

INDONESIA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

2025 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Indonesia remain on the Priority Watch List in 2025. IIPA also requests suspension or withdrawal of Indonesia's Generalized System of Preferences (GSP) benefits, in whole or in part if, at the conclusion of the GSP investigation, the Government of Indonesia has not made adequate progress remedying the deficiencies identified below.¹

Executive Summary: Indonesia is an important growth market for the creative industries that is unfortunately seriously hampered by an outdated copyright legal framework and growing market access restrictions, which, combined, make it difficult for Indonesia to take effective and meaningful actions against today's modern piracy actors and operations. Online piracy and marketplaces for piracy devices (PDs) remain a serious concern, though government agencies' efforts to disable access to piracy sites were faster and more efficient last year, leading to some positive outcomes for rights holders. However, the failure to bring enforcement actions against commercial-scale online piracy services, including criminal prosecutions with deterrent penalties, remains the major enforcement hurdle. Enforcement concerns are amplified by a failure to update Indonesia's now over ten-year old Copyright Law, which did institute positive changes at the time it passed in 2014. This law should be updated in line with international commitments and best practices to ensure rights holders, government agencies, and the judiciary have the necessary tools to combat today's modern and commercial-scale pirates and to enhance Indonesia's ecosystem for creators and creative industries. Moreover, now may be a particularly timely opportunity to revise the Copyright Law, as the Indonesian Parliament ratified the Regional Comprehensive Economic Partnership (RCEP) in August 2022 and has formally requested to join the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) in September 2024. The Government of Indonesia has also made some troubling policy shifts regarding market access including maintaining in the Film Law a screen quota and dubbing restrictions for imported films released theatrically, and by considering proposals for problematic censorship and classification requirements for video-on-demand (VOD) services. Finally, IIPA remains concerned about Indonesia's moves toward imposing customs duties on electronic transmissions and related opposition to extending the WTO e-commerce moratorium.

PRIORITY ACTIONS REQUESTED IN 2025

Enforcement

- Bring enforcement actions against commercial-scale digital piracy services and criminally prosecute, with deterrent penalties, the major piracy services operating in Indonesia.
- Continue and enhance enforcement actions under the Copyright Law and Regulation Nos. 14 and 26 of 2015 to disable access to piracy sites and domains.
- Combat illicit live streaming and unauthorized camcording piracy by taking appropriate criminal enforcement action, as well as enacting regulations or guidelines confirming that this activity is illegal.
- Monitor the marketplace and combat the proliferation of PDs (including illicit streaming devices (ISDs) and set-top boxes) and piracy apps.

Legal Reforms

- Ensure any revision of the Copyright Law is in line with international commitments and best practices.

Market Access

¹ For more details on Indonesia's Special 301 history, see previous years' reports at <https://iipa.org/reports/reports-by-country/>. For the history of Indonesia's Special 301 placement, see <https://www.iipa.org/files/uploads/2025/01/Appendix-C-2025.pdf>.

- Eliminate screen quotas and prohibitions on dubbing imported films.
- Reject content review and classification requirements for over-the-top (OTT)/VOD and avoid localization requirements.
- Improve regulations related to collective management and take steps to address royalty rate and licensing collections issues.
- Support an extension of the WTO e-commerce moratorium prohibiting customs duties on electronic transmissions and rescind Regulation No. 190/PMK.04/2022 requiring importers to file a customs declaration for any import of intangible goods through electronic transmission.
- Remove the local production requirement for Free-to-Air TV and pay-TV advertising.
- Exempt curated content services (including OTT/VOD content service providers) from the scope of Ministerial Regulation 5 (MR5).

