IIPA 2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

SUBMITTED JANUARY 28, 2026
TO THE
UNITED STATES TRADE REPRESENTATIVE
BY THE
INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE®

© 2026 International Intellectual Property Alliance

Material in this report is protected by copyright. It may, however, be reproduced for non-commercial purposes or quoted with appropriate attribution to the International Intellectual Property Alliance.

International Intellectual Property Alliance® is a registered service mark of International Intellectual Property Alliance. IIPA® is a registered service mark of the International Intellectual Property Alliance. The logo (three circles with a “c” in the center and the globe design) is a service mark of the International Intellectual Property Alliance

TABLE OF CONTENTS

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE

SUBMISSION: **Letter to Mr. Daniel Lee, Assistant United States Trade Representative for Innovation and Intellectual Property, Office of the United States Trade Representative**

APPENDIX A: **Country Surveys**

Priority Watch List

Chile 1
China 9
India 26
Indonesia 38
Mexico 49
Russia 63
South Africa 74
Vietnam 84

Watch List

Argentina 95
Belarus 104
Brazil 106
Canada 119
Colombia 131
Morocco 139
Nigeria 146
Singapore 153
Taiwan 156
Thailand 163
Uruguay 172

APPENDIX B: **Additional Concerns in Other Key Foreign Markets**

APPENDIX C: **History of Countries' Special 301 Placement (1989-2025) and IIPA's 2026 Special 301 Recommendations**

International Intellectual Property Alliance®

1000 F Street, NW, Floor 2
Washington, DC 20004
Tel (202) 968-4472
www.iipa.org · Email: info@iipa.org

January 28, 2026

Submitted via regulations.gov Docket No. USTR-2025-0243
Mr. Daniel Lee
Assistant United States Trade Representative for
Innovation and Intellectual Property
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: IIPA Written Submission in Response to USTR's *Request for Comments and Notice of a Public Hearing Regarding the 2026 Special 301 Review*, 90 Fed. Reg. 57519 (Dec.11, 2025)

Dear Mr. Lee:

The International Intellectual Property Alliance (IIPA) provides this submission in response to the above-captioned Federal Register Notice as a part of the "Special 301" review.[1] The filing focuses on three overarching concerns affecting the competitiveness of the copyright industries in foreign markets: (i) inadequate copyright and related laws, particularly where rights holders are unable to fully exercise their rights; (ii) inadequate and ineffective enforcement of existing copyright and related laws; and (iii) market access barriers that inhibit the licensing and dissemination of copyrighted works and sound recordings.

On behalf of its member associations, IIPA has filed comments every year since the 1988 Trade Act established the Special 301 review proceeding. The annual Special 301 review requires the U.S. government to identify "foreign countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection."[2] IIPA and its members appreciate USTR's continued adherence to the requirements of the Special 301 statute and the intent of Congress by using this important trade tool to improve and strengthen copyright protection and enforcement in the reported countries and to open up these markets for U.S. creators, producers, and workers who rely on copyright protection. As USTR has noted in past Special 301 Reports, Congress expressed concern that intellectual property (IP) protection and market access deficiencies "seriously impede the ability of the United States persons that rely on protection of intellectual property rights to export and operate overseas, thereby harming the economic interests of the United States."[3] The ultimate goal of the Special 301 review, therefore, is not to catalog trade barriers or admonish foreign governments for deficient laws or enforcement regimes as such, but rather to expand economic opportunities for industries that rely on IP protection.[4] In the case of the copyright industries, this is accomplished by opening markets for American copyrighted materials in digital and hard copy formats.

[1] IIPA will file under separate cover a Notice of Intent to Testify at the February 18th, 2026 public hearing on Special 301.
[2] 19 U.S.C. Section 2242(a)(1).
[3] See, e.g., 2025 Special 301 Report at 5, citing Omnibus Trade and Competitiveness Act of 1988, § 1303(a)(1)(B), and referencing S. Rep. 100-71 at 75 (1987) in footnote 2 ("Improved protection and market access for U.S. intellectual property goes to the very essence of economic competitiveness for the United States. The problems of piracy, counterfeiting, and market access for U.S. intellectual property affect the U.S. economy as a whole. Effective action against these problems is important to sectors ranging from high technology to basic industries, and from manufacturers of goods to U.S. service businesses.").
[4] The most recently identified market access and other trade barriers around the world, including those pertaining to intellectual property rights, are detailed in the U.S. Trade Representative's 2024 National Trade Estimate Report on Foreign Trade Barriers (March 31, 2025). That report is available at https://ustr.gov/sites/default/files/files/Press/Reports/2025NTE.pdf.

As demonstrated in IIPA's 2024 update of its comprehensive economic report, *Copyright Industries in the U.S. Economy: The 2024 Report,* prepared by Secretariat (*2024 Report*), the creative industries make outsized contributions to the U.S. economy, employment, and trade balance. According to the *2024 Report*, in 2023, the "core" copyright industries in the United States: (i) generated over two trillion U.S. dollars of economic output; (ii) accounted for 7.66% of the entire economy; and (iii) employed almost 11.6 million workers, accounting for over 5.4% of the entire U.S. workforce and 6.1% of total private employment in the United States.[5] The jobs created by these industries are well-paying jobs, as copyright industry workers earn on average 50% higher wages than other U.S. workers. Further, according to the *2024 Report*, the core copyright industries significantly outpaced the U.S. economy, growing at an aggregate annual rate of 9.23% between 2020 and 2023, while the U.S. economy grew by 3.41%. When factoring in other industries that contribute to the copyright economy (which together comprise what the *2024 Report* calls the "total" copyright industries), the numbers are even more compelling.

The *2024 Report* also illustrates the positive contribution of selected copyright sectors to the overall U.S. trade balance. According to the report, foreign sales and exports of selected copyright products in overseas markets totaled $272.6 billion in 2023, exceeding the foreign sales of other major U.S. industries. Leveling the playing field for the U.S. copyright industries in foreign markets would significantly increase these important U.S. exports, boosting U.S. job creation and economic growth and further improving the U.S. trade balance.

Importantly, the *2024 Report* highlights the significant contributions the copyright industries make to the digital economy, as defined by the U.S. Bureau of Economic Analysis (BEA). In 2022 (the latest year for which data on the digital economy are available), the core copyright industries accounted for 51.39% of the U.S. digital economy value added and over 49.1% of digital economy employment, and the total copyright industries accounted for 63.13% of the digital economy value added and nearly 56.6% of digital economy employment. The 2024 Report points out that these numbers likely understate the total contribution of the copyright industries to the digital economy, because the BEA's digital economy classification does not encompass the full range of the copyright industries' digital activities.

American creators, producers, publishers, workers, and consumers all benefit when U.S. trading partners enact strong copyright laws, effectively enforce those laws, and eliminate barriers to their markets. In the most recent Special 301 Report, USTR recognized that the annual review "serves a critical function by identifying opportunities and challenges facing U.S. innovative and creative industries in foreign markets and by promoting job creation, economic development, and many other benefits that effective IP protection and enforcement support."[6] Importantly, these benefits include the enrichment of American culture and consumers through enjoyment of creative and scholarly content, including books and journals, video games, movies and television programing, and music.[7] Dynamic digital

[5] See Secretariat, *Copyright Industries in the U.S. Economy: The 2024 Report* (February, 2025) available at https://www.iipa.org/files/uploads/2025/02/IIPA-Copyright-Industries-in-the-U.S.-Economy-Report-2024_ONLINE_FINAL.pdf. Core copyright industries are those whose primary purpose is to create, produce, distribute, or exhibit copyright materials. The link between copyright protection and economic growth has been well documented by the World Intellectual Property Organization (WIPO). See, e.g., *WIPO Studies on the Economic Contribution of the Copyright Industries: Overview* (2014), available at https://www.wipo.int/export/sites/www/copyright/en/docs/performance/economic_contribution_analysis_2014.pdf. The WIPO website provides links to 52 country studies employing virtually the same agreed-upon methodology as the methodology used by Secretariat Economists. See https://www.wipo.int/en/web/copyright/economic-performance. These studies provide the economic underpinnings for efforts to reform copyright laws, improve enforcement, and lower market access barriers. For the video game industry, see a February 2024 report by ESA *Video Games in the 21st Century: The 2024 Economic Impact Report*, available at https://www.theesa.com/resources/2024-economic-impact-report/. This report highlights how the video game industry not only provides entertainment, learning opportunities and connection to millions, with the dual DNA of technology and art, but also is an important driver of the 21st century U.S. economy. For the music industry (RIAA), see the *2020 Jobs & Benefits Report*: https://www.riaa.com/wp-content/uploads/2021/02/The-U.S.-Music-Industries-Jobs-Benefits-2020-Report.pdf and the *50 States of Music* website – https://50statesofmusic.com/ – that provides (qualitative and quantitative) state-by-state contributions. There are also music industry reports on employment and economic contributions in specific regions, e.g., Europe, available at https://www.ifpi.org/wp-content/uploads/2020/11/IFPI_music_in_Europe_WEB_spreads.pdf, as well as in specific countries, e.g., India, available at https://www2.deloitte.com/content/dam/Deloitte/in/Documents/technology-media-telecommunications/IMI%20report_singlePage.pdf. For the motion picture industry (MPA), see the 2020 U.S. economic contribution infographic, available at https://www.motionpictures.org/wp-content/uploads/2025/01/MPA_Economic_contribution_US_infographic.pdf.

[6] See 2025 Special 301 Report at 6.

[7] See, e.g., 2025 Essential Facts About the Video Game Industry, available at https://www.theesa.com/resources/essential-facts-about-the-us-video-game-industry/2025-data/ (highlighting the benefits of playing video games, including building skills, providing stress relief, creating a feeling of community, and helping players stay connected to friends and family).

market conditions, including fair and equitable market access, create enormous opportunities to further expand economic growth, which results in more well-paying jobs and foreign sales.

Improving trading partners' legal frameworks to expand digital trade in copyrighted materials would foster even more job growth in the United States and increase economic opportunities around the world. The copyright industries continue to be at the forefront of digital technological advances, creating and disseminating copyrighted materials using a wide variety of media, ever-more sophisticated systems (including new services and applications (apps)), and new digital business models. As a result of these digital technological advances, more copyrighted material is now legally available, in more diversified ways and with more varied pricing options than at any other time in history, for the enrichment and enjoyment of consumers.[8]

Though the copyright sector has long employed electronic means to produce and deliver its products and services to meet global consumer demand, laws and enforcement regimes in many foreign markets lack even well-established minimum standards for combating online infringement and ensuring the safety and security of online marketplaces. The success of the creative community depends on strong copyright laws and enforcement practices that foster a legitimate online economy. Open markets and modern copyright laws, when combined with effective and efficient enforcement of those laws, enable creators and producers to invest in the creation and dissemination of new high-quality content to better meet worldwide consumer demand.

IIPA and its members recognize and appreciate that USTR has employed the Special 301 process as a positive catalyst for change to effectively address the challenges faced by the U.S. creative industries in key markets around the world. In our view, the process continues to yield results, including positive legal reforms, enforcement actions, and the removal of market access barriers. In addition to recommending improvements, IIPA's comments highlight some of the recent successes and positive outcomes in several countries.

[INTENTIONALLY LEFT BLANK]

[8] For example, there are now over 100 million licensed tracks on some of the major music streaming services. See e.g., https://www.apple.com/au/apple-music/ and https://www.amazon.com/music/unlimited and hundreds of digital music services. The number of subscriptions to online audiovisual services worldwide increased to 1.3 billion in 2021, a 14% increase from 2020. See, https://www.motionpictures.org/wp-content/uploads/2022/03/MPA-2021-THEME-Report-FINAL.pdf. There are more than 27,000 games available for immediate digital download and play on the three major gaming consoles (14,992 on Xbox, see https://www.xbox.com/en-US/games/browse; more than 10,000 on Nintendo Switch, see https://www.nintendo.com/au/nintendo-eshop/; and at least 10,000 on PlayStation, see https://store.playstation.com/en-us/pages/browse). In addition, there are at least 117,000 available at any time on the STEAM platform (see https://steamdb.info/stats/releases/) and 4,000 on the Epic Game Store (https://store.epicgames.com/en-US/news/epic-games-store-2024-year-in-review). For more information generally on the proliferation of services, see, https://www.motionpictures.org/watch-it-legally/ (movies and television content); and http://www.whymusicmatters.com, https://www.ifpi.org/pro-music/, and the IFPI Global Music Report 2024 at https://globalmusicreport.ifpi.org/ (music). In the publishing industry, for example, the eBook and audiobook market segment continues to thrive (https://publishers.org/data-and-statistics/industry-statistics/).The global e-book market size is estimated to have grown by USD 14.52 billion from 2025-2029 (see https://www.businessresearchinsights.com/market-reports/e-book-market-117774), and the global audiobook market continues to see rapid growth (see https://www.statista.com/outlook/amo/media/books/audiobooks/worldwide).

SUBMISSION OUTLINE

I. IIPA RECOMMENDATIONS ON DESIGNATIONS AND A SUMMARY OF COUNTRY REPORTS v
II. ABOUT IIPA AND IIPA'S INTEREST IN SPECIAL 301 vi
III. INITIATIVES TO STRENGTHEN IP PROTECTION AND ENFORCEMENT IN FOREIGN MARKETS vi
IV. KEY CHALLENGES FOR THE COPYRIGHT INDUSTRIES—PROTECTION, ENFORCEMENT, AND MARKET ACCESS ISSUES viii
A. Inadequate Copyright and Related Laws viii
1. Failure to Meet Legal Reform Obligations, Evolving Global Norms, and Global Minimum Standards ix
2. Activities Before the World Intellectual Property Organization (WIPO) Threaten to Undermine Copyright Protections Around the World xi
3. Certain Legal Reform Efforts Threaten Copyright Protections or Enforcement Mechanisms xii
a. Remuneration Rights xii
b. Text and Data Mining and Artificial Intelligence (AI) xiii
4. Laws and Regulations Governing Collective Management Organizations (CMOs) xiii
B. Inadequate and Ineffective Enforcement of Existing Copyright and Related Laws xiv
1. Online and Mobile Network Piracy xv
2. Circumvention of Technological Protection Measures (TPMs), Including Stream Ripping, Modification of Video Game Devices, and Unauthorized Digital Goods (UDGs) xvii
3. Piracy of Books and Journals xviii
4. Piracy of Motion Picture and Television Programs by Piracy Devices and Piracy-as-a-Service xviii
5. Illegal Camcording of Theatrical Motion Pictures xix
6. Broadcast, Pay-TV, and IPTV Piracy xix
C. Market Access Barriers that Inhibit the Licensing and Dissemination of Copyrighted Works and Sound Recordings xx
V. CONCLUSION xxi
APPENDIX A: Country Surveys
APPENDIX B: Additional Concerns in Other Key Foreign Markets
APPENDIX C: History of Countries' Special 301 Placement (1989-2025) and IIPA's 2026 Special 301 Recommendations

I. IIPA RECOMMENDATIONS ON DESIGNATIONS AND A SUMMARY OF COUNTRY REPORTS

IIPA's submission focuses on the markets where IIPA members believe active engagement by the U.S. government can reap positive results for creators and the industries that support and invest in them. The Country Reports contained in the filing include a summary of developments from 2025, along with key issues to focus on in 2026. Most identify key priorities and, wherever possible, detail the legal, enforcement, and market access concerns specific to each market. Some Country Reports also contain details of specific unmet trade obligations to the United States in bilateral, regional, or multilateral trade agreements that, if addressed, could improve the local market. In a few instances, the Country Reports focus on only a few key issues or one or two industries.

IIPA's 2026 Submission includes this Cover Letter plus three appendices—Appendix A, Appendix B, and Appendix C.

Appendix A includes 19 Country Reports with recommendations for designation in USTR's Special 301 Report this year.[9] These 19 Country Reports cover**: Argentina; Belarus; Brazil; Canada; Chile; China; Colombia; India; Indonesia; Mexico; Morocco; Nigeria; Russian Federation; Singapore; South Africa; Taiwan; Thailand; Uruguay;** and **Vietnam.**

For these countries, the IIPA recommends:

IIPA 2026 Special 301 Recommendations	
Priority Watch List	**Watch List**
Chile China India Indonesia Mexico (OCR) Russian Federation South Africa Vietnam	Argentina Belarus Brazil Canada Colombia Morocco Nigeria Singapore Taiwan Thailand Uruguay
8	11

Appendix B identifies additional concerns in other key foreign markets, including **Australia**, **Belgium**, **Bulgaria**, **Costa Rica**, **Germany**, **Hong Kong**, **Hungary**, **Iraq**, **Japan**, **Kazakhstan**, **Kenya**, **Malaysia**, **Peru**, **Philippines**, **South Korea**, **Spain**, **Switzerland**, and the **United Kingdom (UK)**. While IIPA is not making recommendations for these countries this year, the concerns in these countries are significant and deserve the attention of the U.S. government. These concerns include shortfalls in copyright protection and enforcement and troubling developments regarding legal reform efforts and market access.

Appendix C provides a Historical Chart of countries' placement on Special 301 lists by USTR since 1989 and IIPA's 2026 Special 301 recommendations.[10]

[9] The Country Reports were prepared by IIPA Staff, including Peter Mehravari, Aidan O'Connor, and the undersigned. We particularly thank Ms. O'Connor for her contributions to the preparation, production, and dissemination of this submission. The Country Reports are based on information furnished by IIPA's member associations. The information contained in this submission should not be construed as providing legal advice.

[10] A number of countries/territories have appeared on a Special 301 list every year since 1989, or for a considerable number of years. A 1994 amendment to Section 182 of the Trade Act, dealing with identification of "priority foreign countries," provides that USTR must consider "the history of intellectual property laws

II. ABOUT IIPA AND IIPA'S INTEREST IN SPECIAL 301

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 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/or distributed by IIPA-member companies include: video games for consoles, handheld devices, personal computers, and online; motion pictures and television programming distributed in all formats (including cinema, television, online, mobile, DVD, etc.); 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, and databases.

III. INITIATIVES TO STRENGTHEN IP PROTECTION AND ENFORCEMENT IN FOREIGN MARKETS

IIPA highlights positive developments in the following markets in the past year:

Argentina: Through Decree 138/2025, the Milei Administration recognized the right of copyright and related rights holders to manage their works individually or through specific agreements and allowed the coexistence of multiple Collective Management Organizations (CMOs). To this end, Decrees 1671/1974, 1914/2006, and 124/2009, which had previously granted exclusive or preferential representation to various CMOs, were amended to revoke this treatment. This reform will provide rights holders greater independence and control over their rights, and greater transparency and efficiency in the market.

Brazil: Following the enactment of Federal Law No. 14,815/2024, rights holders have advocated for administrative mechanisms under the authority of the Brazilian Film Agency (ANCINE) that ensure Internet service providers (ISPs) can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities to combat online piracy. In this context, in 2025 ANCINE launched a public consultation on the law's draft implementing regulations. Although the implementing regulations are awaiting publication, ANCINE—working in cooperation with rights holders and with the technical support of the National Telecommunications Agency (ANATEL)—has already commenced pilot initiatives to disrupt online infringements. The success of Operation 404 has led to a steady decrease in site traffic to Brazil-based piracy sites and a steady increase in site traffic to internationally hosted piracy sites. In October, the Criminal Court in Sao Paulo issued a first of its kind site blocking injunction against thirteen foreign hosted piracy sites that accounted for 71 million site visits in Brazil in 2025.

Colombia: In May, Colombian prosecutors announced the sentencing of the defendants in the *MagisTV Oficial* case, which was referred to them by the Alliance for Creativity and Entertainment (ACE). The judge found the defendants violated Colombia's criminal laws against copyright infringement and the use of

and practices in the foreign country, whether the country has been identified as a priority foreign country previously, and U.S. efforts to obtain adequate and effective intellectual property protection in that country." Uruguay Round Agreements Act Statement of Administrative Action, reprinted in H.R. Doc. No. 103-316, vol. I, at 362 (1994).

malicious software resulting in a 30-month suspended sentence—reduced from 60 months after the defendants accepted responsibility—and a substantial financial penalty. In partnership with local authorities and the Colombian justice system, ACE obtained Colombia's first dynamic criminal blocking order, which will pave the way for future blocking actions of this type. In another positive development, the Colombian government discarded the introduction of a statutory remuneration right that would have interfered with Colombia's exclusive rights regime and had a disruptive effect on the streaming market.

