- **Provide adequate protections for technological protection measures (TPMs) and electronic rights management information (RMI):** Article 40 provides for civil and criminal liability for “[u]nlawfully disrupting or impairing any technical protection or electronic data aiming at regulating and managing the rights prescribed by this Decree-Law” and increased penalties for repeat offenders. While this is a welcome step, to meet the obligations of the WPPT, UAE should add provisions, including definitions for “technological protection measures” and “rights management information,” to its law that ensure adequate protections for TPMs and RMI.⁶
- **Clarify that registration of copyright works is voluntary:** Article 4 states that “registers of the Ministry shall be considered a reference for the data of the Work and its ownership.” It should be clarified that the registration of works is voluntary and not a formal requirement, consistent with international treaties including Article 5(2) of the Berne Convention and Article 20 of the WPPT, which prohibit formalities on both the enjoyment and the exercise of rights.
- **Clarify the jurisdiction of the Grievances Committee for Copyrights and Neighboring Rights (Grievances Committee):** Pursuant to Article 37, the Grievances Committee, which is established under the Ministry of the Economy, has jurisdiction to “adjudicate grievances filed by the interested parties against the decisions issued by the Ministry.” In practice, the Grievances Committee—which consists of one specialized judge and two specialists—is entitled to look into challenges from copyright holders against the decisions issued by the Ministry of Economy. However, the Article states that the Grievances Committee’s decisions can be challenged only before the “Competent Court,” which is defined in Article 1 as the “Federal Court of Appeal,” instead of the First Instance Courts. Article 37 should be clarified to ensure: (i) the scope of jurisdiction of the Grievances Committee is limited to disputes between a CMO and its members and/or its licensees; (ii) the Grievances Committee shall hear and determine matters referred to it expeditiously; and (iii) parties may appeal the decisions, on procedural grounds, to the First Instance Courts.

Executive Regulation No. 47/2022 on Implementing Federal Decree-Law No. 38/2021

While the Executive Regulation No. 47 contains several provisions addressing collective management, these provisions and some other articles should be amended consistent with international standards and best practices, including:

- **Amend the definition of Collective Management Organizations (CMOs):** Amend the definition of “collective management organizations” in Article 1 to ensure: (i) CMOs are non-profit and owned or

⁶ See Articles 18 and 19 of the WPPT requiring “adequate legal protection and effective legal remedies” against the circumvention of TPMs and the removal or alteration of RMI without the permission of right holders.

controlled by their member rights holders (whether local or foreign), so that rights holders are able to control the exercise of their rights and to ensure that the CMO is operating according to good standards of transparency, accountability, and governance; (ii) rights holders are able to, without restriction, determine the scope (rights, uses, repertoire, and territory) and character (exclusive or non-exclusive) of the rights mandates they give to the CMO; (iii) CMO tariffs are determined by the CMO in negotiation with users (or their representatives), reflecting what would be negotiated between a willing buyer and willing seller; and (iv) rights holders have fair and balanced voting powers in their CMOs that reflect the value of their rights under management.

- **Extend the time for renewal of CMO permits:** Under Article 15(6), CMO permits are to be renewed annually. To provide the legal certainty that justifies the substantial investment and allows for the long-term planning required to set up a CMO, permits should instead be renewed only every 3 years, at a minimum.
- **Ensure CMO members have the power to determine CMO operating costs:** Article 15(10) states that a CMO “may deduct a percentage of the total funds collected in return for managing the collection and distribution of the financial remuneration for use, provided that the deduction percentage does not exceed 25% of the total amounts collected. This percentage is only for administrative expenses, and the Ministry may reduce this percentage whenever it deems so.” However, it should be up to CMO management to budget, plan, and obtain the agreement of rights holders regarding acceptable and reasonable spending at the outset.
- **Clarify registration of copyright works is voluntary:** Clarify Article 2 on copyright registration to ensure that the registration of copyright works is voluntary and not a formal requirement, consistent with international obligations that prohibit formalities on both the enjoyment and the exercise of rights, including Article 5(2) of the Berne Convention and Article 20 of the WPPT. Further, the data and documents requirements for an application of registration of a copyright work in Article 2(6), particularly the requirement for “a copy of the passport or identity card of each applicant, author, and transferee” in subsection h, should be removed, because they are burdensome and interfere with the enjoyment and exercise of rights.
- **Remove formalities regarding the importation and distribution of works:** Article 5 contains burdensome requirements for the importation and distribution of copyright works, particularly that the Copyright Register “shall contain all data regarding the names of importers and distributors and the rights related therein, including the document proving their rights to import or distribute works in the country, and data relating to their activities and the authorities that authorized them to import or distribute works as set out in the Register.” Such requirements should be removed, because they are incompatible with the WIPO Internet Treaties and the Berne Convention.
- **Ensure compulsory licenses for the reproduction or translation of copyright works for educational purposes are appropriately narrow:** Article 7 states that “Any person may apply to the Ministry to obtain a license to reproduce or/and translate a work protected by law, in order to meet the needs of education of all kinds and levels, or the needs of public libraries or archives, and in accordance with the conditions set forth in this Decision.” Such a broad compulsory license violates rights holders’ exclusive rights, interferes with contractual freedoms, undermines legal certainty, and is outside the scope of the three-step test governing exceptions and limitations to copyright protections. Any compulsory license for reproduction or translation should be appropriately narrow and strictly conform to the Berne Convention Appendix.⁷

⁷ In 2004, when the UAE joined the Berne Convention, the government availed itself of the Berne Appendix. See “Berne Convention Members,” World Intellectual Property Organization, available at <http://www.wipo.int/export/sites/www/treaties/en/documents/pdf/berne.pdf>.