ENFORCEMENT

Piracy in Indonesia inflicts severe losses on Indonesian creators, as well as U.S. book, motion picture and television, music, and video game industries. The Indonesian marketplace holds enormous potential for the legitimate commercial market, including for the online dissemination of copyright works, yet commercial-scale piracy stifles this opportunity. For the recorded music industry, stream ripping emerged as the major piracy threat, and both international and domestic language stream-ripping sites have provided Internet users with the bulk of illegal downloads. For example, the International Federation of the Phonographic Industry's (IFPI's) 2023 Music Consumer Study (MCS) found that Indonesia had the highest music piracy rates within the 26-country study, with stream ripping as the dominant method of piracy. More than three-quarters (78%) of respondents to the study from Indonesia said that they regularly pirated music, a rate substantially higher than the global average of 29%. Stream ripping remains the most popular form of music piracy, with websites such as *Y2Mate*, *SaveFrom* and *SSYouTube* being especially popular to Indonesian users. Unlicensed mobile apps used to stream rip and illicitly download music content were also a major issue in Indonesia, with *Vidmate* being installed on 18% of respondents' phones and *SnapTube* on 13%. In addition to stream ripping, there was also wide use of cyberlockers to obtain music content in Indonesia where 37% of respondents had used a cyberlocker in the previous month to pirate music. Based on *SimilarWeb* data, the most popular cyberlockers were *Mega.nz* (16.6m visits from Indonesia in Q2 2024) and *Krakenfiles.com* (8.4m visits from the country in the same time period). Indonesia was also responsible for more traffic to *Krakenfiles.com* than any other country in the world, contributing more than 35% of visits in Q2 2024. In 2023, Indonesia ranked sixth in the world for the number of connections by peers participating in the unauthorized file-sharing of Entertainment Software Association (ESA) member mobile video game titles on public peer-to-peer networks.

Indonesia is one of the most syndicated markets in the region when it comes to digital piracy. Many of the syndicates, such as *LK21* and *BioskopKeren*, have been around for many years and continue to operate despite consistent site blocking efforts. *LK21* is the most popular piracy syndicate in the region and has a domain hopping practice, making it particularly difficult to track. The illegal streaming site *Idlix* has also recently surged in popularity to become one of the most visited streaming sites in Indonesia. Levels of online piracy are unlikely to decrease unless the government takes meaningful enforcement action against the owners/operators behind these three syndicates. Indonesia is a major exporter of piracy as well. *Goojara.to*, and its associated active domains which are suspected to be operated out of Indonesia, received 620.2 million visits globally in 2024.

- **Bring enforcement actions against commercial-scale digital piracy services and criminally prosecute, with deterrent penalties, the major piracy services operating in Indonesia.**

Enforcement actions against commercial-scale piracy websites and services have been limited and have failed to noticeably reduce levels of online piracy or provide much-needed deterrence. Homegrown piracy syndicate sites and "brands" such as *LK21*, *BioskopKeren* and *Idlix* have harmed the creative industry ecosystem for years, and the audiovisual industry is now seeing new trends, such as the use of dedicated Internet protocol addresses that evade

domain name-based blocks, as well as the rapid growth in popularity of international repertoires such as anime and Korean and Chinese dramas (with Bahasa and English subtitles).² The motion picture and television industry and the recording industry report such sites engage in domain hopping, and even after administrative site-blocking actions are initiated by the creative industries and implemented by the government, the sites remain available through alternative domains and copycat sites. The Government of Indonesia should address this issue of domain hopping by allowing for faster disposition of blocking orders related to the “hopped” domains and copycat sites and domains. There also remains no clear remedy for rights holders against sellers who sell devices separately from the sale of IPTV subscriptions or sellers who find ways to distance themselves from the installation of compatible infringing apps.

Indonesia should also increase the capacity of its enforcement officials, who generally lack familiarity in investigating and handling digital forensic evidence and do not understand the ease with which pirates are able to use anonymizing software and infrastructure to evade detection. With rare exceptions,³ online piracy operators do not receive deterrent-level penalties. The government should criminally investigate operators of major online piracy services, such as *LK21*, *Idlix*, and *BioskopKeren*, and issue penalties strong enough to serve as a deterrent to others. In addition, the government should develop a comprehensive roadmap for addressing online piracy in consultation with both domestic and foreign copyright stakeholders. This should include a focus on improving collaboration between police, cybercrime units, and local and international rights holders, as well as implementing a government/industry anti-piracy consumer awareness campaign with the goal of encouraging consumers to migrate to legitimate offerings.