India: The Delhi High Court has continued its streak of positive legal precedents following the seminal decision in *Universal City Studios LLC & Ors. v. dotmovies.baby & Ors.* CS(COMM) 514/2023, which required domain name registrars to "lock and suspend" infringers and provide details relating to the registrant of pirate domains. To date, more than 400 piracy domains have been completely wiped from the Internet, representing billions of global piracy visits. Rights holders are encouraged by the Delhi High Court's progressive understanding of the technologies involved in modern digital piracy and its resolve to grant creative relief to truly tackle piracy on a global scale. Although, music rights holders report that foreign domain registrars tend to be non-compliant with Indian court orders that require disclosure of operator details. The latest orders, *Universal City Studios Productions LLLC & Ors v isaidubs.spot & Ors.* CS(COMM) 1009/2025, resulted in the blocking of the *vidsrc* Piracy-as-a-Service (PaaS), which has harmed rights holders for many years. It is hoped that these *vidsrc* domains will also be suspended to disrupt the piracy ecosystem. Similarly, journal publishers, in their long-running case against the operator of *Sci-Hub*, obtained an order blocking *Sci-Hub* and *Sci-Net*.[11] The order, which is to remain in place until further order of the Court, requires the Department of Telecommunications and the Ministry of Electronics and Information Technology to issue blocking orders to relevant intermediaries.

Indonesia: The Indonesian Kementerian Komunikasi Dan Digital (KOMDIGI) ordered the blocking of the backend domains operating the app known as *LokLok*. The order is dynamic, enabling blocking of all relevant backend domains that are related to the operation of the app available for download on the consumer-facing domain, *loklok.com*. Obtaining this "dynamic" order in Indonesia is a positive precedent because it could allow rights holders, upon identification of another pirate app with a consumer-facing website, to obtain a blocking order for the consumer-facing domain through the Directorate General of Intellectual Property (DGIP) and subsequently request blocks of the backend domains.

South Korea: The Korean Ministry of Culture, Sports, and Tourism (MCST) Special Judicial Police arrested one operator of the Korean site *TVWiki* (formerly known as *NoonooTV*) on November 9, 2024, and seized the operator's websites *TVWiki* and *OKTOON*. *TVWiki* had been the most popular illegal streaming site in Korea. The sites regularly hopped domains to avoid site-blocking efforts. IIPA applauds the actions of the MCST, working alongside Interpol through the Interpol-Stop Online Piracy Project, in taking down this notorious target within the jurisdiction.

Thailand: The Royal Thai government issued site blocking orders against the most egregious piracy sites operating in the country, seriously degrading the piracy ecosystem, although the operators continue to try to evade such orders by "hopping" to new domains. These sites, which range from streaming sites to Internet protocol television (IPTV) services, included *imoviehd, uflixtv, uplaytv, dooflixtv, 320hd, newhd, series469, nung2hd, inwiptv, moviefreehd, 037hd, 24hd, kubhd, 430hd, movie2free, 123hd, 22hd, movie2uhd, lkhd, olehdtv, serieday/seriesday, 77moviehd*, and *ezmovie*. These decisions demonstrate that the laws can effectively tackle piracy in Thailand and since the orders are dynamic, the "hopped" domains can be blocked. While improvements are still needed—for example, the time from application to order remains lengthy at times—there is hope that the process will become more effective. The government is working to automate systems for filing the cases in the first instance and for notifying ISPs of the need to block the "hopped"

[11] The Order provides as follows:*"[g]iven the willful disregard for the undertaking dated 24.12.2020 by defendant no. 1, blocking access to 'Sci-Hub' [available at www.sci-hub.ru and its mirror websites available at www.sci-hub.se and www.sci-hub.st] and 'Sci-Net' [available at www.sci-net.xyz] through Internet service providers ['ISPs'] is a necessary and proportionate enforcement measure failure of which may embolden further violations of the plaintiffs' copyrights."*

domains. Following this positive development, rights holders welcome the Royal Thai government turning its attention to facilitating enforcement against other piracy sites, including stream-ripping sites.

United Arab Emirates (UAE): In April 2025, roughly twenty years after the UAE enacted federal legislation providing for the possibility of the collective management of musical works performed in public spaces, the UAE's Ministry of Economy approved not one, but two CMOs for music. The two CMOs, the Emirates Music Rights Association (EMRA) and Music Nation, will finally provide for the effective enforcement of music licensing and fair compensation for rights holders. These are the first CMOs for music in the Gulf region. IIPA applauds the longstanding and consistent U.S. advocacy with the UAE government to achieve this important regional milestone.

Vietnam: In July 2025, Vietnam established its first specialized IP Courts: Regional IP Court No. 1 based in Ho Chi Minh City and Regional IP Court No. 2 based in Hanoi. Although the IP Courts have been formally established, it is understood that the Courts are not fully operational, pending various steps including the training and appointment of judges and court staff, and the development of digital case management systems and processes. It was initially anticipated that the Regional IP Courts would be fully operational by Q4 2025; however, it is not clear if this timeline will be met. IIPA applauds the establishment of these specialized IP Courts as an important step to improve the IP dispute resolution landscape in Vietnam. It is hoped that these courts, once operational, will advance judicial expertise in IP matters, foster the development of IP jurisprudence, and lead to more effective adjudication of both civil and criminal cases before the Courts, including by issuing deterrent sentences.

In another positive development, in October 2025, the recording industry was able to secure the closure of the stream-ripping site *y2mate.com* together with 11 other stream-ripping sites operated from Vietnam following targeted enforcement action. In the previous 12 months these sites collectively received more than 620 million visits globally.

IIPA welcomes these positive developments from 2025 and looks forward to continuing to work with governments to foster a healthy ecosystem for the creative industries. Notwithstanding these positive developments, serious additional legal reform and enforcement issues remain in several of these countries. The details of these concerns can be found in the respective Country Reports in Appendix A and in Appendix B.

IV. KEY CHALLENGES FOR THE COPYRIGHT INDUSTRIES—PROTECTION, ENFORCEMENT, AND MARKET ACCESS ISSUES

The U.S. copyright industries face complex challenges in overseas markets that fall into three distinct, but overlapping, categories: (i) inadequate copyright and related laws; (ii) inadequate and ineffective enforcement of existing copyright and related laws; and (iii) market access barriers that inhibit the licensing and dissemination of copyrighted works and sound recordings. Below is a summary of the major challenges across global markets in each of these categories:

A. Inadequate Copyright and Related Laws

The Country Reports highlight specific concerns and deficiencies in the copyright legal regimes in each of the identified countries, though there are concerns that are shared across several countries. First, the current legal regimes of many U.S. trading partners fail to meet their obligations to the United States, evolving global norms, or the minimum standards of the World Intellectual Property Organization (WIPO) Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) (collectively, the WIPO Internet Treaties). Second, rather than working to address these shortfalls, WIPO has unfortunately strayed from its founding mandate and, in some instances, certain governments have exerted influence within the organization to undermine copyright protections around the world. Third, several countries undertaking major overhauls of their copyright and related laws are considering, or have adopted,

proposals that would weaken copyright protections or enforcement mechanisms, thereby undermining markets for the creation or dissemination of rights holders' materials, particularly in the digital environment. Fourth, in several countries, collective management organizations (CMOs) do not operate fairly or properly, failing to accord with international standards and best practices, resulting in the denial of monies to rights holders.

1. Failure to Meet Legal Reform Obligations, Evolving Global Norms, and Global Minimum Standards

Several U.S. trading partners have unmet legal reform obligations from their numerous bilateral, regional, and multilateral trade agreements with the United States. These agreements include: (a) the WTO TRIPS Agreement, to which 164 countries have now acceded (and over 20 additional countries are in the process of acceding); and (b) free trade agreements (FTAs) or trade promotion agreements (TPAs) with over 20 countries, including the 2020 agreement with **Mexico** and **Canada** (USMCA), as well as bilateral agreements that entered into force in 2012 with **South Korea**, **Colombia**, and **Panama**. These agreements are intended to open foreign markets to U.S. goods and services dependent on copyright protection, enforcement, and a regulatory environment for investment in copyright works, chiefly (although by no means exclusively) by mandating improved and modernized copyright laws, and, in most cases, higher standards for on-the-ground enforcement of these laws.[12] The United States also has a series of Bilateral Investment Treaties (BITs) that are increasingly relied upon to resist efforts by foreign governments to impose heavy-handed regulations, such as mandated local-content quotas, purchase requirements, or restrictions on audiovisual over-the-top (OTT) businesses. Furthermore, as discussed below, several U.S. trading partners still need to fully implement the WIPO Internet Treaties, which require members to provide minimum standards for copyright protection and enforcement in the digital environment.

Some signatories to existing FTAs have not met their agreement obligations, yet these countries continue to enjoy advantageous access to the valuable U.S. markets for goods and services. These concerns are detailed in the Country Reports, notably in **Chile** and **Colombia**, where the legal frameworks for online enforcement remain deficient. As detailed in the **Mexico** Country Report, Mexico has enacted key copyright reforms to implement certain obligations under the USMCA (and longstanding commitments under the WIPO Internet Treaties), but has yet to fully implement them, despite a Mexican Supreme Court decision affirming the constitutionality of these reforms.

The U.S. government has entered into other wide-ranging bilateral agreements, including binding trade agreements, in which our trading partners have committed to modernize and strengthen their copyright laws and/or enforcement regimes. Some of the agreements were negotiated bilaterally in the context of accession of U.S. trading partners to international entities such as the WTO, or in the settlement of WTO disputes, while others constitute "action plans" or similar pledges resulting from negotiations to resolve bilateral issues.

IIPA urges the U.S. government to ensure that any ongoing or future trade initiatives continue to make progress in opening foreign markets to U.S. goods and services dependent on copyright protection and do not in any way reduce or undermine high standards of copyright protection, including obligations in the WIPO Internet Treaties and the WTO TRIPS Agreement. IIPA is encouraged that the trade deals currently being negotiated by the Trump Administration could include beneficial commitments on copyright and digital services. For example, the White House announced that the trade deal agreed with **Indonesia** includes a commitment for Indonesia to "support a permanent moratorium on customs duties on electronic transmissions at the WTO immediately and without conditions" as well as

[12] In addition, some countries, such as the United Kingdom (UK) and Japan, are actively seeking additional trade agreements with their trading partners, some of which are paying dividends in stronger intellectual property (IP) protection and enforcement obligations that, through the most favored nation (MFN) principle, should afford benefits to U.S. rights holders as well. For example, the UK-New Zealand Free Trade Agreement (FTA), signed on February 28, 2022, includes several important obligations, such as providing injunctive relief against intermediaries for copyright infringement (Article 17.70), incorporating a "commercial scale" definition, mirroring that of U.S. FTAs, that requires criminalization of "significant acts, not carried out for commercial advantage or financial gain, that have a substantial prejudicial impact on the interests of the copyright or related rights holder in relation to the marketplace" (Article 17.75), and providing for "blocking orders" (Article 17.82), among others. In addition, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) contains similar disciplines, for example regarding "commercial scale" criminal liability, which now bind countries like Vietnam, which has had notoriously weak criminal enforcement.

to "[take] steps to resolve many long-standing intellectual property issues identified in USTR's Special 301 Report."[13] If Indonesia follows through on these stated commitments, the creative sectors stand to gain through greater security to license and disseminate copyrighted works and sound recordings, including through digital channels. IIPA also urges the U.S. government to engage with the governments and other entities currently negotiating Annexes and other instruments related to the African Continental Free Trade Area (AfCFTA) to ensure that intellectual property rights and digital trade meet international standards and best practices. This includes a legal framework that meets the standards of the WIPO Internet Treaties and provides rights holders their full panoply of exclusive rights to enable rights holders to freely negotiate and secure fair and reasonable commercial terms for the exploitation of their works.

Our trading partners should be urged to bring their laws into line with evolving global norms regarding the duration of copyright protection. Setting the term of copyright protection at life of the author plus 70 years (or at least 70 years from fixation or first distribution for works or sound recordings not measured by the life of the author) has become the *de facto* global norm. More than 80 countries, including most of the United States' major trading partners in Europe and in the Americas, and all but a handful of Organization for Economic Cooperation and Development (OECD) countries, already meet or exceed this norm for some or all categories of creative works and recordings. Yet several U.S. trading partners have not yet adopted longer terms for works, sound recordings, or both. It is hoped that countries that have not yet adopted this longer term of copyright protection, particularly in Asia and Africa, will follow recent examples (many in Latin America) and extend copyright term accordingly.

In 2026, the 30th anniversary of the conclusion of the WIPO Internet Treaties, the U.S. government should redouble efforts to encourage all U.S. trading partners to accede to and fully implement the treaties. At the time they came into force, the WIPO Internet Treaties set the global minimum standards for providing copyright holders with the full panoply of exclusive rights in the digital networked environment. The treaties include an overarching commitment for countries to enable effective exercise of these rights in practice and to provide deterrent levels of enforcement of these rights online (and offline). The treaties also represent the culmination of a global consensus on the need to provide legal protection for TPMs that copyright owners (or their licensees) use to control access to and the copying of their works and recordings. These controls, particularly access controls, are key enabling technologies for a full range of online digital services. For example, TPMs enable the provision of subscription streaming services that deliver creative works to consumers at a time and place convenient to them and in a manner that protects the rights of and payments to creators and producers. Publishers of online video games use a variety of TPMs, ranging from password protection of accounts to anti-cheat software, to prevent unauthorized access to and copying of in-game items, and to maintain safe and fair conditions in games. Furthermore, the importance of TPMs in supporting a healthy ecosystem for the manufacture, distribution, and security of devices, such as video game consoles and peripherals and the content designed for them, remains as crucial as ever for the growth of the United States' most cutting-edge innovations including immersive entertainment.

In the 30 years since the conclusion of the WIPO Internet Treaties, 111 countries have ratified or acceded to the WCT and 107 countries have ratified or acceded to the WPPT. Many of these countries have made significant improvements to their copyright laws to implement the treaty requirements. However, several countries that have ratified the treaties must still pass legislation to fully implement them, and there are countries that have signed the treaties but have not yet ratified or implemented them. Appendix A and Appendix B highlight certain countries that have not yet met the requirements of the WIPO Internet Treaties. IIPA urges the U.S. government to remain vigilant on this issue, especially regarding legislation in any country purporting to implement the WIPO Internet Treaties and copyright reforms undertaken in countries that are parties to an agreement with the United States. In particular, anti-circumvention prohibitions (i.e., protections for TPMs) should protect access controls regardless of the method or technology and should apply independent of whether there is an accompanying copyright infringement. Only in this

[13] See Fact Sheet: The United States and Indonesia Reach Historic Trade Deal, July 22, 2025, available at https://www.whitehouse.gov/fact-sheets/2025/07/fact-sheet-the-united-states-and-indonesia-reach-historic-trade-deal/.

way can TPM legislation establish effective, practical, and enforceable anti-circumvention prohibitions that protect and support digital content services.

2. Activities Before the World Intellectual Property Organization (WIPO) Threaten to Undermine Copyright Protections Around the World

WIPO has a long history as a forum for governments to drive global innovation through initiatives that strengthen the protection and enforcement of IP—a key role that it continues to play, including through the administration of treaties and a variety of important IP awareness and facilitation programs. At the same time, however, some developments at WIPO, advanced by governments that seek to undermine the organization's core mission, threaten to exacerbate the concerns regarding inadequate copyright and related laws and enforcement procedures discussed in this submission. According to the Summary of the Convention Establishing WIPO (1967), "WIPO's two main objectives are (i) to promote the protection of intellectual property worldwide; and (ii) to ensure administrative cooperation among the intellectual property Unions established by the treaties that WIPO administers."[14] While there are numerous aspects of WIPO's work that advance these critical objectives,[15] there are several concerning aspects of the work underway in the organization, particularly work focused primarily on providing access to IP without authorization, that would contravene WIPO's mandate to promote the protection of IP worldwide.

Left unchecked, these trends could ultimately harm the ability of creators to protect and promote their IP across WIPO Member States. Additionally, the focus of WIPO's work should be to ensure that fundamental norms of national sovereignty and consensus are upheld, and carry out the objectives enshrined in the WIPO Convention. It is vital that WIPO—including its committees, programming (including capacity building and advisory functions), and representatives (including Secretariat staff, consultants, and authors writing under the WIPO name)—advance these objectives, particularly promoting protection of (and not unauthorized access to) IP. Likewise, WIPO as a whole, as well as each of its constituent parts, must refrain from facilitating or negotiating outcomes and otherwise promoting efforts to diminish IP protections, such as drafting "chairs" texts, implementing overbroad exceptions and limitations as part of WIPO treaty implementation or Member State legal reforms, hosting panels clearly intended promote such efforts, and drafting tool kits that steer Member State authorities toward diminishing IP protections.

IIPA and its members fully support the U.S. government's permanent and visiting delegations, including those from the U.S. Patent and Trademark Office (USPTO), to WIPO and encourage their continued leadership in advancing strong copyright protection and enforcement. In WIPO's Standing Committee for Copyright and Related Rights (SCCR), Committee for Development and IP (CDIP), and Intergovernmental Committee (IGC), the United States should continue to work with other WIPO delegations as well as the WIPO Secretariat to prioritize work that supports WIPO's mission to promote the protection of IP worldwide, such as projects that encourage full and proper implementation of the treaties that are currently administered by WIPO (e.g., the Berne Convention and the WIPO Internet Treaties).

IIPA has significant concerns regarding several items on the current agenda of the SCCR. For example, discussions on a possible broadcasting treaty should focus on a limited scope of rights and should not include exceptions that would undermine copyright protections, and the agenda item on exceptions and limitations, including the Africa Group's proposed draft work program and draft instrument intended to be a contribution to text-based negotiations on exceptions and limitations, is highly concerning and should not include normative work. Further, the agenda item on copyright and the digital environment, which has focused on remuneration issues, should be removed from the agenda because it has been adequately discussed at the SCCR (including WIPO studies on the digital market and an Information session on the Music Streaming Market, which provided Member States with the opportunity to hear directly from professionals and experts about the licensing and management of digital music rights). In addition, the SCCR is not the proper forum to address marketplace or contractual issues or to resolve matters relating to private

[14] See Summary of the Convention Establishing the World Intellectual Property Organization (WIPO Convention) (1967), available at https://www.wipo.int/treaties/en/convention/summary_wipo_convention.html.

[15] For example, in 2023 WIPO and Music Rights Awareness Foundation launched Creators Learn Intellectual Property (CLIP), an online learning platform for creators (see https://goclip.org/en/), and WIPO's Building Respect for Intellectual Property undertakes important activities to help develop understanding of and respect for IP (see https://www.wipo.int/en/web/respect-for-ip).

parties. IIPA supports the introduction of an affirmative agenda in the SCCR, demonstrating the contributions of copyright to economic growth and development, employment, and cultural vibrancy and diversity, and highlighting the importance of TPMs to facilitate a wide variety of business models for the creative industries. IIPA urges the United States to ensure that WIPO SCCR delegations, the SCCR Chair, and SCCR Secretariat staff facilitate such discussions. IIPA shares similar concerns with the current work taking place in the CDIP on exceptions and limitations and on remuneration.

Likewise, IIPA urges the United States to engage intensively in the WIPO IGC to ensure that work related to traditional cultural expressions (TCEs) complements WIPO's mission to promote innovation. IIPA is concerned that WIPO's IGC has been focusing solely on normative discussions that are not supported by consensus, lacking a clear mandate from the Organization's full membership. IIPA is equally concerned that the draft articles on traditional knowledge and TCEs discussed at IGC sessions do not reflect the views of all Member States. These articles' various iterations focus on enabling a *sui generis* exclusive rights system that is broad in scope, includes burdensome obligations, lacks any proven implementation, would create significant legal uncertainty, and threatens to interfere with existing licensing practices and undermine the existing international copyright framework. Instead, TCEs should be addressed in the context of the existing international copyright framework, and the draft articles should reflect the contributions of all Member States, including views that protection of TCEs should be addressed in the context of the existing international treaties.

IIPA is also concerned that IGC is not advancing informative work to support an adequate assessment of the issues at stake. Studies published by the Secretariat have been useful but are outdated, while new proposals have not been considered. Informative work produced thus far does not provide an assessment of the impacts that a purported *sui generis* system will have on creative industries and on international copyright law, nor does it present protection options already available under the existing international legal framework. IIPA recommends that WIPO Member States agree on a future IGC mandate that is focused on informative work to enhance the understanding of the issues at stake, assess options of protection through the existing legal framework, and determine the impacts that the *sui generis* system discussed by IGC will have on creative industries and on the international copyright framework. IIPA further recommends that IGC holds two one-week annual meetings like other WIPO committees, rather than its current irregular schedule, to enable regular participation of all observers, including those from the creative industries.

WIPO remains an important institution that, when operating consistently within its mandate, plays a critical role in improving IP protection and enforcement around the world. The United States should press the WIPO Secretariat in the various Committees to engage in Member State-driven priorities, consistent with WIPO's founding charter "to promote the protection of intellectual property worldwide."