Prevention of Music Rights Holders' Exercise of Legal Rights: In May 2022, IFPI and the UAE Ministry of Economy signed an MOU to work together to support local recorded music, including by creating a copyright framework that aligns with international standards and enforcing, collecting, and protecting the rights of record producers. However, the establishment of a CMO remains a work in progress. Revenue generated by CMOs through the licensing of broadcast and public performance rights is an essential element in supporting the development of local artists and in developing the UAE as a hub for music production in the region. Yet, due to government inaction to accredit a CMO, no monies are currently being collected, substantially undermining the capacity of companies in the UAE to invest in promoting local artists and building artists' careers. Moreover, without an accredited CMO, U.S. music exported to the UAE cannot be monetized when broadcast or performed publicly, and various UAE businesses use music without making any payments to rights holders, despite neighboring rights protection recognized in the UAE copyright law.

By way of background, for 19 years after enacting federal legislation providing for the possibility of the right of reproduction by means of a reprographic process and to engage in digital uses of editions, the Government of the UAE did not accredit a single CMO, leaving rights holders with no means to manage their rights collectively. However, in a positive development, in March 2022, the UAE Ministry of Economy granted permission to the Emirates Reprographic Rights Management Association (ERRA) in Sharjah to establish a book publishing CMO to administer and manage the collective rights of copyright owners for their paper and online book publications in the UAE.

The establishment of a book publishing CMO is welcome, and the music sector also expects that the UAE government will make progress at long last on licensing a truly representative music CMO. The UAE should take immediate action to enable rights holders to establish a music CMO in the UAE, in accordance with international best practices of transparency, accountability, and governance and to permit that CMO to commence operations in the UAE, enabling music rights holders to finally begin collectively licensing their broadcast and public performance rights under the UAE copyright law.

Countering Rumors and Cybercrimes Decree-Law Should Include IP: The Cyber Crime Law of 2012 (updated in 2018) was repealed by Federal Decree-Law No. (34) of 2021 on Countering Rumors and Cybercrimes (Decree-Law No. 34). The new law does not expressly include criminal offenses relating to copyright infringement or intellectual property rights (IPR) infringement, but it implies that copyright infringement offenses are included. For example, Article 50 punishes, with imprisonment or monetary fines, those who use or help third parties use communication services of audio or video broadcast channels unlawfully using an information network or any Information Technology (IT). Article 53 punishes, with imprisonment or monetary fines, those who use, store, make available, or publish illegal content and do not remove it or prevent access to its content within a period specified in the orders issued to them. Article 59 states that upon rendering a judgment of conviction of any crimes stipulated in the Decree-Law, the court may decide to take any of the following measures: (i) order that exploiter be placed under electronic supervision or monitoring; (ii) close down the violating site completely or partially for the duration decided by the court; or (iv) punish the exploiter with imprisonment or monetary fine. While Decree-Law No. 34 implies that copyright infringement cases are included, Decree-Law No. 34 should be further updated to include clear criminal offenses relating to copyright infringement. Moreover, Decree-Law No. 34 does not include ISP liability for IP infringement carried out through the ISP. The UAE should issue implementing regulations to clarify that Decree-Law No. 34 applies in cases of IP infringement.

MARKET ACCESS

Music Licensing: The failure to implement a collective management regime in the country effectively prevents producers and performers from licensing large parts of the market (as noted above), which serves as a market access barrier. This inaction is also protectionist and discriminatory, considering that various UAE families, as well as

the state, have stakes in most shopping malls, hotels, restaurants, and other such establishments that require licenses to play music. It is imperative that the music licensing problem be solved without any further delay.

UAE Copyright Registration Requirement: Dubai DED requests UAE copyright registration certificates before allowing rights holders to proceed with any action for copyright infringement. This requirement is a detrimental change from its old policy, which permitted a copyright infringement case to be heard if the plaintiff had a copyright registration certificate in any country that is a member of the Berne Convention, and, as applied to Berne member authors and producers, is a violation of Article 5(2) of Berne and equivalent provisions, such as Article 20 of WPPT. Such restrictions limit the power of rights holders to protect themselves from infringement and hinder their ability to thrive in the UAE market.

Administrative Fees: The UAE Ministry of Culture (previously the National Media Council) imposes administrative fees to imported copyrighted works, such as US\$270 for theatrical releases and US\$108 for TV programming. The Economic Department and Customs authorities impose administrative fees of US\$7,500 to file complaints against copyright violators.