- **Continue and enhance enforcement actions under the Copyright Law and Regulation Nos. 14 and 26 of 2015 to disable access to piracy sites and domains.**

The government continued to make efforts in 2024 to improve actions under the Copyright Law and Regulation Nos. 14 and 26 of 2015 to disable access to piracy sites and domains, with faster outcomes leading to more timely and effective blocking orders. Access to thousands of notorious piracy site domains was disabled, representing once again a very welcome development this past year. However, problems remain. First, the *Direktorat Jenderal Kekayaan Intelektual* (Directorate General of Intellectual Property, DGIP), while generally demonstrating resolve against piracy by swiftly issuing orders to disable access to egregious piracy sites, may not always be subject to strict timelines which can cause delays at certain times of the year. Understaffing at DGIP is also a problem for cases coordinated through Interpol’s Stop Online Piracy initiative. Second, pirates have developed a multi-step redirection scheme whereby, either in order to circumvent orders, or to thwart intermediaries taking steps to reduce piracy (such as the use of demotion signals), pirate operators not only hop from domain to domain, but assign multiple domains (sometimes more than a dozen) which link to the same piracy location. As a result, actions to disable certain domains will not always be as effective as they should be since the pirate operator is constantly switching between multiple domains that are a part of the scheme. While DGIP is willing to block all the known redirection domains, which is helpful as long as the pirates’ list of domains in the scheme remains static, new dynamic hops must be presented in a separate application to DGIP. However, DGIP’s system can be improved by: (i) training personnel to manage these actions; (ii) hiring more personnel to handle the cases coordinated by Interpol; and (iii) making the actions to disable piracy sites dynamic which would allow “hopped” domains to be more easily stopped, and would mitigate the “multi-step redirection schemes” that can often hide the identity and location of commercial-scale pirates.

- **Combat illicit live streaming and unauthorized camcording piracy, by taking appropriate criminal enforcement action, as well as enacting regulations or guidelines confirming that this activity is illegal.**

Illicit live streaming continues to be a major concern in Indonesia. In addition to taking appropriate criminal enforcement action, the government should also issue clear guidelines and regulations on live-streaming piracy, including expressly outlawing these activities and prioritizing action against these illegal acts. Despite a reduction in

² Sites like these employ gambling advertising and sometimes pornography to lure users.

³ In December of 2023, cooperation between the DGIP, Korean Ministry of Culture, Sports, and Tourism (MCST) and the Korean national Police Agency (KNPA), led to the arrest of three suspects behind the TVDOL illegal IPTV service. While this was a welcome development, more needs to be done to combat online piracy.

known incidents of camcording, the government should also seek to strengthen enforcement against illicit camcording by: (i) fostering greater cooperation with cinema owners to fully uphold and enforce the Law; (ii) taking and supporting targeted enforcement actions; and (iii) where warranted, proceeding with prosecutions against those engaged in this damaging activity.⁴ The Explanatory Memorandum to the 2014 Copyright Law indicates that the unauthorized use of an audiovisual recording device in a movie theater (camcording) can be addressed under the reproduction right. Regulations should be introduced that provide a clear legal basis to prohibit camcording (as well as live streaming) in cinemas and strengthen enforcement remedies available. Moreover, the Government of Indonesia should implement a program to socialize the amended regulations, so they are widely accepted by the public.

- **Monitor the marketplace and combat the proliferation of PDs (including ISDs and set-top boxes) and piracy apps.**

Streaming devices that run infringing apps which enable access to live channels and VOD content are readily available in Indonesia via online marketplaces, including popular ISDs *UnblockTech*, *EVPAD*, *SVI Cloud* (all manufactured in China), and *SYBER TV*. This content may be pre-loaded prior to shipment or loaded by vendors upon import and prior to sale as an “after sale” service. Sellers of PDs often do not install the infringing apps and thus claim that the manufacture or sale of the devices themselves is not illegal. However, in a 2021 survey conducted under the auspices of the Asia-Pacific Economic Cooperation (APEC) Intellectual Property Enforcement Group, the Government of Indonesia expressed that Indonesian law may indeed prohibit the boxes.⁵ IIPA encourages the Indonesian government to take steps to crack down on piracy apps and device manufacturers or resellers who pre-load the devices with apps that facilitate infringement, as well as to take action against key distribution points for devices that are being used illegally. The *LokLok* piracy app remains a significant problem for the audiovisual industry. *LokLok* had garnered 13.621 million installs, with an average of 7.261 million monthly active users between January 2023 and August 2024. *LokLok* claims to operate as a user-generated content platform to evade takedown and delisting actions, however, it does not support video uploading and directly provides infringing content to its users. *LokLok* continues to evade enforcement measures in various jurisdictions by restricting availability of content based on region.