3. Certain Legal Reform Efforts Threaten Copyright Protections or Enforcement Mechanisms

As outlined in Appendix A and Appendix B, there are several countries where the press for reforms and modernization of national copyright laws have failed to keep pace with market and technological trends. In some cases, reform efforts have become a vehicle to threaten well-established global norms enshrined in long-standing international instruments, including by introducing broad exceptions and limitations.

a. Remuneration Rights

For example, several countries have proposed or implemented a statutory remuneration right (SRR) for authors or performers for the communication to the public or making available of sound recordings and other works. These SRRs are often unwaivable, non-transferrable, and subject to compulsory collective management. Such SRRs are inconsistent with international copyright agreements and fundamentally out of step with law and practice in markets around the world, including the United States. International norms, as set forth in the Berne Convention, the WTO TRIPS Agreement, the WIPO Internet Treaties, and the Beijing Treaty, support the individual exercise of exclusive rights. SRRs are essentially limitations on exclusive rights and as such, must be compatible with the three-step test. However, in practice these provisions are not limited to certain special cases, they conflict with a normal exploitation

of the work, and they unreasonably prejudice the legitimate interests of the right holder. Moreover, these SRRs put pre-existing contracts and collective bargaining agreements at risk and have the potential to destabilize the marketplace for creative works and sound recordings. Critically, the income collected from these rights often does not reach creators' pockets because the collected money is usually: a) dedicated to the CMOs' administrative fees; b) spent on cultural, educational, and/or social programs; or c) simply not distributed because CMOs are not able to identify the rightful owner or, if identified, do not have the owner's details to make the payments. This is particularly the case in countries where collective rights management is not adequately regulated, as discussed below.

b. Text and Data Mining and Artificial Intelligence (AI)

Several countries have proposed broad exceptions to copyright protection for text and data mining (TDM) to address the use of copyrighted materials by artificial intelligence (AI) models. These exceptions are unnecessary, as licensing mechanisms have long been available to facilitate TDM activities, and there is no evidence that shows a need for such a broad TDM exception in these countries. Consistent with these countries' international obligations, copyright regimes based on exclusive rights ensure a mutually beneficial licensing market for copyrighted works.

IIPA supports the U.S. government's work in the G7 Hiroshima AI Process, which has set forth important rules of the road for the development of AI systems. For example, the International Code of Conduct for Organizations Developing Advanced AI Systems includes the following code of conduct: "Organizations are encouraged to implement appropriate safeguards, to respect rights related to privacy and intellectual property, including copyright-protected content."[16] The International Guiding Principles for Organizations Developing Advanced AI Systems includes the following principle: "Implement appropriate data input measures and protections for personal data and intellectual property."[17] In the June 17, 2025 G7 Leaders' Statement on AI for Prosperity, the G7 Leaders indicated they would "leverage the outcomes of the Hiroshima AI Process (HAIP) to foster trust."[18] The Leaders further committed to "[p]romote economic prosperity by supporting SMEs to adopt and develop AI that respects personal data and intellectual property rights, and strengthen their readiness, efficiency, productivity and competitiveness" and stated, "We recognize the need to respect intellectual property rights in enabling these efforts."[19] IIPA and its members strongly encourage the U.S. government to work to ensure that all countries meet the standards set forth by the G7 Hiroshima AI Process.

The Country Reports in Appendix A and Appendix B identifying additional concerns in other key foreign markets highlight several alarming legal reform efforts, including proposals to introduce remuneration rights and TDM exceptions. IIPA urges the U.S. government to monitor developments in these countries and proactively engage with these governments to ensure their legal reform efforts result in adequate and effective copyright protection and enforcement.

4. Laws and Regulations Governing Collective Management Organizations (CMOs)

Direct licensing of copyrighted works and sound recordings by individual rights holders of their exclusive rights should always remain the baseline. However, in certain circumstances where it makes economic sense, rights holders may prefer to voluntarily exercise some of their rights on a collective basis, e.g., through CMOs. For audiovisual works, for example, collective licensing of rights is the exception and not the rule. It applies (with all of the above-noted limitations) for simultaneous transmissions of broadcast signals, but mandatory collective rights management is otherwise opposed by the motion picture and television industry. For musical works and recordings, certain public performance and broadcasting rights are more frequently licensed collectively, because often a large number of users (potential licensees) are involved (such as, for example, cafés and restaurants and radio stations), and the value of

[16] See Hiroshima Process International Code of Conduct for Organizations Developing Advanced AI Systems, p. 8, available at https://www.mofa.go.jp/files/100573473.pdf.
[17] See Hiroshima Process International Guiding Principles for Organizations Developing Advanced AI System, p. 5, available at https://www.mofa.go.jp/files/100573471.pdf.
[18] See G7 Leaders' Statement on AI for Prosperity, June 17, 2025, available at https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf.
[19] Id.

individual transactions may be relatively small compared to the transactional costs. However, even regarding those exploitations, mandatory collective management should never be imposed. Rights holders should decide how they wish to exercise their exclusive rights.

Royalties for the retransmission of audiovisual works and public performances of musical works and recordings are significant revenue sources for all music rights holders and represent an important source of monies for financing the production and dissemination of new works and recordings. This importance has heightened the need for efficient, transparent, and accountable collective management services. It is therefore essential, particularly for music industry rights holders, to set up and govern their own CMOs on a voluntary basis. Governmental roles should be limited to establishing regulatory frameworks that enable efficient, fair, and non-discriminatory operations of CMOs backed by rights holders, and, where appropriate, providing expert fora for the resolution of disputes on certain aspects of collective management, including by ensuring that users cooperate in good faith in the licensing process and that rights are properly valued based on reliable economic evidence (using the willing buyer/willing seller standard).

Serious concerns regarding rights holders' ability to fully exercise their rights, especially the public performance right, through collective management in key markets are detailed in the Country Reports in Appendix A and Appendix B identifying additional concerns in other key foreign markets.

B. Inadequate and Ineffective Enforcement of Existing Copyright and Related Laws

As a minimum standard, the WTO TRIPS Agreement requires "effective action" and "remedies that constitute a deterrent" to infringement, through civil, administrative, and criminal channels, and effective adjudication in the courts.[20] To be effective, enforcement tools must address the modern infringement challenges of all rights holders, including all varieties of online uses and services outside a territorial jurisdiction (frequently running anonymously), often across multiple countries. Moreover, enforcement authorities need adequate resources and the capability to do their jobs effectively.

As digital technologies have expanded consumer access to copyrighted materials, rogue services have exploited those technologies to facilitate different forms of piracy that undermine rights holders' investments in the production and distribution of new and existing materials and services. For example, cloud computing and streaming technologies are used by cyberlockers and various platforms that do not have licenses for the content they make available. In addition, various stream-ripping sites and apps, the most prevalent form of online infringement of music, circumvent TPMs and convert licensed streams (i.e., music authorized only for online streaming) into unlicensed downloadable content. Further, increasing numbers of parasitic apps are emerging to provide users with unauthorized music streaming services by illegitimately sourcing the underlying content from licensed streaming services. It is also important to recognize that increasingly, IP crime is associated with other types of offenses such as computer misuse and fraud. This type of "polycriminality," often enabled by technologies, amplifies the harm caused.

Enforcement systems (and trade commitments to address enforcement) must be adaptable, agile, efficient, and effective to deter the myriad forms of infringing activities. To deter copyright piracy on a commercial scale, countries should look to the standard in U.S. trade agreements, other bilateral trade agreements (such as the more recent UK-New Zealand FTA), and regional trade agreements (such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)), which define "commercial scale" piracy as not only "acts carried out for commercial advantage or financial gain" but also "significant acts, not carried out for commercial advantage or financial gain, that have a substantial prejudicial impact on the interests of the copyright or related rights holder in relation to the marketplace." Countries should incorporate these best practice standards in amending their criminal laws to ensure they can best address the latest forms of piracy.

[20] See WTO TRIPS Agreement Articles 41 and 61. There are many obligations for civil, administrative, and criminal remedies in Articles 41 through 61, including for provisional relief and judicial procedures (e.g., injunctive relief), which are particularly critical for online enforcement.

This Section highlights some of the enforcement challenges confronting IIPA members. The Country Reports in Appendix A and Appendix B, identifying additional concerns in other key foreign markets, provide detailed discussions of these challenges where they are present in those markets.

1. Online and Mobile Network Piracy

Digital delivery, whether through wired online or mobile networks, is the dominant form of delivery for copyrighted materials, including music, films and television programs, audio- and eBooks, journal publications, and video games—both by licensed and unauthorized services. The entrenchment of infringing services (including those misconstruing laws to avoid licenses) is a leading barrier to U.S. creators' and rights holders' access of markets worldwide. For example, piracy via cyberlockers, which are often based in countries where enforcement is difficult, and BitTorrent and other peer-to-peer (P2P) services continues to pose constant and serious problems for the creative industries. To address these concerns, IIPA recommends the following four steps:

(1) Identification: Identify and close down services and actors, especially criminal syndicates, engaged in copyright infringement activities using criminal enforcement remedies and other tools. USTR makes an indispensable contribution to this step by regularly conducting its "Special 301 Out-of-Cycle Review of Notorious Markets."[21] As detailed throughout this filing, there have been many successes with the closure of Internet sites and services identified as notorious markets by USTR. IIPA's longstanding recommendation is that USTR should urge trading partners either to convert sites and services to licensed disseminators of works and recordings, or these notorious markets should be taken down followed by, where appropriate, criminal enforcement actions with deterrent penalties.

Many online sites involved in illicit activity have no identifiable jurisdictional nexus, complicating enforcement. This could be ameliorated by restoring the availability of identifying data for the operators of sites (or their proxies) engaged in illegal activity such as IP infringement. IIPA members, therefore, encourage the European Union's ongoing national implementation of Article 28 of the NIS-2 Cybersecurity Directive, which was finalized in December 2022. This Directive entered into force on January 16, 2023, and Member States then had 21 months, until October 17, 2024, to transpose its measures into national law. Article 28 imposes general obligations on domain name registries, registrars, and other registration service providers to collect, verify, and maintain the data of domain name registrants (often referred to as WHOIS data), to make publicly available, without undue delay, domain name registration data which are not personal data, and to provide access, without undue delay, to specific domain name registration data that includes personal data to those with legitimate interests, such as those seeking to enforce intellectual property rights. Accurate WHOIS data is critical to copyright owners seeking to enforce their rights against websites engaged in blatant piracy.

(2) Establish an Adequate and Effective Legal Framework: The goal is a legal framework that: (i) prevents the operation of services that promote or otherwise induce infringement; (ii) criminalizes online infringement (particularly all "commercial scale" piracy, in line with the best practice definition described above); and (iii) provides strong incentives for neutral intermediaries to work with rights holders to curb the use of their proprietary networks and services for infringing purposes. In particular, such a legal framework should: (i) provide the relevant panoply of exclusive copyright and related rights (as well as effective protections for TPMs and rights management information (RMI)) starting with the minimum standards mandated by the WIPO Internet Treaties and including global best practices for copyright protection in the digital environment; (ii) ensure that any ISP liability limitations, if present, do not reduce the scope of substantive copyright protections and require appropriate conditions to be met for eligibility, including obligations for ISPs to remove infringing content expeditiously upon obtaining knowledge or awareness of infringing activity, to take measures demonstrated effective in preventing or restraining infringement, and to implement an effective repeat infringer policy; (iii) recognize online piracy as a form of cybercrime (consistent with the Budapest Convention and global best practices); and (iv) foster cooperation among all industry stakeholders (including ISPs) in the online supply chain, including the removal of impediments to collaboration. In the case of AI, an effective legal framework should also require key entities in the AI chain to uphold key data governance principles.

[21] The most recent report is USTR's Out-of-Cycle "2024 Review of Notorious Markets for Counterfeiting and Piracy" (January 2025), available at: https://ustr.gov/sites/default/files/2024%20Review%20of%20Notorious%20Markets%20of%20Counterfeiting%20and%20Piracy%20(final).pdf (NM 2024 Report).

While systems for notice and takedown of infringing materials are in place in many markets, a mistaken perception often exists that they are the only means of online enforcement. The mere takedown obligation is not sufficient or effective and should not be the only *quid pro quo* for limiting liability. Indeed, the U.S. Copyright Office has said in a report about the U.S. notice and takedown system that such laws must properly "balance the rights and responsibilities of [online service providers] and rights holders in the creative industries."[22] Moreover, some services, including some blatant piracy services, attempt to rely on notice and takedown procedures to avoid proper copyright licensing. Clear primary and secondary liability rules are necessary to discourage abuses and to avoid inaction or license evasion. In addition, governments should 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 their customers and to allow rights holders to obtain accurate information to protect their rights against direct infringers.

Where infringing activity rises to the level of criminal liability, imposing responsibility for aiding and abetting infringement can be an effective remedy against commercial platforms. Proposals granting overbroad immunity to ISPs and other platforms from any civil or criminal liability remain a concern. Separately, any copyright safe harbors should apply to only passive and neutral parties that do not contribute to infringements. Additionally, there are concerns with provisions that immunize parties who induce or facilitate infringement of copyright. Mitigating and preventing online piracy should be a shared responsibility with balanced obligations between online intermediaries and rights holders, particularly because online intermediaries are best positioned to assist with the mitigation and prevention of online piracy. Absent legal incentives to foster the cooperation of ISPs and other online intermediaries, such intermediaries have little interest in fully cooperating with rights holders.

(3) Provide Injunctive Relief: Governments should provide in their respective legal systems mechanisms that ensure ISPs can impose effective relief to remove infringement. Injunctive relief is an effective and efficient means through which to reduce the usage of infringing sites and increase traffic to legitimate offerings of copyrighted material. Government agencies and courts in over 42 countries—including **Australia**, **Belgium**, **Canada**, **Brazil**, **Denmark**, **France**, **India**, **Ireland**, **Italy**, **Peru**, **Portugal**, **Singapore**, **South Korea**, **Spain**, **Sweden**, the **UK** and the **United States**—employ or have made legally available injunctive relief or administrative orders to compel ISPs to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities. In Europe, Article 8(3) of the EU Copyright Directive (2001/29/EC) requires Member States to ensure injunctive relief is available "against intermediaries whose services are used by a third party to infringe a copyright or related right." However, not all Member States have adequately implemented the provision. The UK-New Zealand FTA includes a provision that is similar to Article 8(3), serving as a regional and international best practice.[23]

In short, there is a wide spectrum of judicial and administrative means through which to impose restrictions, under defined circumstances, when other domestic remedies are insufficient, and this deserves the close attention of the U.S. government. After over a decade of experience, studies have shown that injunctive relief can reduce usage of infringing sites and increase traffic to legitimate offerings of copyrighted material. These steps are also effective against service operators who cannot be identified or who avoid service of legal process. Unfortunately, as discussed in Appendix A and Appendix B, several important markets do not yet provide mechanisms that ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities.

(4) Develop Inter-Industry Cooperation: Because Internet services (including piratical services) are enabled by and interlinked with a wide spectrum of supporting services, combating systematic online infringement of copyright requires the active cooperation of all participants in the e-commerce ecosystem, including: online advertising players

[22] U.S. Copyright Office, Section 512 of Title 17, at https://www.copyright.gov/policy/section512/section-512-full-report.pdf.
[23] Article 17.82 ("Blocking Orders") of the UK-New Zealand FTA provides, "Each Party shall ensure that injunctions as provided for in Article 17.67 (Provisional and Precautionary Measures) and Article 17.70 (Injunctions): (a) are available against an OSP, where its online services are used by a third party to infringe an intellectual property right; and (b) include injunctions requiring that OSPs disable access to infringing content."

(advertisers, ad agencies, ad networks, and the providers of advertising placement and related services); payment processors; hosting providers (including reverse proxy providers and related optimization services); domain name registrars and registries; search engines; and marketplaces and app stores. As entities with a direct stake in a safe, secure, and stable Internet and in the healthy growth of legitimate e-commerce, including e-commerce in products and services protected by copyright, cooperation against threats to that security, stability, and health is part of a sound business strategy for all Internet intermediaries. Governments in many countries can do much more to foster and encourage such cooperation and the development of best practices to advance the common goal of a safer online marketplace. For example, governments should encourage private sector agreements, especially those that provide enforcement rights, to properly reflect the needs of industry stakeholders and ensure any remedies outside of a legal framework are available to all copyright owners.

2. Circumvention of Technological Protection Measures (TPMs), Including Stream Ripping, Modification of Video Game Devices, and Unauthorized Digital Goods (UDGs)

The range and variety of legitimate material now digitally available to consumers, in so many formats and on so many platforms, is possible because of the widespread use of TPMs by content producers and licensed services. TPMs have fostered many of the innovative products and services available online by allowing creators and rights holders to control and manage access to copyrighted works, as well as to diversify products and services and their pricing. In short, new business models depend on these technological controls. TPMs also ensure that works made available in hard goods (DVDs, Blu-ray discs, and video game cartridges), in the online or mobile environment (including e-books and video games), or through on-demand streaming services or conditional access (e.g., pay-TV, pay-per-view) are not easily stolen and that pirated copies of video games are not playable on console platforms.

Unfortunately, there are business models built entirely around providing services, or manufacturing and distributing technologies, software, devices, components, or tools, to circumvent TPMs to gain unlawful access to the content or to copy it without authorization. One example is stream ripping. Stream-ripping services infringe the making available right and circumvent the TPMs used to prevent the download of music streams. These services continue to proliferate, making stream ripping, as noted above, the dominant method of music piracy globally. Stream-ripping sites, services, and apps enable users to make a permanent, free download of music that was licensed only for streaming on a video website such as YouTube and then allow that consumer to listen to it whenever and wherever they wish, without paying for a licensed download or a premium streaming subscription or accessing the stream on the licensed platform. This harms both legitimate streaming services and channels for authorized downloads.

Circumventing TPMs to enable the play of pirated games remains far too common, and ESA and its members must constantly combat efforts to circumvent TPMs protecting video game consoles. To mitigate the dissemination of circumvention devices, circumvention software, and modified consoles used to enable pirated games, the video game industry regularly requests that online marketplaces remove these listings for sale from their platforms. In 2024, ESA had 737 listings removed from various online marketplaces worldwide targeting U.S. consumers. Every year, the video game industry spends millions of dollars taking down illegal circumvention and trafficking operations. For example, "[t]hree members of an international criminal organization known as Team Xecuter were indicted on charges related to the development and sale of 'illegal devices that hacked popular video game consoles so they could be used to play unauthorized, or pirated, copies of video games,' according to a federal indictment filed in Seattle."[24] While legal protection of TPMs, where properly implemented, enables effective enforcement actions against distributors of unlawful circumvention technologies, these efforts are often undermined by countries that have yet to implement adequate protections against circumvention activities and services.

The distribution of unauthorized digital goods (UDGs) reflects the increasing decentralization and complexity of intellectual property infringement online. Increasingly, digital assets that are available within a video game environment or work alongside a video game, are being traded, transferred, and distributed in violation of a publisher's

[24] Brooke Wolford, *The News Tribune,* "International hackers accused of pirating Xbox, Nintendo, PlayStation games, feds say," October 2, 2020, available at https://www.thenewstribune.com/news/nation-world/national/article246183785.html.

rules and/or Terms of Service, and intellectual property rights. While these digital assets are created intentionally by video game companies for the use and enjoyment of players, their unauthorized use or distribution by third parties for value poses significant threats to the public and IP rights holders and often involves the circumvention of TPMs. UDGs can be identified by seven different types: Cheats (unauthorized software that modifies or circumvents the original programming of a video game in order to gain an unfair or impermissible advantage, either playing alone or against others), Account Boosting (the sale of services in which a more experienced player of a game receives access to a coalescing buyer's account and advances that account), Digital Keys (the unauthorized selling of digital code for games, account memberships, or gift cards), In-Game Item Resales (the unauthorized re-selling of goods like skins or emotes for a game), Digital Account Resales (the sale or transfer of video game or console accounts that are typically loaded with games, in-game items, or enhanced status to provide advantages in gameplay), UDG betting (transactions that allow the wagering of digital items based on the outcome of randomized digital games of chance or the outcome of events such as sporting events, esports tournaments, Premier League matches, or other similar events), and Virtual Currency Sales (the unauthorized transfer or sale of in-game virtual currencies using prohibited techniques, given that most video games do not have a direct, in-game mechanism for transferring currency between player accounts).

Courts in the United States confirm that UDGs represent an infringement of intellectual property and violation of TPMs and increasingly recognize the serious threat they pose to creative industries seeking to offer sustainable business models. For example, in May 2024, a video game developer secured a successful jury verdict over cheat developer *AimJunkies*, arguing the defendants knowingly and willfully infringed on its copyrights through its unauthorized access of game programming, reverse engineering, and the sale of UDGs.[25] The developer employed a variety of TPMs that restricted unauthorized access to the game, and restricted a player's ability to copy or modify the game. The defendant *AimJunkies'* cheat software evaded those protections to offer its users access to hidden player data, modify or abuse existing game functionality, and evade detection by the developer's anti-cheat mechanisms. In September 2024, after multiple appeals from *AimJunkies*, the developer secured a $4.3 million arbitration award for unauthorized copying and distribution of the game's code and for circumventing the developer's TPMs. Decisions such as this one illustrate the importance of robust copyright laws and the protection of TPMs for enforcement actions in an ever-changing landscape of online infringement.