LEGAL REFORMS

- **Ensure any revision of the Copyright Law is in line with international commitments and best practices.**

Copyright law in Indonesia is governed by: the Law Concerning Copyright (Number 28 of 2014, the Copyright Law), which entered into force in 2014, replacing the prior 2002 law; and Regulation Nos. 14 and 26 of 2015, which sought to implement key provisions concerning online and digital forms of infringement, including provisions intended to implement Indonesia’s international obligations under the WTO TRIPS Agreement, the Berne Convention, the WIPO Copyright Treaty (WCT), and the WIPO Performances and Phonograms Treaty (WPPT) (collectively, the WIPO Internet Treaties). DGIP has considered a partial revision of the Copyright Law, focusing on copyright ownership and collective management issues, as well as exceptions and limitations. While revision is welcome in principle, as it provides an opportunity to address a number of long-standing concerns of rights holders, the direction of planned reform is far from

⁴ Preferably, an express provision would have been added to the Explanatory Memorandum to the 2014 Copyright Law, defining the act of using (or attempting to use) an audiovisual recording device in cinemas to camcord, record, or transmit a film, in whole or in part, as a strict liability criminal offense. The Asia Pacific Economic Cooperation (APEC) Ministers and Leaders, including from Indonesia, agreed in 2011 on “Effective Practices for Addressing Unauthorized Camcording,” and the steps recommended therein should also be taken. These include: (1) educating the public about the problems posed to businesses and the consumer by unauthorized camcording; (2) working with the private sector to identify and prevent unauthorized camcording in cinemas; and (3) developing and implementing legal measures to effectively deter unauthorized camcording. See *Effective Practices for Addressing Unauthorized Camcording*, 2011/AMM/014app05, 23rd APEC Ministerial Meeting, Hawaii, United States, November 11, 2011.

⁵ In an Asia Pacific Economic Cooperation (APEC) initiative in 2021, Indonesia participated in an “Intellectual Property Experts Group” (IPEG) survey of laws and activities designed to obtain information about the domestic treatment of ISDs in APEC economies. The government indicated in that survey that it believes “the current civil damages and/or penalties provided for in your economy viewed as being sufficient to deter the sale or distribution of ISDs.” See *Report on Results of Survey Questionnaire on Domestic Treatment of Illicit Streaming Devices by APEC Economies Intellectual Property Experts Group*, March 2021, available at <https://www.apec.org/publications/2021/03/apec-report-on-domestic-treatment-of-isds> (noting that ISDs are a “serious problem” and noting relevant laws, including “Joint Ministerial Regulations Between Minister of Law and Human Rights and Minister of Communication and Informatics Number 14 Year 2015, Number 26 Year 2015 Regarding Implementing Closure of Content and /or Access Rights to Use Violations of Copyright and/or Related Rights in the Electronic System.”).

clear, and it remains to be seen whether potential revisions will result in enhanced or weakened copyright protections. Moreover, now may be a particularly timely opportunity to revise the Copyright Law as the Indonesian Parliament ratified the RCEP in August 2022 and formally requested to join the CPTPP in September 2024. IIPA believes the priority for the Indonesian government should be to remedy the concerns delineated below:

Internet Exception: The Copyright Law provides a broad exception under Article 43(d) for “making and disseminating copyright content through information and communication technology media that is non-commercial and/or non-profit in its effect on the author or related parties, or in which the author has expressed no objection to such making or disseminating.” Both parts of this provision set a terrible precedent and would act to discourage and severely undermine legitimate business models built on the rights of authors, rights holders, and related rights owners to control the manner and means in which they authorize the making and disseminating of content through information and communication technologies. This provision would conflict with Indonesia’s international obligations under TRIPS, the Berne Convention, the WIPO Internet Treaties. For these reasons, it should be deleted in its entirety.

Termination of Transfers of Rights: Article 18 and Article 30 of the Copyright Law provide that rights in musical works and musical performances that are transferred under sold flat agreements or indefinite transfers shall revert to the authors or performers after 25 years. Article 122 extends the effect of these rules retrospectively to all transfers before the entry into force of Articles 18 and 30. This reversion rule frustrates the freedom to contract and is an unlawful deprivation of property rights. It is also unclear how these provisions impact existing contracts, and this leads to legal and business uncertainty. Certainly, a curtailing of all contracts to a 25-year contract term would have a significant negative impact on investments in the Indonesian music industry, as investors have a shorter time frame to recoup their investments.

Clarification of the Making Available/Communication to the Public Right: Articles 23 and 24 of the Copyright Law give exclusive making available rights to performers and producers. This exclusive right is in line with the obligation under Article 14 of the WPPT. Article 27 of the Copyright Law provides an equitable remuneration right to producers and performers for broadcasting and communication to the public of sound recordings. However, communication to the public is defined in Article 1, paragraph 16 to include the act of making available. This is inconsistent with Articles 23 and 24. There is an obvious drafting error in the legislation because the making available right cannot be both an exclusive right (Articles 23 and 24) and an equitable remuneration right (Article 27). The making available right has to be an exclusive right for Indonesia to meet its obligations under the Article 14 of the WPPT. Specifically, the definition of “Communication to the public” in Article 1, paragraph 16 should be amended to exclude the act of making available.

Criminal Case Structure and Penalties Weakened: For criminal cases, the Copyright Law took steps backward from the 2002 law by making criminal cases complaint-based, rather than prosecuted on an *ex officio* basis; removing minimum mandatory statutory criminal penalties; and providing for non-deterrent fines, including for landlord criminal liability. In addition, Article 95 of the Copyright Law is highly unusual in that it appears to mandate “mediation” before a piracy case can be prosecuted. The purpose and operation of this provision in practice is unclear.

Exceptions and Limitations/Compulsory License: Article 44 of the Copyright Law contains a broad exception defining several different uses for a wide array of purposes as authorized uses, ranging from education to criticism to “security and maintenance of government.” On its face, the broad scope of the uses and purposes contained in this exception appears to go well beyond what is permissible under the WTO TRIPS Agreement, the Berne Convention, and the WIPO Internet Treaties, despite a well-intentioned, but ineffective, attempt to narrow the provision through inclusion of part of the Berne three-step test.⁶ The references in Subsections (1)(a) and (d) of the Copyright Law to the three-step test omit the limitations of “certain special cases” and uses that do “not conflict with a normal exploitation of the work by the copyright owner.” The two other subsections included in this exception do not contain

⁶ Berne Convention for the Protection of Literary and Artistic Works amended September 28, 1979, Article 9(2), available at https://www.wipo.int/wipolex/en/text/283698#P140_25350.

any of the safeguards required under the three-step test. IIPA recommends that the Indonesian government clarify the application of the full three-step test to each use and purpose contained in this exception through amendment of the provision itself or by implementing regulations. Furthermore, implementing regulations should provide guidance to help prospective users determine whether their use falls within the appropriate bounds of the three-step test. In addition, Article 84 of the Copyright Law includes a compulsory license provision that applies to “works” and is not expressly limited to any subject matter. It should be further clarified and narrowed to ensure it is consistent with obligations under the WTO TRIPS Agreement, the Berne Convention, and the WIPO Internet Treaties.

Rights Management Information (RMI) Violations: The law provides that RMI violations occur only when moral rights are affected (Articles 6 and 7 of the Copyright Law). The WIPO Internet Treaties clearly require “adequate and effective legal remedies against . . . acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of *any right covered by this Treaty [or the Berne Convention]*” (bracketed text in WCT only; emphasis added). The scope of the RMI provisions should be expanded accordingly.

Registration, Invalidity, and Recordation Requirement: While registration of copyright remains voluntary under the law, the substantive examination for voluntary registration will apparently address whether a work is “substantially similar” to another previously registered work as a ground for refusal. This substantive examination is intended to enable the authorities to review and invalidate false applications or registrations to address a concern about abuse of the voluntary copyright registration process. IIPA suggests introducing a more forceful deterrent, including fines and penalties, against anyone who knowingly files a false application or applies in bad faith. Additionally, the registration and recordation systems potentially violate the prohibition of formalities under the Berne Convention. Article 83 of the Copyright Law appears to impose a requirement to record licenses, with lack of recordation meaning a license “shall have no legal effect on third parties.” This provision appears to be a Berne-prohibited formality if, for example, lack of recordation was used to deny the exercise of copyright from a particular licensor or licensee. Implementing regulations should clarify that a failure to record transfers and other changes will not deny copyright protection to the registrant. Moreover, recordation is not feasible for industries and rights holders that control a large number of works.