3. Piracy of Books and Journals

Combatting book and journal piracy requires consistent action by law enforcement authorities against entities engaged in the unauthorized reproduction of books, textbooks, and other professional books, as well as the unauthorized reproduction and distribution of journal articles online. Online piracy affecting books, eBooks, and audiobooks, as well as journal articles is the primary concern for the publishing industry. Piracy sites like *Sci-Hub* and the Library Genesis Project (*Lib-Gen*), their many mirror sites (such as Z-Library), and Anna's Archive collaborate to harvest and make available significant volumes of infringing copies of books and journal articles and enable the flow of the illegally obtained unauthorized copies between the various piracy sites.[26]

4. Piracy of Motion Picture and Television Programs by Piracy Devices and Piracy-as-a-Service

A damaging piracy ecosystem has emerged around piracy devices and apps, i.e., illicit streaming devices (ISDs). These ISDs provide illegal access to movie and television content through a variety of means, including downloading and streaming, as well as unauthorized streaming of live television and sporting events, thereby undermining the licensing fees paid by distributors on which content creators depend. The motion picture and television industry continues to suffer enormously from a growing threat of these devices and apps. Streaming devices that are preloaded with infringing apps and illicit TV/video-on-demand (VOD) subscription services can be found online and in physical markets. This challenge is particularly acute in countries where the legality of the devices (i.e., boxes) and of activities surrounding their trafficking remains in doubt. Additionally, illegal apps that can place infringing material on

[25] See *Bungie Inc. v. Phx. Dig. Grp.*, C21-0811 TSZ (W.D. Wash. May. 31, 2024).
[26] Both *Sci-Hub* and the Library Genesis Project (*Lib-Gen*) were listed as notorious markets in USTR's 2024 report. See NM 2024 Report. For additional information on *Sci-Hub* and *Lib-Gen* see the China and Russia Country Reports in Appendix A.

otherwise legitimate streaming devices can be found through a myriad of mainstream and specialty app repositories. This issue was the focus of USTR's 2017 Notorious Markets Report.[27]

Because these piracy devices and apps are part of a sophisticated, integrated online ecosystem facilitating access to pirated audiovisual materials, enforcement against them presents complex challenges. Under the right fact patterns, the retailer/distributor can be held liable; alternatively, the app developer can be prosecuted (if identified). Governments can also take action against key distribution points for devices that are used illegally, including marketplaces (both online and physical) where such devices are sold. Many of the physical marketplaces of greatest concern to the copyright industries now increasingly feature goods and services that enable piracy devices and apps, or stalls, kiosks, or "repair" shops that offer to load unauthorized copyright material or piracy-enabling apps onto a preset device (e.g., a Kodi Box). Vigorous action is needed to lessen the growing harm to the legitimate digital delivery of copyright materials by these devices.

In addition, "Piracy-as-a-Service" (PaaS), a subset of the broader threat of Cybercrime-as-a-Service, was identified by Europol as a growing threat enabling a variety of cybercrimes, is a growing concern. PaaS encompasses a suite of often off-the-shelf services that make it easy for would-be pirates without any technical knowledge to create, operate, and monetize a fully functioning pirate operation, such as website templates, databases of infringing content, and hosting providers specialized in servicing infringers. The existence of PaaS services shows the scale, sophistication, and profitability of modern online commercial copyright infringement and is now a key concern of the motion picture and television industry and a top priority for its antipiracy efforts.

5. Illegal Camcording of Theatrical Motion Pictures

Stopping camcording or the illegal recordings of movies in theaters is a priority for the motion picture industry. One digital (camcorder) copy, uploaded to the Internet and made available around the world, can undermine global markets and the huge investments needed to produce and distribute a feature film. Illicit camcording in theaters decreased significantly in 2021, because many theaters closed due to the COVID-19 pandemic. With the re-opening of theaters around the world, illicit camcording resumed, and from January through October of 2024 there were 161 documented camcording incidents.

A multifaceted approach is needed to tackle camcording that includes: (i) enacting and enforcing anti-camcording legislation to outlaw the use or attempted use of an audiovisual recording device in a theater to make or transmit a copy of all or part of a motion picture; (ii) educating the public about how unauthorized camcording hurts both businesses and the consumer; and (iii) working with the private sector to identify and prevent unauthorized camcording in cinemas. This strategy has been implemented in many foreign markets (including **Canada**, **Japan**, and **South Korea**) with positive results.

6. Broadcast, Pay-TV, and IPTV Piracy

Another longstanding problem for the motion picture and television and recorded sound industries is the unauthorized broadcast, cablecast, or satellite delivery of audiovisual content, and music and sound recordings, including the unauthorized retransmission of broadcast signals over the Internet. Cable and satellite piracy (including: the use of hacked set-top boxes; decoding or decrypting signals; and, stealing signals from neighboring countries that are within the satellite's footprint) persists in some markets, particularly in Central America and the Caribbean regions.[28]

---

[27] In its 2017 Notorious Markets Report, USTR spotlighted the growing problem of Piracy Devices (i.e., PDs), concluding that they "pose a direct threat to content creators, sports leagues, and live performance, as well as legitimate streaming, on-demand, and over-the-top (OTT) media service providers." See USTR, 2017 Out-of-Cycle Review of Notorious Markets at 8-9, https://ustr.gov/sites/default/files/files/Press/Reports/2017%20Notorious%20Markets%20List%201.11.18.pdf.

[28] Enforcement actions (and regulations) need to focus on: (i) prohibiting the trafficking in pay-TV or signal theft devices or technologies; (ii) the unlawful decryption of encrypted cable or satellite signals; and (iii) the forwarding of decrypted signals (whether lawfully or not) without the authorization of the rights holders of the content or of the signal. These actions can help to foster the licensing of broadcasters and cablecasters and to weed out unlicensed television distributors.

Nevertheless, IPTV services have become the dominant threat in major markets. Pirate IPTV services provide access to stolen telecommunication signals or channels and offer on-demand infringing film and episodic television content to a global audience via dedicated web portals, third-party applications, and piracy devices configured to access these services. Thousands of illegal IPTV services operate worldwide, offering thousands of channels sourced from multiple providers, along with VOD content of unauthorized movies and television programs.[29] Many of these illegal services are subscription-based, for-profit services, with monthly or yearly user packages, and often coincide or are found or used with more typical online piracy sites (e.g., streaming, BitTorrent, P2P). The technical infrastructure of these services is often vast and complex, making the identification of content sources and service operators extremely challenging. The marketing and sale of these IPTV services are often carried out by a network of global IPTV re-sellers who purchase subscriptions at wholesale prices and re-sell them for a profit, further complicating investigations. IPTV services have been the driving force in the emergence of related illegal businesses, including those engaged in the re-sale of IPTV services or the theft, distribution, and sale of channel feeds. In addition, IPTV services rely on infrastructure and support services, including from hosting providers, media servers, and panel hosts, sometimes without the knowledge or approval of the illegal services or product (but sometimes in cooperation with these services). As a result, criminal enforcement against these large-scale operations is the most effective deterrent.

C. Market Access Barriers that Inhibit the Licensing and Dissemination of Copyrighted Works and Sound Recordings

In addition to the key challenges pertaining to copyright protection and enforcement, which constitute *de facto* market access barriers, the U.S. copyright industries are also adversely affected by a variety of formal market access barriers, investment restrictions, and discriminatory measures that make it difficult for U.S. producers and distributors to participate fully in crucial foreign markets. These barriers also include interference with rights holders' contractual freedoms or with their licensing practices. The issues of copyright protection of authorized materials and enforcement against infringing goods are moot if rights holders cannot disseminate legitimate American works and recordings in a particular market in a fair and equitable manner to meet consumer demand. Market access barriers take many forms, including:

- Restrictions on the ability to fully engage in the business of development, creation, production, distribution, promotion, and publication of copyright materials;
- High tariffs (such as through inclusion of royalties in the calculation of duties), taxes (including digital services taxes or sector-specific taxes), or fees (including network usage fees) on core copyright businesses and their products and services;
- Arbitrary restrictions on the ability of rights holders to decide how to manage their rights, in particular by mandatory collective licensing and with government interference in the operation of CMOs and rate setting;
- Quotas on audiovisual programming or complete bans on foreign programming, which overall curb the ability of film and television producers to compete fairly, and which limit consumer access to legitimate content;
- Local content investment requirements;
- Restrictions on advertising, including local content requirements;
- Restrictions on ownership and investment in copyright-related businesses;
- Discriminatory, onerous, and/or dilatory content review/censorship systems;
- Periods during which foreign governments prevent U.S. producers from opening their films or impose onerous restrictions on the window for theatrical distribution (including unfairly shortening the run of a theatrical motion picture);
- Mandatory local replication requirements for films (that may also compromise the security of digital materials); and
- Other forms of government interference with the exercise of rights or contractual freedoms by rights holders.

[29] In the United States, these illegal services are valued at over $1 billion in piracy subscriptions alone (and estimated profit margins range from 56% for retailers to 85% for wholesalers worldwide). See, *Money for Nothing: The Billion-Dollar Pirate Subscription IPTV Business. Digital Citizens Alliance and NAGRA* (August 2020) at https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA-Money-for-Nothing-Report.pdf.

The Country Reports in Appendix A and Appendix B identifying additional concerns in other key foreign markets include detailed discussions of these formal market access barriers in the markets in which they occur. Whatever form they take, all market access restrictions that impede the timely entry of legitimate products increase the appeal of unauthorized production and distribution operations. Often these illegal operations saturate the market with infringing and pirated copies, severely damaging the market for legitimate products. U.S. officials should continue to strive to open markets for American creators and producers and to eliminate or phase out market access barriers, as identified in this year's IIPA submission.

V. CONCLUSION

As detailed in *the Copyright Industries in the U.S. Economy: The 2024 Report*, the U.S. economy depends on a thriving copyright sector to create jobs, increase exports, and expand economic output. It is essential to the continued growth and future competitiveness of the U.S. creative industries that our trading partners provide: high standards of protection for copyright; more effective policies and tools to enforce that protection; and more free and open markets. Open markets foster jobs in the creative industries, benefit workers, increase cultural diversity, promote international trade and exports, increase tax revenues from legitimate businesses, and attract more foreign direct investment. IIPA continues to urge the U.S. government to use the Special 301 review and other trade tools to press the countries and territories identified in our submission to make the necessary political commitments and take the necessary actions to strengthen their copyright protection and enforcement regimes and open their markets, thereby bringing real commercial gains for the U.S. creative industries.

We look forward to continuing to work together with USTR and all the U.S. agencies engaged in copyright legal reforms, enforcement, and market access to meet the goals identified in this submission.

Respectfully submitted,

Kevin M. Rosenbaum, Executive Director
International Intellectual Property Alliance

APPENDIX A

COUNTRY SURVEYS

PRIORITY WATCH LIST

CHILE

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Chile remain on the Priority Watch List in 2026.[1]

Executive Summary: In 2024, the Government of Chile admitted that it had radically deprioritized prosecuting IP crimes over the past several years. Even so, Chile failed to take meaningful action in 2025 to improve its framework for the protection and enforcement of copyrighted works. Chile still lacks the legal tools and institutional leadership needed to curb commercial-scale online piracy, and anti-piracy efforts further deteriorated in 2025. As piracy migrated to Internet protocol TV (IPTV) and illegal streaming, Chile's licensed pay-TV base fell again, underscoring a need for Internet service providers (ISPs) to have mechanisms that impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities and a centralized authority empowered to join Operation 404. This has allowed illegal IPTV services and streaming sites to operate with relative impunity. These illicit services are often openly promoted on social networks and messaging platforms and have become normalized among consumers, especially due to the availability of low-cost devices preloaded with infringing applications. Absence of action in this space does not just hurt rights holders but exposes Chile's citizens to the malware and cyberthreats commonly loaded into these devices. As such, public awareness of the illegality of these practices remains limited, and cooperation between ISPs and rights holders is still largely voluntary and uncoordinated in the absence of government-led initiatives.

Institutionally, civil and criminal enforcement remain slow and overburdened, which discourages rights holders from pursuing remedies and weakens deterrence. Altogether, these elements have created an environment where piracy can expand easily, and enforcement remains largely ineffective. This is exacerbated by an increase in Internet service operators and resellers that offer pay-TV and audiovisual streaming services without securing the necessary licenses from rights holders. Instead, Chile should centralize its enforcement, swiftly adopt a legal framework to allow participation in Operation 404, streamline civil and criminal procedures, and utilize its existing cyber security framework. Finally, Chile must afford adequate opportunity to review and comment on legislative and regulatory proposals governing copyright, including recent legislative work on artificial intelligence and additional remuneration rights.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Create a centralized copyright protection and enforcement authority.
- Participate in Operation 404.
- Prosecute more piracy crimes related to organized crime and heighten the criminal liability of legal entities in committing criminal offenses.
- Leverage Decree No. 164 and the 2024 Cybersecurity Framework Law #21,663 to tackle online piracy.

Legal Reforms

- Improve and update Chile's legal framework for ISP liability and online copyright enforcement.
- Enact amendments to address deficiencies in Chile's copyright law related to U.S.-Chile FTA obligations.
- Refrain from reducing copyright infringement penalties currently provided in the Intellectual Property (IP) Law.
- Abandon the pending amendment to Article 24H of the Telecommunications Law, which creates an unlimited net-neutrality principle, with no distinction between legal and illegal content.

[1] For more details on Chile's Special 301 history, see previous years' reports at https://iipa.org/reports/reports-by-country/. For the history of Chile's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

- Ensure legislative proposals related to AI meet the standards related to IP protection set forth by the G7 Hiroshima AI Process.
- Do not adopt Bill PL 17499-24 which creates an additional remuneration right.

ENFORCEMENT

Once again, Chile failed to take any meaningful action against piracy this past year. Even after the *Instituto Nacional de Propiedad Industrial* (INAPI) published a study in July 2024 showing Chile had radically deprioritized prosecuting IP crimes over the past several years,[2] the Government of Chile took no meaningful action in response. This is not to say rights holders stopped attempting to enforce their rights in Chile after so many years of government inaction. In 2025, rights holders filed several civil and criminal cases against various piracy sites and IPTV services, including against the notorious pirate *MagisTV* and its associated websites.[3] In one case, a court issued a blocking order under the "dynamic blocking" modality, preventing access to the websites identified as *FlujoTV*, as well as to any domain, subdomain, IP address, link, redirect, or "mirror" that reproduces the illicit content, in whole or in part, in any form of access, in order to ensure the continuity and effectiveness of the measure. This was in accordance with the principle of effective judicial protection and precautionary protection of intellectual property rights, as provided in Articles 2, 79, and 85 of Law No. 17,336. The other cases remain pending. Unfortunately, any IP enforcement actions in Chile have primarily stemmed from private initiatives to protect local products or routine activities by public authorities. However, these measures have had no meaningful impact, in part due to overly burdensome obligations imposed on rights holders, and the level of copyright enforcement remains largely unchanged from previous periods.

In the meantime, from an operational perspective, the piracy situation in Chile appears to be deteriorating.[4] Over the past year, Chile has experienced a marked increase in the number of Internet service operators and resellers that, in addition to providing Internet connectivity, offer pay-TV and audiovisual streaming services without securing the necessary licenses from rights holders. This growing overlap between Internet connectivity providers and unauthorized content distributors has deepened the country's piracy problem. Additionally, there is growing presence of unlicensed IPTV services, illegal streaming platforms, and social media channels that provide for the large-scale distribution of infringing content. Confirming these concerns, Chile's telecommunications regulator, the *Subsecretaría de Telecomunicaciones* (SUBTEL) found a sustained decline in the licensed pay-TV market. In June 2025, SUBTEL's *Informe del Sector Telecomunicaciones* found the number of pay-TV subscribers fell from approximately 3.0 million in early 2024 to about 2.78 million by March 2025, representing an 8.4 percent decrease within a year and the lowest level recorded in more than a decade. This steady erosion of the formal and legitimate pay-TV market is consistent with the migration of users toward unlicensed IPTV and streaming services, which remain easily accessible and largely unregulated. This growing piracy problem, which also affects other sectors, will continue to escalate without Chile taking meaningful action to remedy the structural, legal, and institutional concerns noted below.

- **Create a centralized copyright protection and enforcement authority.**

Chile needs a coordinated effort to address rampant and growing piracy concerns. However, Chile remains without a dedicated, centralized authority responsible for copyright protection and enforcement. Instead, copyright

[2] Available here https://www.inapi.cl/docs/default-source/2023/centro-de-documentacion/estudios/observancia-penal-de-los-derechos-de-propiedad-intelectual-en-chile/informe_observancia_2024_v5.pdf?sfvrsn=eb902829_1. The study, stemming from Chile's 2016 National Industrial Property Strategy, alarmingly showed that criminal IP cases between 2017 to 2022 declined by nearly 50% (from 4,050 to 2,087), with copyright-related cases decreasing even more dramatically by over 60% (from 1,572 to 567), while at the same time, piracy rates continued to increase.

[3] In August 2025, a case before a Civil Court in Santiago requesting the suspension and blocking of access to various websites associated with *MagisTV*, *FlujoTV*, and their variants. A criminal complaint was filed with the Criminal Court of Guarantees of Puerto Varas against a reseller of a series of IPTV websites including *MagisTV*, *TVPRIMEPLUS*, and *TVPLUSLATAM*. Additionally, some rights holders have filed several criminal complaints against the most popular IPTV services operating in Chile. These cases are currently under investigation by specialized units of the *Chilean Policía de Investigaciones* (PDI), specifically the *Brigada de Delitos de Propiedad Intelectual* (BRIDEPI) and the Cybercrime Unit, both of which have been gathering technical evidence to identify local resellers and the infrastructure supporting these services. These criminal complaints were also formally notified to the Chilean Internal Revenue Service (*Servicio de Impuestos Internos*, SII) to pursue potential tax evasion offenses arising from such activities.

[4] According to data from Internet monitoring company *Similarweb* in quarter 2 2025, stream-ripping sites *Y2mate.nu* received over 4.1 million visits from Chile, *Notube.si* over 3.7 million and *Savefrom.net* over 2.4 million.

matters are currently handled by five different entities: (1) *Departamento de Derechos Intelectuales en el Servicio Nacional del Patrimonio Cultural* (Department of Intellectual Property Rights at the National Cultural Heritage Service, Ministry of Culture, the Arts and Heritage); (2) the Ministry of Education; (3) *SUBREI – Subsecretaría de Relaciones Económicas Internacionales,, Departamento de la PI* (Undersecretariat for International Economic Relations, Department of Industrial Property, Ministry of Foreign Affairs); (4) the IP prosecutor; and (5) Chilean Customs. Additionally, specialized Internet crime police units from *Carabineros* and *Policia de Investigaciones* (Military Police and Investigatory Police) do not prioritize IP crimes or any disruptive strategies for broader IP enforcement actions at the local level, despite having a proficient level of technical investigative skills.

This proposed centralized authority should provide copyright registration and enforcement services, and coordinate awareness, administrative enforcement, and public policies related to copyrights and neighboring rights. The centralized authority should also work with rights holders to make sure there are no overly burdensome obligations when trying to enforce IP rights. Currently, when trying to enforce against seized counterfeit physical goods, rights holders must provide a sample of an original product that is as similar to the counterfeit product as possible. This not only results in an additional cost for the rights holder, who must provide an original sample in every single case where a counterfeit product is seized, but is also a difficult obligation to meet when some counterfeits so not have an equivalent original product. For example, for the video game industry, when the good in question is a preloaded console, the counterfeit product is not only the console itself but the games it contains. Since laboratories are accustomed to comparing original products to counterfeit products, it is not always possible to provide an original product since some of the games are not sold in the physical format, but only digitally. Additionally, a coordinated enforcement effort would help identify and penalize repeat infringers, especially those who import circumvention devices, modified game consoles preloaded with infringing video game content, piracy devices (PDs), and illicit streaming devices (ISDs). The proposed centralized authority should ensure that deterrent penalties are available under Chile's current legislative framework and are consistently applied, especially against commercial-scale piracy operations and repeat infringers. Without a centralized copyright entity and effective coordination and cooperation of other agencies responsible for IP enforcement, enforcement in Chile will remain ineffective and Chile will continue to be a regional haven for piracy sites and services.