Provisional Measures: Under Article 108 of the Copyright Law, preliminary (provisional) injunctions take too long to obtain. Under the Indonesian law, no legal remedies, such as preliminary injunctions, are available to the claimant before submitting the claim. In that respect, Indonesian law does not meet the standards of the WTO TRIPS Agreement (i.e., Articles 41 and 50), which require that countries must make available “fair and equitable” civil remedies and procedures to stop and prevent infringements, including provisional measures granted without hearing from the alleged infringer.

Statutory Damages: Indonesian copyright law does not provide statutory damages. In the case of copyright infringement, the copyright holder can claim a justifiable amount by way of compensation. Compensatory and punitive damages are available under the Civil Procedure Code. Judges, however, may grant damages based on only what the parties request in their claim, and judges are prohibited from granting damages that exceed what the parties previously requested. The successful party must prove losses with sufficient and actual evidence. Instead, statutory damages for copyright infringement should also be available.

Overly Restrictive Definition of Copyright “Piracy”: Article 1, Subsection 23 of the Copyright Law provides an overly restrictive definition of copyright piracy as “distribution” of unlawfully duplicated “goods” to “obtain economic benefits.” This definition is inconsistent with Article 61 of the WTO TRIPS Agreement because it is limited to goods and requires a showing of financial gain. The definition should be amended to expand the scope to include acts of online copyright infringement and to remove the requirement of financial gain.

Term Extension for Phonograms: Currently, under Article 63(1)(a) and (b) of the Copyright Law, the term of protection of economic rights of phonogram producers and performers is 50 years from fixation of the phonograms or performances. This is much shorter than the term of protection conferred by Article 58 on authors of certain works

such as musical, artistic, literary, dramatic, and architectural works, which is the life of the author plus 70 years. The Copyright Law should be amended to extend the term of protection of related rights to at least 70 years to meet the emerging international standard and be more in line with the authors' term of protection.

Strengthening the Organized Crime Statute: Because many operators of piracy websites are engaged in other criminal activities, copyright infringement should be included as a predicate crime for remedies under the Indonesian organized crime law, e.g., as grounds for broader criminal investigations, seizure, freezing of assets, and asset seizure, etc.

Online Intermediary Regulations: The Indonesian government should seek to improve transparency and accountability of online service providers and intermediaries. It should (i) limit safe harbor protection to passive and neutral intermediaries that do not contribute to infringing activity; (ii) implement measures demonstrated to be effective in preventing or restraining infringement; (iii) require marketplaces and encourage all relevant intermediaries to implement "know your business customers" (KYBC) policies to ensure they keep up to date and accurate information about high-volume third-party sellers and to allow rights holders to obtain accurate information to protect their rights against direct infringers; and (iv) enable consultation among industry stakeholders, including creative industries, to make determinations on "Trusted Entities" (whose complaints are resolved on a priority basis by Internet service providers (ISPs)) rather than leaving such decisions to the sole discretion of ISPs.

Additionally, in 2023, a set of "Draft Government Regulations on Music and Song Licensing" was released for consultation, and these Draft Regulations contained many provisions seeking to regulate the activities of Digital Service Providers (DSPs), including provisions on takedown response time, as well as provisions that require DSPs to obtain permissions from rights holders and phonogram producers and performers. IIPA urges the Indonesian government to take care to adhere closely and ensure consistency with the provisions of the Copyright Law in drafting this set of "Draft Government Regulations on Music and Song Licensing," as well as imposing an appropriate response time for the proposed notice and takedown system (in this case, "3x24 hours" is too long, and it should be an expeditious takedown), and finally to closely consult with rights holders as to the practical aspects of the Regulations.

MARKET ACCESS

- **Eliminate screen quotas and prohibitions on dubbing imported films.**

The Indonesian government has expressed its intention to amend the 2009 Film Law, which contains a 60% local screen quota and prohibits imported films from being dubbed into local language. In September 2019, without official notice or industry consultation, "Ministerial Regulation (MR34/2019) Concerning the Procedure for the Distribution, Exhibition, Export, and Import of Film" was issued. While these regulations have yet to be enforced, they maintain the 60% local screen quota and dubbing restrictions and add further limitations on screen time by a single distributor, importer, or producer to 50%. In recent years, domestic films have accounted for a growing and substantial share of the market and local films are seeing greater investment without the imposition of heavy-handed regulations. Moreover, these restrictions undercut Indonesia's laudable May 2016 decision to remove the film sector from its Negative Investment List. Indonesia should prioritize amending or rewriting the Film Law to remove such barriers and incorporate international best practices. On copyright ownership in films, in accordance with best international practices, the copyright should reside with the producer who arranged for the film to be made and is best positioned to exploit the film commercially, unless there is an agreement to the contrary. Indonesia should amend its Copyright Law to make this clear.

- **Reject content review and classification requirements for OTT/VOD and avoid localization requirements.**

In October 2015, the Indonesian Broadcasting Commission (*Komisi Penyiaran Indonesia*, KPI) notified platform operators regarding pre-censorship and classification requirements for programs on all TV channels. The KPI

suggested that non-compliance may violate the Broadcasting Ethics and Broadcast Program Standard, thus subjecting operators to fines and imprisonment. If implemented, these requirements would negatively impact the pay-TV industry by raising costs, creating new barriers to entry, and reducing consumer choice. Additionally, in the past few years, there has been growing pressure for the Ministry of Communications and Informatics (KOMINFO), the Indonesian Censorship Board (LSF), and KPI to broaden their mandates by applying similar strict censorship and classification requirements towards OTT/VOD providers, which would have the same negative impact as previously described.

For example, in June 2024, KPI and LSF proposed amendments to the Broadcasting Law which would expand the authority of KPI from TV channels to also include OTT/VOD. These recent amendments were proposed without consultation with appropriate Ministries such as KOMINFO, or any period of public consultation. Such requirements, if reintroduced under the new administration of President Prabowo Subianto, inaugurated on October 20, 2024, would ignore the current self-regulatory best practices already being adopted by OTT/VOD services, be a significant market entry barrier, and serve as a disincentive to bring creative industries to Indonesia.

Overall, IIPA remains generally concerned that additional revisions of the Broadcasting Law could seek to extend existing problematic content quotas, content censorship by KPI, and ownership restrictions to VOD services. Industry is also closely monitoring amendments to the Internet Transactions Law (ITE Law) which may potentially be barriers for VOD services.

- **Improve regulations related to collective management and take steps to address royalty rate and licensing collections issues.**

For the music industry, Indonesia's mandatory multi-layered collective licensing system remains problematic. The government-appointed national CMO's (LMKN) structure is top-heavy and has insufficient relevant experience. This creates unnecessary structural layers, increases the overall administrative costs, and slows down decision-making. Furthermore, rights holders have insufficient control of the licensing decisions including the setting of tariffs and, as a result, the tariffs are fixed, and the rates are extremely low. There is also uncertainty as to whether it is mandatory for all rights to be licensed through LMKN as the singular CMO for performance rights, and how other CMOs, such as *Wahana Musik Indonesia*, operate in relation to LMKN. In some cases, rights holders reported broadcasters have failed to even pay the government-set rate since 2016.

CMO regulations, including Implementing Regulations of Government No. 56 of 2021, "Government Regulation on the Management of Copyright Royalties of Songs and/or Music," should be amended such that entities falling within the definition are owned or controlled by their member rights holders as well as confirming the non-profit nature of the organization, which are essential characteristics of a CMO. The definitions of "Digital Intermediary Service Providers" or DSPs in Regulation 56/2021 also leave room for doubt as to which entities this CMO regulation applies to, and clarity would be appreciated. Further, CMO regulations should be introduced in accordance with international good practices and cover issues of transparency, accountability, and good governance. It is also essential that the tariffs set for the use of the collectively managed rights reflect the economic value of their use in trade.

Additionally, Article 3(1) of the Implementing Regulations of Government No. 56 of 2021 appears to downgrade the scope of the public performance right to a mere remuneration right paid through LMKN. This is exacerbated by Article 3(2) which sets out 14 types of commercial public services for which royalties are payable under Article 3(1) and Article 11 which provides for an overbroad exception for micro-entities, which in 2021 represented over 98% of all Indonesian enterprises.⁷ This "positive list" implementation and overbroad exception for a wide section of enterprises should be overhauled to instead provide an exclusive public performance right that is not limited to the list of venues in Article 3(2) or by the exception in Article 11. Further, consistent with international best practices, any CMO must be voluntary, transparent, and governed by rights holders, without interference by Indonesia's government.