- **Participate in Operation 404.**

IIPA urges the Government of Chile to participate in Operation 404, an annual or semi-annual Brazil-led regional anti-piracy campaign. Operation 404's eighth phase took place in November 2025 and included coordination with Argentina, Ecuador, Paraguay, and Peru. Since 2019, Operation 404 phases have taken down 2,575 websites and 1,377 illicit streaming apps, removed more than 400 social media profiles, and resulted in the arrest of 59 people connected to piracy operations. While Chile is known to occasionally send an observer to past Operation 404 phases, it has not publicly shared why it does not participate, especially as a growing number of regional neighbors continue to join these important anti-piracy campaigns. If Chile's existing legislative framework is the obstacle preventing enforcement authorities from conducting operations common in Operation 404 phases, that framework must be updated without delay, including by a presidential decree if needed. However, in September 2025, the Supreme Court of Chile issued a ruling in connection with a constitutional protection action filed by Chile's lottery system, *Lotería de Concepción*, against the main ISPs, whereby it ordered ISPs to block access to various illegal online betting websites. This result calls into question whether Chile's failure to act against piracy websites reflects genuine legal barriers or a broader absence of political will. Either way, actively participating in Operation 404 represents a readily available step that could significantly enhance Chile's efforts to curb its rapidly expanding piracy problem.

- **Prosecute more piracy crimes related to organized crime and heighten the criminal liability of legal entities in committing criminal offenses.**

In 2023, two legal reforms were enacted that gave private organizations and the Public Prosecutor enhanced legal powers. The first, Law #21,577, strengthens the prosecution of organized crime offenses, establishes special investigative techniques, and bolsters the confiscation of illicit profits. The second, Law #21,595, pertains to economic

crimes whose reforms bolster the prosecution mechanisms for organized crime and generate criminal liability for legal entities. Combined, these laws provide more efficient mechanisms for the prosecution of crimes, among which are computer-related crimes and online piracy, and both should be used more often. Unfortunately, the impact of these two laws remains limited, likely due to a lack of trained personnel and financial resources necessary to ensure proper execution of and familiarity with the new enhanced legal powers.

Even if these laws are fully enforced, Chilean courts, both civil and criminal, are overwhelmed by heavy caseloads. As a result, judicial proceedings, including those related to the protection and enforcement of IP, may take longer than expected before a final judgment is issued. A similar situation can be observed at the prosecutorial level. In practice, the initiation of investigative proceedings can be significantly delayed, in certain instances exceeding one year from the filing of the complaint. In civil cases, a case may wait an average of three years to see a final ruling in first instance, and two more years for subsequent appeals. These delays significantly undermine deterrence and the overall effectiveness of the IP enforcement system.

- **Leverage Decree No. 164 and the 2024 Cybersecurity Framework Law #21,663 to tackle online piracy.**

In December 2023, Decree No. 164 was published, approving the National Cybersecurity Policy 2023-2028 (PNCS). One of PNCS's strategic objectives is for Chile to develop a culture of cybersecurity focused on education, best practices, responsibility in the management of digital technologies, and the promotion and protection of individual rights. The cybersecurity framework law establishes measures that public and private organizations must implement to report and contain security incidents. Further, on March 26, 2024, the Government of Chile enacted Cybersecurity Framework Law #21,663 to regulate the cybersecurity actions of State agencies, either among themselves or with private entities. The law also establishes the minimum requirements to deal with cybersecurity incidents, the attributions and obligations of State agencies, the duties of the institutions determined in the law, as well as the mechanisms of control, supervision and responsibility in the event of infractions. It was hoped this recent legislative attention on cybersecurity would have encouraged Chile's police and prosecutors to capitalize on their new tools to take action against websites that distribute or host pirated content, or websites or apps that pirate content, since visitors to these sites open themselves up to cybersecurity vulnerabilities. However, use of these new tools has been limited, if not non-existent, to stop piracy.

LEGAL REFORMS

- **Improve and update Chile's legal framework for ISP liability and online copyright enforcement.**

Chile's copyright law regime remains inadequate and lags far behind international best practices. Although Chile adopted amendments to its Copyright Law in 2010, Law #20,435 was unfortunately detrimental to effective online copyright enforcement. For years, IIPA has repeatedly voiced concerns regarding Chile's deficiencies with respect to online copyright enforcement, and the urgency for reform is as strong as ever.

Article 85Ñ of Chile's Copyright Law establishes a safe harbor for hosting service providers and search engines, linking sites, or reference services that do not have "effective knowledge" of IP infringement, which—by law—can be established only by a court order (issued as per procedure under Article 85Q). This provision significantly limits the circumstances where a hosting, search, or linking service provider can be liable for infringements committed by its users. The harm created by this article is further exacerbated by the previously noted judicial delays. This article also opens the door to abuse because online services that engage in making copyright-protected transmissions routinely seek to portray themselves as mere "hosting" services to avoid liability under copyright law. Article 85O, which sets out the conditions for liability limitation, also poses problems due to its conflicting criteria. At first glance, the provision appears to narrow the safe harbor by introducing an additional eligibility criterion that "service providers" must meet to avoid liability for IP infringements, specifically: "that the service has not generated, nor selected the material or the

recipient" (Article 85O(c)). However, the last sentence of Article 85O clarifies that providers of "search, linking or reference services" are exempt from these additional conditions.

Where ISPs are eligible for the above safe harbor privileges, Article 85Q of the Copyright Law requires ISPs to remove or disable access to copyright-infringing content only following a lengthy, expensive, and complicated court process that can take over a year and is out of step with international norms. This legal requirement can be an excuse for ISPs unwilling to take down content and can even be a legal obstacle for ISPs that would otherwise react expeditiously to rights holders' take down requests. There is no incentive for ISPs to act expeditiously to remove infringing material, and there are no fines or sanctions for non-compliance with takedown notices, which is also an FTA obligation noted below. Instead, the law places time-consuming and disproportionately burdensome obligations on rights holders, such as requiring rights holders to have a legal representative in Chile to send notices of infringement. Currently, the only method of tackling infringing content online is to follow the burdensome and ineffective notice-and-notice system (Article 85U), which requires ISPs to pass on takedown requests to uploaders. However, rights holders have no way to know whether an infringer has actually been notified to take down material, and there are no provisions to deter repeat infringers or require or encourage measures demonstrated effective in preventing or restraining infringement. The only remaining option available to rights holders is to initiate a civil case directly against the user, an approach rendered impracticable by the sheer scale of infringement.

IIPA urges the Chilean government to amend its 2010 law to develop a meaningful legal framework in line with global norms for addressing copyright infringement online. As part of this effort the law should: (i) replace the notice-and-notice mechanism and remove the requirement for court orders for the taking down of any infringing content; (ii) limit safe harbor protection to passive and neutral intermediaries that do not contribute to infringing activity; (iii) implement measures demonstrated effective in preventing or restraining infringement; (iv) 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 (v) enable consultation among industry stakeholders, including creative industries, to make determinations on "Trusted Entities" (whose complaints are resolved on a priority basis by ISPs) rather than leaving such decisions to the sole discretion of ISPs as provided under the existing draft.

- **Enact amendments to address deficiencies in Chile's copyright law related to U.S.-Chile FTA obligations.**

Chile's latest Copyright Law was adopted six years after the U.S.-Chile FTA entered into force in 2004. [5] Unfortunately, over twenty years later, many important FTA obligations remain unmet, including the following:

Statutory Damages, Civil Remedies, and Criminal Penalties: Chile is required to provide for civil remedies, including seizures, actual damages, court costs and fees, and destruction of devices and products. Yet, the Chilean Copyright Law does not establish adequate statutory damages (e.g., pre-established damages), nor does it provide a dedicated procedure for obtaining injunctions or an effective civil *ex parte* search and seizure remedy. The law should also ensure that deterrent level civil remedies and criminal penalties are available and incentivized. Video game publishers have numerous experiences with customs seizures involving repeat offenders. One particularly flagrant instance involved one offender who was identified in seven total customs actions in 2024. To date in 2025, two repeat offenders have been identified in the importation of preloaded video game consoles. Unless offenders are flagged for recidivism and receive a higher level of scrutiny or penalties, there is no deterrent effect. The implication for rights holders is a substantial cost of doing business in Chile.

Protection of TPMs and Criminalization of Circumvention Devices: Even considering its 2018 legislation criminalizing satellite signal decoders, Chile still falls short of its FTA obligation to provide adequate legal

[5] The U.S.-Chile Free Trade Agreement (FTA) is available at https://ustr.gov/trade-agreements/free-trade-agreements/chile-fta/final-text.

protection for TPMs used to control access or restrict unauthorized acts to a protected work. The sale of preloaded video game consoles and modification services on online marketplaces and through social media is pervasive. To date in 2025, there have been around 1,600 seizures of consoles preloaded with infringing video game content. Multiple video game publishers have noted a dramatic shift of offerings from online marketplaces to social media. Additionally, music rights holders are left without support to tackle the problem of stream-ripping sites that allow users to download content, without authorization, through circumvention of TPMs.

Exceptions to Protection: Article 71 of the Copyright Law contains certain exceptions that appear to be incompatible with international norms and the FTA. These include: a reverse-engineering exception that is not restricted to achieving interoperability (Article 71Ñ); exceptions that could allow libraries to reproduce entire works in digital form without restriction (Articles 71I, J, K, and L); and the lack of overarching language consistent with the three-step test set forth in international treaties (and the FTA) to ensure that all exceptions and limitations are properly calibrated.

Lack of Secondary Copyright Liability Rules: In the civil liability area, general tort law principles do not help copyright holders in establishing secondary liability in Chile. IIPA urges Chile to incorporate secondary liability principles in its Copyright Law to incentivize platforms to cooperate in the fight against piracy, among other goals.

Injunctive Relief: Chile lacks a clear legal mechanism to ensure ISPs can impose effective relief to address infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities. Instead, Article 85R of Chile's Copyright Law provides that a court can order an ISP to block access to clearly identified infringing content only if the blocking does not block access to other non-infringing content. This limitation hampers enforcement under the provision, as the posting of a single non-infringing work can be relied on to thwart blocking measures and significantly limits the power of Chilean judges to order effective remedies to limit and prevent online infringement. It is also reported this provision is preventing ISPs from cooperating with IP rights holders on a voluntary basis.

Theatrical Camcording: The Chilean government should enact legislation to criminalize illicit camcording in theaters and provide for deterrent penalties. Such legislation should not include any requirement of proof of the camcorder's intent to profit. For reference, a recent September 2024 criminal code reform in Peru (Legislative Decree 1649) offers a regional best practice on camcording enforcement.[6]

IIPA urges the Government of Chile to ensure that any future reforms adequately implement the country's existing international, multilateral, and bilateral commitments to strong copyright protection, enforcement, and equitable market access.

- **Refrain from reducing copyright infringement penalties currently provided in the IP Law.**

The 2019 draft proposal to amend the penal code was distributed for consultation and proposed to dramatically reduce all penalties for copyright infringement and eliminate specific sanctions for the unauthorized reproduction of phonograms (Articles 353, 354, and 355). The proposal would effectively treat copyright infringement as a misdemeanor and would delete specific sanctions for piracy crimes against phonogram producers. It is unclear what the current state of the text is or whether the political will exists to move this proposal forward. Due to the significant volume of opposing comments received from the private sector, the Minister of Justice delayed the project's submission to Congress pending further analysis. At present, the draft is still under consideration at the Ministry of Justice with no specific timeframe for its submission to Congress.

[6] Available at https://mpaa.app.box.com/s/j69kjttd3l23tkqgcfi1tvdnmrmn0pm6.

- **Abandon the pending amendment to Article 24H of the Telecommunications Law, which creates an unlimited net-neutrality principle, with no distinction between legal and illegal content.**

In May 2020, amendments to the Telecommunications Law were passed at the Specialized Commission of Transports and Communications in the Senate. After consideration, Bill 10999-15 was returned to the aforementioned Commission in July 2021 for further study and consideration. The core of this reform is the proposed modification of Article 24H (sections "a" and "b"). Under the modification, ISPs are prohibited from implementing any policy measure for the purpose of prioritizing traffic, or any measure that would have the effect of causing delay to Internet access. The Bill also removes from Article 24-H the all-important "legal" requirement that would distinguish between access to "legal" content, websites, and apps on the Internet, and "illegal" content, websites, and apps on the Internet. It would also have the effect of hindering the use of tools or devices on the Internet to inhibit access to such materials online. In sum, the Bill imposes an unlimited and unrestricted net neutrality principle in Chilean legislation with no limitation or distinction regarding the legality of the content, device, website, app, or service accessed by the Internet users. This proposed "unlimited" net neutrality proposal is in stark contrast with the law in both the United States and the EU, where net neutrality principles apply only to legal Internet traffic and content. The Bill also proposes to further enshrine the position that access to illegal content can be blocked "only by judicial order."

The implications of this proposal are especially relevant to the consolidation of a digital music market in Chile. An unlimited net neutrality principle would make it even more cumbersome for rights holders in Chile to enforce their IP rights online. The reform could imply that Internet users in Chile have a *de facto* right to freely access pirated content, and that ISPs and rights holders cannot do anything to prevent or deal with such infringements. Due to a lack of prioritization of this Bill, it is difficult to predict any timeframe for a vote on the floor.

- **Ensure legislative proposals related to AI meet the standards for IP protection set forth by the G7 Hiroshima AI Process.**

In May 2024, the Government of Chile introduced Bill #63-372 on AI to Congress. The initial Bill included a provision, Article 31, that would have introduced a copyright exception for text and data mining (TDM). Specifically, Article 31 stated "[a]ny act of reproduction, adaptation, distribution or communication to the public of a lawfully published work is lawful, without remuneration or obtaining authorization from the owner, when such act is carried out exclusively for the extraction, comparison, classification, or any other statistical analysis of language, sound or image data, or of other elements of which a large number of works or a large volume of data is composed, provided that such use does not constitute a disguised exploitation of the work or of the protected works." On October 13, 2025, the House of Representatives approved an amended version of the bill which thankfully did not include the TDM exception. The House also deleted a transparency/record-keeping obligation for AI developers concerning copyright protected materials used to train AI models. The Bill now proceeds to the Committee of Future Challenges, Science, Technology and Innovation of the Chilean Senate.

As Chile looks to regulate AI, IIPA strongly encourages the Government of Chile to look toward certain provisions of the G7 Hiroshima AI Process, which has set forth important rules of the road related to IP protection for the development of AI systems. For example, the International Code of Conduct for Organizations Developing Advanced AI Systems includes the following: "Organizations are encouraged to implement appropriate safeguards, to respect rights related to privacy and intellectual property, including copyright-protected content." The International Guiding Principles for Organizations Developing Advanced AI Systems includes the following principle: "Implement appropriate data input measures and protections for personal data and intellectual property." In the June 17, 2025, G7 Leaders' Statement on AI for Prosperity, the G7 Leaders indicated they would "leverage the outcomes of the Hiroshima AI Process (HAIP) to foster trust." The Leaders further committed to "[p]romote economic prosperity by supporting SMEs to adopt and develop AI that respects personal data and intellectual property rights, and strengthen their readiness, efficiency, productivity and competitiveness" and stated, "We recognize the need to respect intellectual property rights in enabling these efforts." IIPA and its members strongly encourage Chile to meet the standards set

forth by the G7 Hiroshima AI Process. Additionally, Chile should provide meaningful stakeholder engagement and due process regarding this type of work, including by affording adequate opportunity to review and comment on legislative and regulatory proposals governing copyright and AI.

- **Do not adopt Bill PL 17499-24 which creates an additional remuneration right.**

In April 2025, Bill PL 17499-24 was tabled in the House of Representatives. Known as the "Tommy Rey Law," this bill introduced a remuneration right for artists for the making available of performances fixed in phonograms and audiovisual formats. After a swift discussion at the Culture Committee, the Bill was sent to the Floor of the House and approved on November 3rd. This new right would be in addition to the exclusive right already provided for by exiting Chilean law (Article 67bis of the Law 17336). The proposal for an additional remuneration right resembles similar initiatives discussed in Uruguay and other Latin American countries and aims at empowering the already strong collective management organization that pushed for this Bill (*Sociedad Chilena de Autores e Interpretes Musicales*, known as "SCD"), which currently collects royalties for the CTTP rights of authors, artists and phonographic producers. The Bill would contradict Chile's obligations under Articles 17.6.2 and 17.7.2 of the US-Chile FTA, adding a new element to the list of concerns arising from Chile's non-compliance. In addition to its potential to distort the well-functioning music streaming market, the necessity to introduce such a trade-affecting measure is unclear as performers are benefitting from the growing music ecosystem like never before.[7] It is also unclear whether this bill applies exclusively to music streaming services or extends to audiovisual streaming services as well. IIPA strongly encourages the Chilean government to refrain from adopting any proposal of this kind until a comprehensive assessment has been undertaken to determine the necessity of, and potential trade implications arising from, such a measure. The bill currently awaits Senate deliberation.

[7] See *IFPI Global Music Report 2024: State of the Industry*, available at https://ifpi-website-cms.s3.eu-west-2.amazonaws.com/GMR_2024_Todays_Record_Companies_dfa01be46a.pdf.

CHINA (PRC)

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that USTR maintain China on the Priority Watch List in 2026 and that China be monitored under Section 306 of the Trade Act.[1]

Executive Summary: Market access restrictions remain the primary driver behind persistent, evolving, and rampant piracy in China. For example, the severe restrictions on (i) the distribution of digital content, (ii) lengthy delays and deterrence concerns in court cases, and (iii) legislative and procedural shortcomings all hamper rights holders' ability to effectively utilize and protect their copyrighted content. These and other longstanding obstacles drive Chinese consumers to domestic and foreign online piracy services to access often unapproved foreign content. More recently, Chinese companies have discovered and exploited the profitability of exporting pirated content, piracy services, and piracy devices (PDs) from China to foreign markets. In 2025, this troubling piracy-as-an-export trend expanded to cloud storage services that disseminate infringing content through popular Chinese social media platforms, e-commerce platforms, and piracy linking sites.

We are grateful to the National Copyright Administration of China (NCAC) for its regularized campaigns against piracy. Some of their activities even meaningfully lead to criminal actions. However, we still do not see meaningful reductions in most commercial-scale online piracy across all categories of content, and administrative penalties remain low. NCAC usually takes no action against geo-blocked piracy services that are not accessible within China, even when their operators or servers are located within China; such targets include the *LokLo*k app (and its variations), and the *MagisTV* boxes (and variations) as well as well-known piracy services like *UnblockTech* and *SVI Cloud*. Addressing unauthorized content on social media and e-commerce platforms remains challenging, partly due to overly burdensome procedural requirements imposed by these platforms. In 2025, rights holders reported significantly decreased cooperation from many platforms. Rights holders welcome further clarifying, strengthening, and streamlining the application of copyright laws regarding civil, criminal, and administrative enforcement actions brought in China. Current measures remain insufficient to deter piracy across the board.

IIPA was pleased to see the 2021 amendments to the Copyright Law include some positive developments. Yet, many aspects of these amendments remain unimplemented four years later which has not helped to address the uncertainty in China's copyright protection and enforcement framework. Moreover, the amendments to the Copyright Law omitted several critical reforms, including extending the term of protection to match the international standard of at least 70 years and amending the scope of the making available to the public right.

Finally, China remains one of the most challenging markets in the world for the distribution of copyrighted content. Extensive market access barriers, both in law and in practice, severely limit foreign participation in the market and leave the market open to pirated content and services. Notably, some of these barriers are in violation of China's multilateral and bilateral obligations with the United States. Rather than continue to pursue policies that impede access to its market, which exacerbate Chinese domestic and global piracy, China should meet its trade commitments, eliminate market access barriers, and take the necessary steps to open its marketplace to the U.S. creative industries.

[1] For more details on China's Special 301 and Section 306 monitoring history, see previous years' reports at: https://www.iipa.org/reports/reports-by-country/. For the history of China's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Fully implement the *2019 Guidelines on Strengthening the Protection of Intellectual Property Rights*.
- Improve the transparency effectiveness of administrative enforcement.
- Improve the effectiveness of civil and criminal enforcement.
- Increase accessibility and efficiency of customs enforcement.

Legal Reforms

- Implement the 2021 amendments to the Copyright Law, including by accelerating the formulation and promulgation of the new Regulations on Implementation of the Copyright Law (we continue to await a draft for public comment as of this filing), now long overdue.
- Address shortcomings in China's Copyright Law and Criminal Law related to the protection and enforcement of copyrighted works.
- Fully implement the intellectual property (IP) enforcement commitments of the U.S.-China Phase One Agreement.
- Improve laws, regulations, and procedures for online enforcement on China's online platforms and service providers.
- Ensure legislative proposals related to artificial intelligence meet the standards set forth by the G7 Hiroshima AI Process.
- Fully implement the *Judicial Proposals on Enhancing IP Protection and Serving Promotion of High-Quality Development of Film Industry*.