⁷ "Micro, Small & Medium Enterprises in Indonesia: Backbone of the Indonesian Economy," Indonesian Investments, July 16, 2022, available at <https://www.indonesia-investments.com/finance/financial-columns/micro-small-medium-enterprises-in-indonesia-backbone-of-the-indonesian-economy/item9532>.

These challenges have made licensing for broadcast dysfunctional, with broadcasters refusing to pay the government approved rates, introduced as far back as 2016, for the use of musical works and sound recordings. As a result, collections for both radio and television broadcasting remain at zero for both recording rights and music publishing rights. Separately, music licensing in Indonesia is also seriously hampered due to the restricted list of businesses that are obliged to seek licenses for the use of music in their business premises. The restriction, which is a violation of the international copyright and related rights treaties, should be removed.

- **Support an extension of the WTO e-commerce moratorium prohibiting customs duties on electronic transmissions and rescind Regulation No. 190/PMK.04/2022 requiring importers to file a customs declaration for any import of intangible goods through electronic transmission.**

The Ministry of Finance issued a new regulation (Regulation No. 190/PMK.04/2022) requiring importers to file a customs declaration for any import of intangible goods through electronic transmission. This burdensome requirement severely disadvantages creative content seeking to enter the Indonesian market. In addition, by creating new tariff lines for digital products that are transmitted electronically, which includes the threat of imposing customs duties on those products, Indonesia has set a troubling precedent that raises serious concerns with respect to the potential expiry of the WTO e-commerce moratorium on customs duties for electronic transmissions at the next WTO Ministerial Conference in early 2026. Heightening this concern, the Government of Indonesia has continued to express reservations about permanently extending the e-commerce moratorium. Such duties would likely raise prices for consumers, place Indonesia out of step with regional and international best practices and stifle the growth of Indonesia's market for creative digital content and related services.

- **Remove the local production requirement for Free-to-Air TV and pay-TV advertising.**

Indonesia's Broadcasting Law (No. 32 of 2002) includes a requirement that any free-to-air TV and pay-TV advertising aimed at the local market must be locally produced. Although regulations issued in 2007 provided a series of exemptions, KPI's more recent statements regarding implementation raised concerns. Such a burdensome rule, if implemented, would likely result in consumers absorbing the additional associated costs. The timeline for revising the Broadcasting Law remains unclear, and it should be a priority for the new administration.

- **Exempt curated content services (including OTT/VOD content service providers) from the scope of Ministerial Regulation 5 (MR5).**

The Ministry of Communication and Information Technology (KOMINFO) issued Ministerial Regulation 5 (MR5), which came into effect in late 2020. MR5 requires domestic and foreign online service providers to register and comply with content takedown requests from authorities and grants law enforcement authorities access to electronic systems and data. In July 2022, KOMINFO temporarily blocked some online intermediary platforms for failing to comply with MR5. The blocks were subsequently lifted when the firms registered with KOMINFO under MR5. Such requirements have the potential to stifle business development, add a significant barrier to market entry, and are out-of-step with international best practices when it comes to the regulation of curated content services such as VOD service providers.

GENERALIZED SYSTEM OF PREFERENCES (GSP)

In January 2020, USTR, pursuant to the 2012 investigation, held a public hearing to review country practices in Indonesia regarding intellectual property rights (IPR) and market access issues and to determine whether Indonesia still qualifies for beneficiary status under the GSP. Under the statute, the President of the United States must consider, in determining whether a country should continue to be designated as a GSP beneficiary country, "the extent to which such country is providing adequate and effective protection of intellectual property rights," and "the extent to which

such country has assured the United States that it will provide equitable and reasonable access to the markets . . . of such country.”⁸ While the Indonesian government has made past progress towards meeting the GSP criteria, these efforts have stalled and regressed in some respects. IIPA urges the Government of Indonesia to make further progress to remedy the deficiencies outlined in this report to avoid suspension or withdrawal of Indonesia’s GSP benefits, in whole or in part.

⁸ 19 U.S.C. §§ 2462(c)(4) and (5).