Market Access

- Abandon the slew of longstanding regulations and proposals that discriminate against U.S. producers and distributors of creative content.
- Immediately and fully implement all the terms of the 2012 U.S.-China Film Agreement and fulfill the Phase One services purchasing obligations.
- Increase the number of approvals for foreign video games to match the number of domestic approved video games.
- End China's burdensome content review regime for books intended for other markets, lift content review procedures for imported physical sound recordings, and avoid instituting troublesome regulations for online games.
- Repeal discriminatory and additional impediments to China's market for U.S. audiovisual content.
- Adopt a voluntary, age-based classification system to help eliminate disparate treatment of U.S. content and ensure that China's content review process is transparent, predictable, and expeditious.

ENFORCEMENT

China is a significant market for the creative industries with an expanding online marketplace. China leads the world in the number of cinemas and China's total box office revenue was US$5.9 billion in 2024, down 23% from 2023. China was also the fifth largest music market in 2024 with year-on-year growth of 9.6%. For video games, China had a record 722 million players in 2024 with revenues of US$49.2 billion. Unfortunately, China's market for legitimate, licensed content continues to be harmed by piracy, which is only exacerbated by the market access restrictions discussed below that entirely restrict or delay the availability of legitimate, licensed content.

Online piracy in China—including illegal downloading and streaming of copyrighted content through piracy websites, apps, and devices—has evolved extensively in recent years and remains a significant concern. For example, the Entertainment Software Association (ESA) reports that in 2024, China ranked eleventh in the world in the number of connections by peers participating in the unauthorized file-sharing of ESA member video game titles on public peer-

to-peer (P2P) networks. According to this same metric, China ranked 13th in the world for unauthorized file-sharing of console-based video games and 12th for PC-based video games. Video game piracy in China is sophisticated and difficult to combat. Current video game piracy trends in China include: game cracking and hacking; private server operations; reskinning and cloning; direct code theft; substantially similar code duplication; and gameplay cloning. Reskinning can involve making minor modifications to the source code of original games before releasing them but involves more intricately copying elements of the pirated game, such as text, images, audio-visual materials, gameplay, and rules. These actions, by virtue of modifying the original game, pose greater challenges in establishing infringement compared to traditional piracy. As online games have become more sophisticated and the development costs for original developers have risen, these newer forms of piracy pose a growing threat. Counterfeit merchandise and misappropriation of video game IP are also common.

Online journal piracy remains a significant and persistent challenge. Given the lack of deterrence in the marketplace, online platforms engaged in providing unauthorized copies of journal articles and academic textbooks continue to operate. These platforms host unauthorized PDF copies of academic monographs, edited collections, and textbooks, and facilitate access to infringing content online in several other ways, including by providing users with search tools using Internet bots, and by bypassing TPMs to gain unauthorized access to legitimate online services. Pirated print publications and compromised log-in credentials continue to be available on e-commerce sites, which also serve as platforms through which producers of pirated and counterfeit textbooks advertise and sell the infringing copies. *Lib-Gen*, a repository of large volumes of pirated content, remains among the top sites by Chinese Internet users and is mimicked by Chinese-language piracy platforms. Some Chinese copycat sites have also added payment processing services to their cloned repositories of infringing book and research content, while the copied pirate repositories lack such processes. There has been some progress as several domains of the piracy site *Sci-Hub* were blocked in January 2024, and the efficacy of the blocks has since stabilized. Also in early 2024, access to the piracy site *Z-Library* and many of its mirrors was disrupted because of action by the police.

Music piracy remains a problem despite the positive market movement, hampering the development of the legitimate market to its full commercial potential. A major issue is unlicensed use of music on user-uploaded content (UUC) platforms such as *Xiaohongshu*, *Xigua*, *Ximalaya* and *Youku*. From January to June 2025, a total of over 100,000 infringements were reported across various UUC platforms. While the platforms may remove reported infringements, removal times are long and vary and the platforms take no measures to prevent the same recordings from immediately reappearing on their services or against repeat infringers.

Structurally, there is an increase in the availability of pirated content on cyberlockers such as domestic cloud-based storage providers like *Baidu Pan*, *Xunlei Cloud*, *Aliyun* and *Kua Ke (Quark)*. The infringing content on these storage services is then disseminated through popular Chinese social media platforms, e-commerce platforms, and piracy linking sites. Further exacerbating this problem are the cyberlockers' inconsistent and slow processing times for takedown notices alongside burdensome requirements to prove ownership before any action is taken. Pirate streaming sites (such as *Allanime, Ddys, Vidhub, Meijutt, Dy2018 and Czzy77.)),* illicit streaming devices *(such as SVICloud, EVPad, Unblock Tech),* Internet protocol TV (IPTV) services and apps (such as *Wang Fei Mao, MagisTV, 99kubo, Juhe yingshi, WanMei, and YingShi DaQuan, Hanju TV, LokLok*), and Piracy-as-a-Service (PaaS) providers directed to global audiences that are operated from within China remain a growing problem in 2025. For example, companies that run apps like *LokLok (also known as Lokiok, and LokTV)* which target Southeast Asian markets, companies that manufacture, promote, distribute, and export PDs such as *MagisTV* (rebranded as *FlujoTV*) which target Latin American markets, and sites like *GIMY* which target Taiwan, are just some of the growing number of piracy operations that focus their illicit behavior outside of China.

China is also a large exporter of high-quality counterfeits, such as CDs and "deluxe edition" collection sets that have almost identical artwork and packaging to the genuine products and that contain genuine-looking source identification codes. The production of counterfeit vinyl is also an issue in China. For example, following a criminal investigation initiated in 2022 into the "Sound of Vinyl," a prominent seller on the Taobao platform, 13 defendants were

convicted of copyright infringement offenses relating to the production of 1.2 million vinyl products, infringing the rights in 1,000 sound recordings (local and international repertoire). The sale of digital storage devices pre-loaded with unauthorized music content is also prevalent and has been pursued by administrative and criminal action. For example, in 2024 the operator of an e-shop on *Pinduoduo* that sold 35,000 USBs containing over 200 infringing sound recordings was subject to administrative penalties by the Heng Yan cultural law enforcement agency. What is more, stopping the distribution of counterfeit projects remains challenging with some major marketplaces (e.g. *Pinduoduo*) not complying at all with takedown requests and in some cases, will take down the infringements but not take meaningful action against sellers.

Given these significant piracy challenges in China, IIPA and its members strongly encourage China to take the following priority actions.

- **Fully implement the *2019 Guidelines on Strengthening the Protection of Intellectual Property Rights*.**

In late 2022, the China National Intellectual Property Administration (CNIPA) published a three-year Plan (Plan) (replacing the prior 2020-2021 plan) implementing the *Guidelines*, which were jointly released by the Office of the Chinese Communist Party's (CCP) Central Committee and the Office of the State Council in November 2019.[2] CNIPA's plan specifies 114 measures related to IP in six categories (with deadlines). The Plan contains items, which remain unimplemented to date, related to the protection and enforcement of copyright, including lowering criminal thresholds, streamlining evidence processes, establishing a list of repeat infringers, and regulating websites to "remove infringing content, disrupt pirated website links, [and] stop the dissemination of infringing information."

As noted in the *Guidelines*, China should separately define criminal violations regarding the circumvention of TPMs or trafficking in circumvention technologies. As the world's primary manufacturer, producer, supplier, and exporter of video game circumvention devices and software components, China drives significant amounts of online video game piracy around the world. Game copiers or modification chips are devices commonly used to bypass TPMs in a video game console to allow the downloading and playing of infringing video games on "modded" consoles or handhelds. The harm they cause is not limited to console and handheld makers because almost all games developed for play on consoles or handhelds, including those developed and published by third parties, can be illegally downloaded from the Internet. In addition, some Chinese software developers have started exporting software that circumvents TPMs used by legitimate digital music services such as Spotify.

Additionally, two other measures in the *Guidelines* will help advance the protection and enforcement of copyright, including measure 56, to "[p]ush IP Courts to hear IP criminal cases, continuously push reform of 'Three in One (criminal, civil, and administrative cases in one court)' IP trial mechanism," and measure 51, to "[f]urther enhance management of website platforms, push fulfillment of platform accountability, and based on opinions of related departments, dispose suspected IP infringement information/content online, in accordance with laws." The "Three in One" approach is one that IIPA members would like to see fully implemented, particularly as China remains the hub for the manufacture, promotion, and distribution of PDs, such as illicit streaming devices (ISDs), and TPM circumvention devices, including ones that are mass exported from China, which fuels much of the world's piracy problems.[3]

- **Improve the transparency and effectiveness of administrative enforcement.**

[2] See, e.g., IIPA 2020 Special 301 Report at 23 for additional information on the *2019 Guidelines on Strengthening the Protection of Intellectual Property Rights (the Guidelines)*, which were issued jointly by the Communist Party of China's Central Committee (CPCCC) and the State Council.

[3] This concern is so rampant that the entire Asia-Pacific Economic Cooperation (APEC) member community has examined the landscape for legal protections on this issue, Singapore and Malaysia have already enacted and implemented laws to crack down on PD/ISD resellers, meaning the Government of China can do more to tackle this problem.

Rights holders acknowledge NCAC's efforts against copyright piracy, which sometimes are referred to local law enforcement agencies for follow-up. Such efforts have had an active role in addressing the unauthorized online distribution of music, helping the Chinese recorded music industry to rise to the fifth largest music market in the world.[4]

Unfortunately, many cases do not progress meaningfully after referral to local law enforcement agencies, thus having little lasting impact or deterrence. Prior IIPA filings have documented in detail the significant challenges rights holders have with administrative enforcement in China.[5] One major challenge remains the NCAC's traditional unwillingness to tackle China-based piracy websites and China-based services that are geo-blocked in China but are used outside China to infringe content at commercial scale. This growing, problematic situation presents an urgent challenge for China's enforcement agencies to take meaningful action against these nefarious operations. While there was a recent conviction in China over a notorious but geo-blocked piracy website targeting users in Japan, and other criminal prosecutions against subscription-style websites including a couple of ongoing cases, these anecdotal examples have not succeeded to date in creating a more fertile ground for administrative enforcement against these actors to flourish. The following highlights existing and ongoing concerns rights holders have with China's administrative enforcement of copyrighted works:

1. Administrative authorities are unwilling to act against previously sanctioned entities unless the rights holder files a new complaint for the same infringing conduct. Repeat infringers also rarely receive enhanced penalties.

2. Rights holders must meet lengthy procedures involving repetitious and complicated evidentiary requirements.

3. China's administrative enforcement entities remain unprepared to meet the emergence of modern technologies and services for enabling mass infringement, especially in the online and mobile environments.

4. While the annual "Sword Net" campaigns and administrative outcomes are regular NCAC activities, IIPA would like to see more timely and detailed information across all provinces regarding the results of administrative actions, including next steps. We encourage NCAC to take administrative action against piracy services that are not accessible within China, even when they are hosted or their operators are located within China. Otherwise, China-based operations that target users outside China are simply able to evade enforcement action by geo-blocking their own services from access within China or serving a separate set of content to users accessing these services from within China. The scope of these actions should also include targets such as PaaS providers, entities that manufacture, promote, distribute, or export PDs, and entities that allow unauthorized movie broadcasts in mini-Video-on-Demand (VOD) locations.[6]

5. Most administrative enforcement agencies, including NCAC, local Copyright Administrations (CAs), and Cultural Law Enforcement Agencies (CLEAs) lack the resources and trained personnel necessary to tackle China's persistent piracy. Cross-regional coordination between these administrative enforcement authorities is also lacking and the general capacity to deal with online piracy in different regions varies widely.

6. The transfer of copyright cases from administrative to criminal authorities for investigation and prosecution is not streamlined and uneven in practice, timelines are lengthy, and the transfer process is inefficient.

7. There is no efficient mechanism between NCAC, the Ministry of Industry and Information Technology (MIIT), and Internet service providers (ISPs) for shutting down infringing websites operating without a business license (consistent with the Guidelines).

[4] IFPI Global Music Report 2025.
[5] See previous years' reports on China at: https://www.iipa.org/reports/reports-by-country/.
[6] The Motion Picture Association (MPA) submitted 15 targets to the National Copyright Administration of China (NCAC) under the 2024 "Sword Net" campaign and 20 targets in 2025 "Sword Net" campaign. MPA has only seen a few meaningful actions taken by local enforcement agencies with regard to the targets.

8. Chinese authorities seem unable to tackle a growing problem of pirate services established outside China but targeting Chinese consumers.

- **Improve the effectiveness of civil and criminal enforcement.**

The past few years have seen several positive civil and criminal piracy enforcement cases signaling that Chinese courts, including the judiciary, may be slowly improving how these cases are handled and ultimately decided. On the civil side, courts in the past have been conservative in their damage awards granted in copyright infringement cases, rendering civil enforcement ineffective. However, on August 22, 2025, *Tencent* won two major final appellate judgments against *Kuaishou* in the Guangdong and Chongqing Higher People's Courts for copyright infringement. The courts awarded *Tencent* approximately US$12.5 million in total damages, including substantial punitive damages. Both courts found *Kuaishou* liable for contributory infringement, and the Guangdong court found *Kuaishou* liable for direct infringement. The decisions cited *Kuaishou's* failure to remove infringing content despite repeated complaints, active promotion of infringing videos, and technical ability to prevent such acts. The rulings ordered *Kuaishou* to implement takedown and filtering measures but did not impose a service-wide injunction. These are notable developments, but it remains to be seen if courts will start granting such punitive damages more broadly and in cases involving foreign rights holders.

Additionally, a new judicial interpretation entitled "*Interpretation on Several Issues concerning the Application of Law in Handling Criminal Cases of Infringement upon Intellectual Property Rights*" ("JI") came into force on April 26, 2025. Under the JI, it appears intermediaries could be treated as accomplices to IP crimes. Specifically, the JI provides that joint criminal liability could be imposed when one knows that another person is committing an intellectual property infringement crime and still provides services or support such as funding, payment and settlement, business location, transportation, storage, delivery and posting, Internet access, server hosting, online storage, and communication transmission. While the JI appears to include potential liability on intermediaries providing services such as online storage and server hosting, it remains to be seen if any proactive and effective enforcement action will be taken against such services.

Additionally, the existing delays, costs, and procedural burdens associated with civil and criminal enforcement, contrasted with usually lower damages or non-deterrent penalties, pose significant challenges for IP rights holders. The following are some areas where China can improve the effectiveness of its civil and criminal enforcement.

Penalties: Chinese courts must issue deterrent-level civil and criminal penalties against operators of piracy websites. Judgments from courts in different regions can reach contrasting penalties despite cases involving similar facts, impacting judicial certainty and credibility.

Injunctions: China should provide a full range of broad injunctive relief for civil enforcement, including injunctions to halt the operation of piracy services (e.g., apps), and including injunctions where appropriate against intermediaries. Injunctions should also be available against ISPs in copyright cases, including against access providers, requiring them to stop providing access to unlicensed copyrighted content that has been subject of a law enforcement action, but which remains available. Moreover, when injunctions are granted, the relief is limited to only the infringement of titles at issue in a litigation rather than any future infringements of a rights holder's copyright works.

Identifying Piracy Operators: Since the operation of piracy services may often be overseas or multinational, cross-border enforcement cooperation is critical and needs to be improved. For example, many piracy websites use overseas servers and have applied for personal information protection from overseas domain registrars, making it effectively impossible for copyright holders to collect information and lodge a complaint

with Chinese enforcement agencies. Chinese enforcement agencies should reach out to other law enforcement agencies to unmask operators of piracy services.

Formalities: China should rely on presumptions of copyright ownership and reduce documentation requirements (such as requiring copyright registration certificates in every instance) to establish copyright ownership in all legal cases.

Territoriality: Because of uncertainties surrounding the legal liabilities for copyright infringements occurring outside China's jurisdiction, but under the control of a Chinese individual or entity, rights holders find it difficult to take action against these individuals or entities through Chinese courts.

Multiple Jurisdictions: Rights holders are facing new enforcement complications in China with respect to the Regulations on the Jurisdiction of Cross Provincial Corporate Crime Cases issued on March 5, 2025. In the months following the Regulations' entry into force, certain Public Security Bureaus (PSBs) have refused to take actions in criminal cases involving defendants in multiple jurisdictions, citing a need to obtain approval from each local PSB with jurisdiction. Very few PSBs will agree to take new cases, and those who have are placing new cases on hold. Because many IP enforcement cases involve defendants from multiple jurisdictions, this regulation has created significant procedural delays extending into late 2025. As local legal experts have noted, cross-jurisdictional enforcement can be valuable to rights holders, "particularly when local PSBs lack expertise in IP issues, have limited capacity, or when there are concerns about local protectionism."[7] Clarifications are necessary to permit IP enforcement cases to move forward expeditiously.

Cases with Multiple Works: When filing civil cases, if there are several copyright works and recordings that are infringed by the same infringer, rights holders are required by some Local People's Courts to file separate cases (i.e. are forced to file a series of separate cases with only one work involved per case), instead of allowing rights holders to file a single case in respect to all the infringed works/recordings involved. This practice leads to an artificial increase in the number of cases accepted by the courts, but also unnecessarily increases rights holders' litigation costs, the workload of the courts, and judicial waste. This burdensome narrow form of civil action in copyright cases is a major shortcoming because it covers up the severity of copyright infringement when often thousands of titles are pirated by the same; this may make it more difficult, for example, to claim punitive damage caused by the massive copyright infringement. Historically, penalties for single-title infringement have often been much lower than warranted (except, for example, in the case of a highly popular work) and if a case involved multiple counts of infringement, the results might be different. These lower remedies would likely not be considered deterrent, considering the overall scope of piracy by the infringer.

As China makes progress on improving these civil and criminal concerns, it can make exemplary effective and deterrent actions against a range of well documented notorious piracy services, including pirate streaming sites (such as *Allanime, Ddys, Vidhub, Meijutt, Dy2018 and Czzy77.),* illicit streaming devices *(such as SVICloud, EVPad, Unblock Tech),* IPTV services and apps (such as *Wang Fei Mao, MagisTV, 99kubo, Juhe yingshi, WanMei, and YingShi DaQuan, Hanju TV, LokLok*), and PaaS providers.

- **Increase accessibility and efficiency of customs enforcement.**

China's Customs Database allows rights holders to record IP and authorized licensees for use in preventing infringing items from being exported from or imported into China. However, the database is solely in Chinese and does not support any other languages. It would be helpful for the database to support other languages, at least English, to

[7] *See* Hou, Sophia, Jurisdictional Challenges in China's Criminal Enforcement Landscape, May 30, 2025, available at https://rouse.com/insights/news/2025/jurisdictional-challenges-in-china-s-criminal-enforcement-landscape.

reflect the transnational nature of infringement activity across China's borders. Additionally, the database should allow for automatic updating as opposed to a manual entry process, which is both time-consuming and inefficient.

LEGAL REFORMS

- **Implement the 2021 amendments to the Copyright Law, including by accelerating the formulation and promulgation of the new Regulations on Implementation of the Copyright Law (we continue to await a draft for public comment as of this filing), now long overdue.**

Prior IIPA filings documented in detail developments in the Chinese legal system for the protection of copyright.[8] While IIPA was pleased to see the 2021 amendments to the Copyright Law include many positive developments, China's failure to fully implement these amendments, including by making needed updates to the *Regulations on Copyright Collective Administration, Regulations for the Implementation of the Copyright Law,* and *Regulations on the Protection of the Right of Communication through Information Networks*, continues to create uncertainly in China's copyright protection and enforcement framework. This four-year delay is puzzling as this work was prioritized in the State Council's 2025 Legislative Work Plan.[9] The following are some positive copyright-related provisions in the 2021 amendments and related challenges caused by a lack of new implementing regulations:

Rights of public performance and broadcasting for producers of sound recordings: It is vital that China ensures the effective implementation and application of these new performance rights, including the protection of foreign sound recordings, ensuring the effective exercise and management of these rights in accordance with international best practices, and providing an adequate framework for tariffs that reflect the economic value of the use of the rights in trade. Specifically, China and the United States are both World IP Organization (WIPO) Performances and Phonograms Treaty (WPPT) members, and the United States grants Chinese rights holders full national treatment with respect to sound recordings. Nevertheless, Chinese Courts are denying protection for foreign, including U.S. sound recordings, on the erroneous grounds that China has not withdrawn its reservation on Article 15 of the WPPT. This acts as a major disincentive for U.S. companies to invest in the Chinese music market. The NCAC should issue guidance clarifying that China grants sound recording public performance and broadcast rights to foreign rights holders through national treatment.

Damages and enforcement procedures: The Copyright Law amendments also include some positive reforms that will improve the enforcement environment in China, including increasing the maximum statutory damages tenfold and, upon *prima facie* evidence, shifting the burden of proof to the accused infringer to show the use was authorized by the rights holder or is otherwise permissible under the Copyright Law. However, other than the encouraging outcome in the *Kuaishou* decision from August 2025, in which *Tencent* was awarded significant punitive damages, and while the government reports increased instances of punitive damages in IP cases, more generally, damages remain largely non-deterrent, application of statutory damages can remain elusive, broad and some forms of injunctive relief against the entire service remain unavailable as cases are "title-based" focusing on the infringement of a particular work involved in a case rather than the operation of the infringing service. On damages, it can often be difficult to obtain evidence to quantify the financial gain made by an infringer in civil or criminal actions, sometimes leading the authorities to struggle for an appropriate deterrent remedy. Courts reportedly claim to be concerned, without basis, that larger damages awards will encourage "copyright troll" behaviors and cause significant caseloads. Lastly, in order to address high volume unauthorized usages online, the civil procedure law should allow for U.S.-style disclosure or U.K.-style pre-action disclosure procedures that are also available in many other jurisdictions.

[8] See previous years' reports on China at: https://www.iipa.org/reports/reports-by-country/.
[9] See https://www.gov.cn/gongbao/2025/issue_12066/202505/content_7025478.html.

Three-step test: The amendments elevate certain elements of the three-step test from the Berne Convention and the TRIPS Agreement into the law to appropriately confine exceptions and limitations. China should ensure all exceptions to and limitations on copyright protection in the Copyright Law are appropriately narrow in scope and otherwise consistent with the three-step test. Furthermore, certain exceptions—including for educational or scientific research, encryption research, and reverse engineering—appear overbroad (certainly broader than those found in U.S. law).

Protections against the circumvention of TPMs including prohibitions against the act of circumvention as well as trafficking in circumvention devices or components: It is critical that China properly implement these amendments to ensure the protections for and against circumvention of TPMs are adequate and effective. For example, protections should apply to TPMs that control and manage authorized access to copyright works ("access controls") and a prohibition against circumvention should apply to both access controls and TPMs that protect rights (including against unauthorized copying) in those works ("copy controls"). China should also ensure that rights holders have standing to bring suit in cases in which the TPM was employed by a licensee platform.

- **Address shortcomings in China's Copyright Law and Criminal Law related to the protection and enforcement of copyrighted works.**

Despite the above improvements, the Copyright Law as amended in 2021 did not address several deficiencies in China's legal framework. Instead, China should make the following changes to its copyright framework to keep up with global best practices, emerging technological advances, and new digital business models:

1. Match the international standard of at least 70 years of protection for sound recordings and works, including audiovisual.
2. Clarify the legal basis for mechanisms that ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities.[10]
3. Improve available online liability rules and notice-and-takedown provisions to encourage intermediaries to act in a more expeditious, efficient, and effective manner.
4. Now that courts are no longer relying on the "server test," (which once required that the act of making available occurs via copies stored in China), laws and regulations should, where the opportunity arises, clarify and confirm that the test is no longer applicable, which will pave the way for the authorities to take action against piracy even when elements of it may occur outside China.[11]
5. Provide protection against unauthorized retransmissions of copyrighted content over the Internet (including criminal liability for live streaming of pirated content).

[10] In January 2021, the Cyberspace Administration of China (CAC) released the draft *Measures on Administration of Internet Information Services* (revised draft for public consultation) that appeared to stipulate a similar mechanism, although further clarifications were required to ensure that rights holders could request the relevant governmental agencies to require Internet access providers to prevent access to infringing websites (and other online services). However, there has been no further movement on the draft by the CAC or on the implementation of the 2019 *Guidelines* that included similar mechanisms.

[11] China should further revise its legal framework to ensure adequate and effective enforcement against apps and websites that facilitate unauthorized access to copyrighted works stored on servers outside of China; and by clarifying the right of "communication over information networks" to reject the "server principle" and provide a clear legal basis under which piracy services may be held liable for IP infringements carried out by third parties using their services or networks. Furthermore, the adoption of the "server principle," which requires that the act of making available occur via copies stored in China, can hinder enforcement actions against unlicensed services operating outside China. In recent years, Chinese enforcement authorities, including the courts, appear to be moving away from the "server principle," whereby they would act favorably against an infringer only when there was proof that the infringing materials were stored on a server in China. In particular, courts in Beijing, Shanghai, and elsewhere are no longer denying relief based on this principle, although it is still advantageous for rights holders to show a nexus between the pirate operator and the pirate content stored on the operator's server. However, the problem remains that administrative enforcement authorities cite limited resources and the ability to investigate as a reason not to enforce, as they are unable to collect needed evidence to take effective action.

6. Clarify that only passive and neutral intermediaries that do not contribute to infringement are eligible for the safe harbors from monetary liability, and that such intermediaries adopt and implement a repeat infringer policy.
7. Marketplaces should be required and all relevant intermediaries encouraged to institute a "know your business customer" (KYBC) policy to ensure they keep up to date and accurate information about their customers and to allow rights holders to obtain accurate information to protect their rights against direct infringers.

Additionally, legislation and judicial practices in China currently cannot respond to the evolution in commercial-scale video game piracy, especially regarding the newer forms of video game piracy mentioned above. Unfortunately, the copyright protections and remedies needed to stem these new forms of illicit video game modification are unavailable. In practice, under the copyright law, rights holders must either divide the online video game into individual copyrighted works—such as text, art, or music—which incurs high litigation costs and difficulty in evidence collection or must protect the entire online game as a type of audiovisual work. Nevertheless, the lack of explicit classification of online video games as a type of work under copyright law leads to uncertainty for game companies seeking to protect their rights.

Finally, the Government of China should also adopt reforms that address shortcomings in China's Criminal Law. In particular, China should meet its obligations in the WTO TRIPS Agreement by revising the criminal threshold to ensure that criminal penalties are available for all online piracy on a "commercial scale."[12] The Government of China should also separately define criminal violations regarding trafficking in devices, technologies, or services that circumvent TPMs; and separately criminalize the manufacture and distribution of PDs that are exported for the primary purpose of infringing or facilitating infringement.

- **Fully implement the IP enforcement commitments in the U.S.-China Phase One Agreement.**

IIPA welcomed the conclusion of the Phase One Agreement, signed by United States President Trump and Chinese Vice Premier Liu on January 15, 2020. In the agreement, China made several enforceable commitments that address certain concerns identified in these comments, particularly regarding IPR enforcement. Unfortunately, some IP-related commitments remain not fully or consistently implemented. For example, the Government of China committed to improve the transfer of cases from administrative enforcement to criminal enforcement (Article 1.26) and provide deterrent level penalties (Article 1.27). IIPA reports that implementation of these two commitments is wholly inconsistent, and in some situations, completely lacking. Additionally, China committed to improve its efforts to tackle online infringement, including the proper handling of counter-notification (Article 1.13(d)). While China's "e-commerce" law does require platform operators take "necessary measures" against infringing goods or services, and, importantly, the standard of knowledge for a platform operator to take action is that the platform "knows or should know" that the good is infringing, the law (Article 43) does not explicitly adopt effective practices for handling counternotices. This means sellers of infringing products could avoid responsibility by merely objecting to rights holders' notices of infringement. IIPA urges China to follow through on its Phase One commitments and encourages the U.S. government to work with China to ensure full implementation.

- **Improve laws, regulations, and procedures for online enforcement on China's online platforms and service providers.**

Notice-and-takedown procedures on major China-based online platforms and service providers are ineffective at addressing large-scale piracy abuses on their services and have worsened over the past year. Specifically, cooperation remains challenging between platforms/ISPs and rights holders, with platforms/ISPs adopting additional onerous formality requirements on copyright holders' takedown notices or rejecting otherwise acceptable notices on dubious grounds. For example, *Quark* and *XiaoHongShu* rejected the Motion Picture Association (MPA) Beijing Office's

[12] China should clarify that a single episode of a television program counts as one copy toward the threshold.

takedown requests by groundlessly questioning the office registration certificate issued by Beijing Municipal Public Security Bureau. Challenges compound if notices are sent from outside of China (which can happen in practice if the Chinese service is available outside of China).These growing excessive formality hurdles include requirements to register IP and burdensome documentation to prove ownership before being able to send takedown notices and limiting the number of infringements that can be reported or processed in a given period, these formalities are also out of step with the Berne Convention. Additionally, these notice-and-takedown procedures often include opaque or inconsistent approaches to acting on takedown notices, as well as extended delays in processing takedown notices.

Further, even if platforms delete the links upon receipt of notices, in some cases, this deletion happens days after the infringing content is posted, when the damage has already occurred. Equally problematic, when the same content reappears, many platforms do not take any measures against users who repeatedly upload infringing content, including repeated piracy facilitated through cloud-based hosting services such as *Baidu Pan* and on unlicensed short-form video platforms (such as *XiaoHongShu*). Additionally, even if the platforms do accept the complaint, they will often delist only the specific infringing items and generally do not take any further action to suspend or close the online shop that has been engaged in repeated infringing activity. Infringing content is also widely made available on UUC platforms and apps, and administrative remedies have had limited effect to curb infringement, including against repeat infringers. The absence of clarity regarding the liability for UUC platforms also leads to large-scale availability of unlicensed content online.

As China takes steps to clarify the legal basis for mechanisms that ensure platforms and ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities, as introduced in a previous section, it should take measures to address the above challenges rights holders currently face in enforcing their rights on China's online platforms and service providers.

In the meantime, NCAC should encourage various online platforms to comply in good faith with the existing provisions on takedown procedure in the current laws and regulations, and they should formulate and advocate for new enforceable guidelines or best practices on takedown procedures which take into account time-sensitive content. NCAC should also encourage online platforms and service providers to keep pace with other similarly sized services across the globe that provide prompt and consistent processing of takedown requests, apply rigorous filtering technology to identify and block the upload of infringing content, and take more effective action to suspend or terminate accounts of repeat infringers. Finally, NCAC should be empowered to play a larger role in encouraging platforms to reduce practical barriers to reporting infringements at scale, including by encouraging more robust inter-industry cooperation.

- **Ensure legislative proposals related to artificial intelligence meet the standards set forth by the G7 Hiroshima AI Process.**

On several occasions throughout the last two years, the Government of China discussed regulating artificial intelligence (AI). In particular, China published *Cybersecurity Technology – Labelling method of content generated by artificial intelligence* in February 2025 and the *Measures for the Identification of Artificial Intelligence-Generated and Synthetic Content* in March 2025. Both of which will be legally binding and took effect on September 1, 2025. On copyrights in particular, reports in 2024 indicated that NCAC was in the process of drafting a decree that may have introduced a text and data mining (TDM) exception. However, reports in late 2025 suggest NCAC may no longer be considering this concerning approach. As China looks to possibly regulate AI, IIPA strongly encourages the Government of China to look towards the G7 Hiroshima AI Process, which has set forth important rules of the road for the development of AI systems.

For example, the International Code of Conduct for Organizations Developing Advanced AI Systems includes the following: "Organizations are encouraged to implement appropriate safeguards, to respect rights related to privacy

and intellectual property, including copyright-protected content." The International Guiding Principles for Organizations Developing Advanced AI Systems includes the following principle: "Implement appropriate data input measures and protections for personal data and intellectual property." In the June 17, 2025, G7 Leaders' Statement on AI for Prosperity, the G7 Leaders indicated they would "leverage the outcomes of the Hiroshima AI Process (HAIP) to foster trust." The Leaders further committed to "[p]romote economic prosperity by supporting SMEs to adopt and develop AI that respects personal data and intellectual property rights, and strengthen their readiness, efficiency, productivity and competitiveness" and stated, "We recognize the need to respect intellectual property rights in enabling these efforts."[13] China should also provide meaningful stakeholder engagement and due process regarding this type of work, including by affording adequate opportunity to review and comment on legislative and regulatory proposals governing copyright and AI.

- **Fully implement the Judicial Proposals on Enhancing IP Protection and Serving Promotion of High-Quality Development of Film Industry.**

In November 2023, the Supreme People's Court (SPC) released *Judicial Proposals on Enhancing IP Protection and Serving Promotion of High-Quality Development of Film Industry* (Proposals). The Proposals, supported by multiple associations of the local film industry, call for the enhancement of IP protection for a specific industry (film). They include four key objectives for the film industry: (i) accelerate accomplishment of high-quality development of film industry under the rule of law, and advocate and execute industry practices that encourage innovation and creation; (ii) intensify copyright awareness, strictly implement the Copyright Law, improve protection of film copyright and copyright-related rights, including respecting the rights of screen writers, directors, cinematographers, lyricists, composers, and performers; (iii) utilize technical measures of content protection (for example, block chain and digital water marking) and innovate the license system to reduce infringement from the source; and (iv) actively and widely publicize IP protection during the process of disseminating films, for example, through industry forums and public service advertisements with the theme of anti-piracy and anti-camcording. The Government of China should appropriately implement the *Proposals*.

MARKET ACCESS

- **Abandon the slew of longstanding regulations and proposals that discriminate against U.S. producers and distributors of creative content.**

The piracy and enforcement concerns outlined above are exacerbated by China's pursuit of policies that impede foreign creators' and rights holders' access to the Chinese marketplace, thereby restricting the supply of legitimate products to Chinese consumers while piracy enjoys free reign. China is also still not in compliance with the WTO's ruling in the landmark market access case (DS 363) brought by the United States regarding many market access barriers in music, audiovisual products, and publications. After the case concluded in 2009, China eased several market access restrictions, but many core activities of copyright industries remain restricted or prohibited. For example, the Special Administrative Measures for Foreign Investment Access (the "Negative List"), revised in 2024, continues to prohibit, among other things, foreign investment in the "editing, publication and production of books, newspapers, periodicals, audio and video products, and electronic publications," and in "online publishing services, online audio and video program services." This continues to have a chilling effect on foreign investment, including in online publishing services where, prior to the rules, some latitude appeared to have been granted.[14] However, the 2024 Negative List continues to permit foreign investment in online music services, which remains a welcome positive step. Rather than continue to pursue policies that impede access to its marketplace, China should meet its trade commitments and take

[13] See G7 Leaders' Statement on AI for Prosperity, June 17, 2025, available at https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf.

[14] Among other things, these rules unfortunately restrict the distribution of foreign audiovisual content on online video platforms, even if the distributor has received a home entertainment permit from the former General Administration of Press and Publication (GAPP).

steps to open its marketplace for the music, publishing, video game, and motion picture and television industries by eliminating the market access barriers discussed below.

- **Immediately and fully implement all the terms of the 2012 U.S.-China Film Agreement and fulfill its Phase One services purchasing obligations.**

Chinese companies are investing heavily in content and media, with a greater number of co-productions and financing from China. IIPA urges China to meet its trade commitments and open its marketplace to U.S. producers instead of continuing down its current protectionist path. These policies are unacceptable and should be reversed, particularly when China is the second largest film market in the world. As discussed below, China should instead focus its attention on the complete implementation of the 2012 U.S.-China Film Agreement (Film Agreement) and fulfill its Phase One services purchasing obligations, including on the IP licensing of audiovisual works, as well as other market-opening steps for the motion picture and television industries.

Hailed as a "breakthrough," the Film Agreement promised to economically uplift U.S. and Chinese producers and distributors. Unfortunately, more than twelve years after its signing, China has failed to meet its obligations under the Film Agreement. The result of not implementing key provisions of the Film Agreement has been a steady further deterioration of U.S. producers' ability to access China's theatrical marketplace, as well as the broader marketplace for other types of distribution in China, such as via VOD and television (especially for independent producers). As part of the Film Agreement, China committed that in 2017 it would make a meaningful increase to compensation for revenue-sharing theatrical releases, as the current 25% U.S. share of revenue is far below comparable markets and the international norm. In practice, distributors are deducting ticket distribution fees before calculating the U.S. studio share, reducing the actual allocation to less than 25% of the box office.[15] Furthermore, the official quota on revenue-sharing releases of 20-plus-14 (enhanced format) remains. However, review and additional compensation have never occurred, and China must be pressed to comply with its obligations. In addition, China has imposed artificial limits on market access for imported films, despite a large number of domestic productions (which were 792 in 2023),[16] as well as around 81,000 theatrical screens in 2024.[17] In the case of "flat fee films," which are imported by private distributors outside of the box office revenue-sharing quota system, China has enforced restrictions, including an informal cap on the number of these films that can be imported. Furthermore, China has retained governmental control of key elements of distribution, severely limiting the ability of private Chinese distributors to import and distribute any foreign content.

These barriers have virtually eliminated U.S. independent films from China's theatrical marketplace, reducing their share of the market to the point near exclusion. Since 2012, the independents' share of the market has decreased from 10% of U.S. films released in China to 2.6% at the end of 2019. In 2021, there were just nine independent theatrical releases in China, representing the lowest percentage of slots (1.8%) ever allocated for independent films recorded by the Independent Film and Television Alliance (IFTA). The situation as of this filing remains the same for the independent film and television industry. U.S. independent producers who rely on private distributors and the payment of minimum guaranteed or flat license fees to raise production financing and secure distribution have seen their licensing revenues plummet and, in many cases, stop altogether.

China further committed in the Film Agreement to promote and license privately owned Chinese distributors to engage in national theatrical distribution of imported films without the involvement of any state-owned enterprise. This requirement has also not been implemented. The Chinese Film Administration (CFA) still permits only one film importer, the China Film Group (CFG) and two distributors of foreign films: CFG and Huaxia Film Distribution Company Ltd. While China affirmed in the Film Agreement that any properly licensed Chinese enterprise may distribute imported

[15] This practice is inconsistent with global best practices, where cost of sales is not deducted from gross box office calculations, a point reinforced by the fact that for public reporting of "Gross Box Office" Chinese distributers still state the amount without netting out such fees. Online ticket sales platforms and related fees postdate the MOU and shifted the cost of ticket sales-which had not been deducted from Box Office calculations from cinemas to third parties/platforms.

[16] Statista, Film industry in China - statistics & facts, May 22, 2024, available at https://www.statista.com/statistics/260392/number-of-feature-films-produced-in-china/.

[17] According to Beacon Data, the actual running screens in 2023 is 77,323.

films, CFA has yet to approve any new private Chinese distributors. CFG also determines the release dates and length of theatrical runs of foreign films, often restricting the ability of U.S. producers to obtain the full commercial value of films.

IIPA recommends that China immediately act in a transparent and expedited manner on the following issues, which have been long delayed:

1. Fully implement all the terms of the Film Agreement, including the requirement to enhance compensation in 2017 (such review has been delayed for over eight years), liberalize the distribution market for private third-party Chinese distributors, and finalize a new Memorandum of Understanding (MOU).

2. Substantially increase U.S. producers' share of revenues for the box office revenue share films from the current 25% to a level consistent with international norms and ensure online ticketing fees are not deducted from the gross box office reducing U.S. revenue film share to less than 25%.

3. Allow U.S. producers more control over release dates, address the problem of U.S. films being locked out from the prime release dates, and end the practice of "double booking" theatrical releases.

4. Eliminate informal restrictions on the number of imported "flat fee" films so that independent producers have unimpeded access to the Chinese market.

5. Allow flexibility for new VOD content quota and sub-quotas by country and genre, allow roll-over quotas, and ensure the overall quota for foreign content does not fall below the 30% limit to the detriment of U.S. content.

6. Ensure U.S. producers receive timely responses to quota allocations and content review determinations, and effective access to ticketing system information to ensure proper reporting of revenues.

7. Remove the home country premiere and high rating requirement.

8. Establish defined and prescribed content review time frames for theatrical and online distribution that are no more than four weeks from the time of submission; increase the frequency of submission windows for foreign VOD content review from the current twice-a-year to no less than a quarterly basis; allow for content review of VOD content before the entire season has been produced; establish a fast-track online registration system with a turnaround time of not more than two weeks for already approved foreign content; and establish an independent expedited review approval process for foreign content on a special case-by-case basis.

9. Streamline the payment of deposits, guarantees, and royalties by local distributors to U.S. producers, and do not establish any regulation or policy that impedes the collection of license fees by American IP owners.

- **Increase the number of approvals for foreign video games to match the number of domestic approved video games.**

In June 2016, China updated its content approval regulations for mobile video games that make it extremely difficult for foreign publishers of mobile games to access the Chinese market. While there has been an annual increase in the number of imported game licenses approved in China since 2022, the percentage of these imported games originally published by U.S. publishers or adapted from U.S. IP has continued to decrease each year—four out of 44 in 2022, five out of 58 in 2023, and six out of 75 as of late 2024. In some positive news, as of September 24, 2025, China had approved 79 imported online games in 2025, indicating a notable pickup versus 2024's pace. However, only nine of those are from U.S. publishers, a significant underrepresentation of the contribution of U.S. game publishers to

the global video game market. Overall, parity with domestic approvals has not yet been reached. China should increase the number of approvals for foreign video games to match the number of domestic approved video games and ensure games originally published by U.S. producers or adapted from U.S. IP have equal access to the Chinese market.

- **End China's burdensome content review regime for books intended for other markets, lift content review procedures for imported physical sound recordings, and avoid instituting troublesome regulations for online games.**

Censorship of the U.S. creative industries by the Government of China not only blocks access into China, but also impacts the content brought to the worldwide marketplace. For example, China appears to extend its content review regime even to books merely being printed in China but otherwise intended for distribution in other markets. Books that were previously printed in and exported from China without issue now appear subject to the more stringent application of the regime. Extending the reach of its burdensome content review regime to books merely being printed in the country but otherwise intended for distribution in other markets places an arbitrary and unjustified discriminatory burden on foreign publishers, that, for decades, have used printing partners in China, and is arguably a disguised restriction on international trade.

Additionally, sound recordings that are imported into China in a physical format are required to undergo a strict content censorship procedure, comply with a series of formalities, and receive approval before distribution in the market. These requirements should be removed.

Finally, in December 2023, China's National Press and Publication Administration (NPPA), the primary regulator for video game publication, approval, and supervision, released for public comment a proposed bill entitled *Measures for the Administration of Online Games*. This draft provides a framework for the establishment of online video game publishing and operating entities, management, and supervision of online video games. It reflects the Chinese government's heightened and detailed oversight of online video games, emphasizing content compliance, protection of minors, and promotion of cultural values. Key provisions include: (1) extended license review period; (2) video game license management; (3) video game mechanics and monetization restrictions; (4) loot box controls; (5) beta testing requirements; (6) digital payment system requirements; (7) cultural content promotion; (8) enhanced penalty framework; (9) domestic server and storage requirements; and other requirements. While the video game industry actively supports the goals of online safety and digital wellness, these proposed regulations and burdensome licensing requirements may unfairly impact IP rights holders by targeting the business models that many video game companies have come to rely on. It is imperative that this proposal not place an undue burden on the video game industry, including by creating vacuums that can be filled with demand for pirated games.

- **Repeal additional impediments to China's market for U.S. audiovisual content.**

China continues to introduce additional impediments to its market for U.S. audiovisual content, limiting the U.S. creative industry's ability to fully access and compete fairly and inhibiting its potential growth in this massive and fast-growing market. In June 2022, the NRTA issued a new system of administrative licensing for domestic online audiovisual works, essentially applying the same censorship rules and standards for offline (theatrical) and online (VOD) content. The issuance of the new administrative licensing requirement formalizes the obligation for online audiovisual works, although the restrictive practice has been in place since 2019. Furthermore, imported films with public screening permits are now required to be resubmitted for online distribution approval, which means a second content review and further delays. This reflects a further tightening of government oversight and the push for a higher censorship standard for the online content industry in China.

In 2014, government-imposed rules capping the online distribution of foreign films and TV dramas at 30% and requiring online distributors to register content, obtain permits, and submit content for review, resulted in extended delays and further uncertainty. Furthermore, because there are only two opportunities to submit content for registration

and review per year, U.S. producers are unable to submit a full season of a television series when that season is current due to the nature of television production. Foreign titles that have already premiered in the home country must have a rating score of above six out of ten on online platforms like Douban or IMDb before submission. These policies have significantly curtailed the number of U.S. film and television programs licensed in China for online distribution, and in practice, further reduced the foreign content caps to significantly less than 30%. Bans or caps on U.S. content in China create a vacuum of demand that can be filled by pirated content, as unauthorized content remains freely accessible without such restrictions, which damages investment in the Chinese creative sector.

In September 2018, the NRTA proposed two draft regulations expanding the 30% cap for online distribution of foreign audiovisual content to broadcasting and applying the cap on a genre basis to film, TV, animation, documentaries, and "other" programs. While these regulations have not been officially promulgated, provisions to further tighten the content review process for imported content have been implemented, and IIPA is concerned that industry-wide application of the genre-based restrictions began in early 2020, in particular for animation, further exacerbating the uncertainty and uneven playing field faced by U.S. audiovisual companies.

The 2016 *Online Publishing Rules*, which were intended to promote domestic Chinese radio and television programs at the expense of foreign content, have negatively impacted U.S. producers and appear to contravene China's WTO obligations. A March 2016 Notice allowing refunds from the Film Development Fund to cinemas that report favorable annual box office receipts from the screening of Chinese films incentivizes cinemas to screen more Chinese domestic films, further disadvantaging the competitiveness of foreign films in the Chinese market. Another obstacle for U.S. producers in China is that private Chinese distributors, including VOD platforms, arbitrarily, without clear explanation, request from U.S. producers an excessive and particularly burdensome amount of legalized documentation regarding production and distribution to complete a license agreement or obtain government approvals that permit access to China's online marketplace. These types of documentation requests (unique to China's marketplace) cause uncertainty and additional expense that slow or kill negotiations for licensing films to China. However, China's recent accession to the Apostille Convention on November 7, 2023, a welcome development, is expected to ease burdens for rights holders who suffered from previous documentation requirements. IIPA is closely monitoring the rollout of the Apostille Convention in China, particularly considering the inconsistent application of still-present legalization requirements in certain types of enforcement actions. For example, in a recent case where four China-based manufacturers were accused of exporting infringing video game controllers abroad, a Chinese court was unwilling to accept properly legalized foreign evidence stemming from the seizure of the infringing controllers by Belgian customs officials, where the evidence identified the manufacturers as the source of the infringing controllers.

In July 2023, the revised Anti-Espionage Law, originally introduced in November 2014, came into effect. The revisions significantly broaden the scope of what constitutes "espionage" and grant relevant authorities enhanced powers to investigate and prosecute suspected espionage activities. Many provisions in the revised law were previously included in existing regulations, such as the Anti-Espionage Law's Implementing Rules from 2017, which outlined enforcement procedures; and the Provisions on Anti-Espionage Security Precautions from 2021, which have largely been integrated into the updated law. The consolidation of these amendments into a single, powerful Anti-Espionage Law with broad applicability is significant. The most significant change is the expanded definition of "espionage," which now encompasses the collection, storage, or transfer of any information deemed to be relevant to national security interests, including "documents, data, materials, or items." This definition was previously limited to classified information and state secrets. Such a broad interpretation could lead to uncertainties even in the context of friendly collaborations, including when foreign investment is permitted, such as in online music services. For example, Chinese companies may now be unwilling or cautious to share with potential foreign investors key financial or business-related information that would be considered necessary to establish a joint partnership.

- **Adopt a voluntary, age-based classification system to help eliminate disparate treatment of U.S. content and ensure that China's content review process is transparent, predictable, and expeditious.**

Chinese distributors have delayed or decreased licensing activity through multiple layers of restrictions under a non-transparent content review system, significantly delaying and limiting Chinese consumers' ability to access the most valuable current U.S. television content within a reasonable period of the U.S. release, which has created fertile ground for increased piracy. To help ensure the content review process is transparent, predictable, expeditious, and does not have a disparate impact on U.S. content, China should adopt a voluntary, age-based classification system or at least provide transparency as to the criteria used by content approval authorities and clear, predictable timelines. China should also shorten the time for content review to provide certainty of release, increase the frequency of content review windows, remove the burden of resubmitting film and television programs that have already been approved, and establish a fast-track system for content review under special circumstances. Such a system will attract investment and boost China's potential as a regional film and television production hub.

COMPLIANCE WITH EXISTING OBLIGATIONS TO THE UNITED STATES

As noted above, China is still not in full compliance with the WTO's market access case (DS 363). Many of the market access barriers discussed above raise concerns under China's international obligations, including under the General Agreement on Trade in Services (GATS), TRIPS Agreement, and the Phase One Agreement (including Article 1.2 to ensure fair and equitable market access to persons that rely upon IP protection). In terms of copyright protection and enforcement, the deficiencies outlined above regarding criminal enforcement procedures (e.g., thresholds that are too high or unclear, uncertainties regarding increased penalties against repeat offenders) are inconsistent with enforcement obligations under TRIPS, including Articles 41, 42, and 61. Finally, China must follow through on commitments it has made in other bilateral engagements, including the Phase One Agreement and prior commitments, specifically addressing many of the issues discussed above, including full implementation of the U.S.-China Film Agreement, enhanced enforcement against PDs, improved enforcement against online piracy, and enhanced protection of academic journals, including strengthening library copyright protection.

INDIA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that India remain on the Priority Watch List in 2026.[1]

Executive Summary: In 2025, despite positive developments to combat online piracy through court orders disabling access to piracy sites, the promise of continued growth for the creative industries in the Indian market continues to face threats from a variety of factors. Rampant piracy remains a significant concern and criminal enforcement against Internet piracy continues to be challenging at both the national and state levels. In addition, rights holders continue to face serious concerns from pirate cyberlockers and infrastructure providers that provide Piracy-as-a-Service (PaaS) to pirate operators. While criminal enforcement in India is broadly inconsistent, civil orders to disable access to infringing sites and services by the Delhi High Court, including global domain suspensions, have had some positive impact and should be replicated nationally. However, implementation by the Internet service providers (ISPs) of website blocking orders passed by the Delhi High Court remains a challenge and needs tightening in terms of timelines as some ISPs are not quick in implementing such orders.

India's copyright legal framework is still missing key provisions, including with respect to technological protection measures (TPMs), rights management information (RMI), and a term of copyright protection to match the international standard of at least 70 years. The Government of India should also pursue the necessary legal reforms to fully implement the World Intellectual Property Organization (WIPO) Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively, the WIPO Internet Treaties).

Finally, among a range of problematic market access barriers under consideration, the Government of India, during the World Trade Organization (WTO) Ministerial in March 2024, threatened to block the renewal of the WTO e-commerce moratorium on customs duties for electronic transmissions and should be discouraged from taking the same position going into the next Ministerial in 2026. Stronger enforcement against piracy, an enhanced copyright legal framework, preventing over-broad copyright exceptions and their misuse to avoid obtaining copyright licenses, and the removal of burdensome market access barriers could transform India into a more attractive business environment for all creative industries.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Address national intellectual property (IP) enforcement through the Indian Cybercrime Coordination Center (I4C).
- Establish uniform state-level IP enforcement procedures and dedicated IP enforcement entities across the country and strengthen existing state-level IP enforcement entities.
- Ensure the speedy takedown of infringing content through the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 (2021 IT Rules).
- Effectively enforce the Cinematograph (Amendment) Act, 2023 to criminalize camcording and the unauthorized transmission of films online.

Legal Reforms

- Amend the Copyright Act to fully comply with the WIPO Internet Treaties and align with international best practices.

[1] For more details on India's Special 301 history, see previous years' reports, at https://iipa.org/reports/reports-by-country/. For the history of India's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

- Reform the 2021 IT Rules, particularly if India proceeds with its proposed Digital India Act (DIA), to improve efforts to stop online piracy.
- Ensure legislative proposals related to artificial intelligence (AI) meet the standards set forth by the G7 Hiroshima AI Process and oppose the recommendation for a statutory license and mandatory collective management of copyrights in works and sound recordings used to train AI models.
- Continue to reject any proposals that would extend the Copyright Act Section 31D statutory license to Internet transmissions and consider repealing the statutory license provisions completely.
- Reject any legislative proposal for an additional statutory remuneration right for performers affecting contractual freedom and disrupting well-tested licensing practices.

Market Access

- Eliminate local body entertainment taxes imposed over and above the national Goods and Services Tax.
- Support the permanent extension of the WTO e-commerce moratorium on customs duties for electronic transmissions at the 2026 WTO Ministerial Conference (MC) 14.
- Remove onerous sets of economic regulations on the broadcast sector.
- Provide commercial certainty in the statutory licensing and rate-setting process in India, including Section 31D Royalty Rates.
- Re-register Phonographic Performance Limited India's operating license to ensure the proper collective management of producers' "performance" rights.
- Remove Direct to Home Guidelines that prohibit operators from entering exclusive contracts with any broadcaster.
- Remove foreign ownership restrictions, including foreign direct investment restrictions for Indian news channels.
- Reject calls to mandate providers to pay a network usage fee to ISPs.

ENFORCEMENT

India is hindered by widespread piracy and a challenging enforcement environment. Stream ripping is one of many rampant forms of piracy in India. Another form, downloading pirated music content directly from websites, includes one of the most popular illicit MP3 music download sites, *Pagalfree.com,* receiving over 92% of its traffic from India. Other popular unlicensed download sites include *masstamilan.dev* and *pagalnew.com* both of which are receiving the highest levels of traffic from India. In addition to unlicensed user-uploaded content (UUC) applications, mobile application piracy is an issue, with the rising popularity of stream ripping and MP3 download apps appearing in the Indian top charts of the major app stores. Infringing apps are also 'side-loaded' for unauthorized app stores, which can also pose a security risk.

As court orders out of the Delhi High Court have made inroads in traditional movie and TV piracy sites, other forms of piracy, such as those targeted at *anime* and *manga* content, have taken hold in India. Of the top 25 piracy sites available in India today (excluding music), ten (40%) are pirate *anime* sites and another seven are pirate *manga* sites. With two more sites devoted to local content, less than 30% of the top sites are focused on U.S. movies, TV, and streaming content. This can be said to be at least in part attributable to the consistent orders being made by the Delhi High Court to disable access to all the top pirate film, TV, and streaming sites. A positive development appears to be the active enforcement efforts of the Telegu (Hyderabad) authorities, based on evidence dossiers prepared by rights holders and spurred by local calls to action. In one case, the Hyderabad police have arrested several individuals involved in pirate brands like *1TamilMV, Tamilblasters*, and *Movierulz.*[2] In a more recent action, the perpetrator behind a piracy site called *Ibomma* was arrested as soon as he landed at Hyderabad Airport and faces potential criminal charges arising from his piracy and online gambling activities.[3] While these promising developments raise hopes that concerted actions can have a positive impact to disrupt the piracy ecosystem, more needs to be done to ensure

[2] See Mahesh Buddi, Hyderabad: Police Bust Nationwide Movie Piracy Racket Funded by Betting Apps; 5 Arrested, The Times of India, September 30, 2025, at https://timesofindia.indiatimes.com/city/hyderabad/police-bust-nationwide-movie-piracy-racket-funded-by-betting-apps/articleshow/124219785.cms.
[3] See Custody of 'Ibomma' Ravi Ends as Police Firm Up Evidence in ₹20 Crore Piracy Probe, November 24, 2025, at https://www.thehindu.com/news/national/telangana/custody-of-ibomma-ravi-ends-as-police-firm-up-evidence-in-20-crore-piracy-probe/article70318289.ece.

deterrence becomes the norm to drive would-be pirates from these damaging activities, which hinder not only rights holders but also negatively impact consumer safety as well.

Further adding to the problem, BitTorrent sites and cyberlockers remain popular. According to *SimilarWeb*, the BitTorrent site *1337x.to* received the second highest level of traffic from India between November 2024 and October 2025, with over 46 million visits during this period, offering users pirated downloads of copyrighted music, film, television, and video games. While cyberlockers such as *Mega* and *1Fichier* received over 98 million and over 22 million visits from users in India, respectively, during the same time period. Mobile device usage and the use of alternative domain name services (DNS) and virtual private networks (VPN) are also in part driving continued piracy in India. Finally, according to the video game industry, in 2024, India ranked third in the world for the number of connections by peers participating in the unauthorized file-sharing of Entertainment Software Association (ESA) member video game titles on public peer-to-peer (P2P) networks. By the same metric, India ranked eighth in the world for unauthorized file-sharing of mobile games, third in the world for PC-based games, and eleventh in the world for console-based games.

Given these significant piracy challenges in India, and that several India-based piracy services have become global exporters of pirated content, IIPA and its members strongly encourage India to take the following priority actions.

- **Address national IP enforcement through the I4C.**

For India to take meaningful action against its growing pirate video hosting and pirate infrastructure services problems, national leadership, backed by strong political will, which can coordinate state-level IP enforcement is needed. This will require a centralized IP enforcement authority that can:

- promote and prioritize inter-state operations of enforcement authorities, including organized crime units, engaged in the investigation of piracy to ensure timely actions and deterrent penalties;
- establish state-level enforcement task forces that are coordinated, systematic, and efficient, including consistent implementation of state-based cybercrime enforcement and related proceedings;
- establish a National Copyright Enforcement Task Force (NCETF), including the Enforcement Directorate and Central Bureau of Investigation (CBI), that is overseen by the Department for Promotion of Industry and Internal Trade (DPIIT) and directed at online copyright infringement, including on mobile devices;
- establish a centralized IP crime unit within the CBI's Cyber Crime Detective Unit;
- train prosecutors and police officers on the seriousness of IP offenses; the sophisticated commercial and technological nature of the pirate criminal enterprises operating notorious piracy sites, and the handling of digital forensic evidence;
- nationally align the penalties for copyright infringement in the Copyright Act with the amended Cinematograph Act;
- enhance cooperation and cross-training between national and state law enforcement agencies and the creative industries; and
- strengthen existing state-level IP crime units, as recommended in the National IPR Policy.

India has shown political will to create strong centralized leadership for criminal enforcement by designating the I4C to serve as the national nodal agency for coordinating cybercrime matters across the country. Recognizing the growing threat of digital piracy, India has included digital piracy as a serious cybercrime. The I4C has appointed nodal officers in each state to act as the primary contacts for reporting cybercrime related referrals to ensure streamlined coordination for investigative and enforcement actions. IIPA and its members have not yet seen concrete action from the I4C but, are closely watching its impact on online piracy in India.

- **Establish uniform state-level IP enforcement procedures and dedicated IP enforcement entities across the country and strengthen existing state-level IP enforcement entities.**

Enforcement against piracy continues to be challenging at the state level: the results are drastically disparate across states, procedures are burdensome for rights holders, and the penalties to date have done little to deter the rampant piracy in India effectively. Certain IP enforcement entities, including some state-level courts, are functioning well, but overall, state-level IP enforcement should be harmonized and enhanced. Namely, the Delhi High Court Intellectual Property Rights Division Rules entered into force in February 2022, followed by similar rules issued in the Madras High Court in April 2023 and in the Kolkata High Court in 2024.[4] These rules establish an IP Division in the respective High Courts to ensure judges hearing IP cases are well versed in intellectual property (IP) laws and practice.

These IP divisions should provide timely and effective interim relief, meaningful enforcement of Court orders issued, and effective case management to ensure that cases progress in a timely manner. In March 2024, a group of plaintiffs filed a lawsuit against *Doodstream* in the Delhi High Court. *Doodstream*, with at least 40 known associated websites (e.g., *doodstream.com*, *doods.pro*, *dood.yt*), is one of the largest illegal video hosting services in the world, receiving massive traffic of at least 2.69B visitors across the various *Doodstream* domains in 2023. While it was encouraging that in May 2024, the Court granted an interim injunction against the operators of *Doodstream*, the domains are still active, and the Defendants have failed to comply with the court's orders as of this submission. The Plaintiffs applied for sanctions for contempt of court and for the seizure of administrative control of the *Doodstream* domains in May 2024 but, these applications have been repeatedly hampered by delays. The case illustrates the importance of granting prompt interim relief as well as effective, meaningful enforcement of the Court's orders once granted to stem ongoing infringement. In cases like Doodstream, there needs to be an effective case management system to ensure that cases progress in a timely manner and are not bogged down by repeated postponements. Costs should be awarded against a party that repeatedly engages in delaying tactics. Indian Courts should fully utilize available procedures (such as contempt procedures) to ensure that interim injunctions against piracy service operators are swiftly and fully complied with and that such piracy services do not continue to operate pending the final resolution of a case. Otherwise, interim relief would not be meaningful.

On the other hand, civil actions at the Delhi High Court to disable access to "rogue" infringing online locations continued to pay dividends in India in 2025, with research proving that these court actions cause users to migrate to legal offerings and showing massive drop-offs in traffic to the sites for which access is disabled. Building on precedent set in *Universal City Studios LLC & Ors v Dotmovies.baby & Ors* (CS(COMM) 514 OF 2023), rights holders now regularly obtain orders that require domain name registrars (DNRs) to "lock" and "suspend" domains as well as provide "details" about the operators. Some 500 domains to date have been suspended or locked, resulting in billions of piracy visits being removed from the Internet. These orders have also been unusually disruptive for pirate operators, e.g., an order from September 2025 and subsequent actions resulted in notorious piracy sites/services like *gimy.ai* (at the time the most popular site in Taiwan) and certain *vidsrc* domains (a PaaS that is responsible for multiple highly popular piracy sites operating worldwide) temporarily going offline (and leading to operator disruptions)); these are being followed up by further actions to disrupt these and other major piracy sites.

In another recent example, a long pending application for a site blocking order against *Sci-Hub* (brought in 2020) finally saw positive development in August 2025, when the Delhi High Court, in connection with a Contempt Application filed because of defendant operator's willful disregard for its undertaking with the court, ordered that access to *Sci-Hub* (some of its mirror sites as well as *Sci-Net* be blocked. The court noted that the remedy "is a necessary and proportionate enforcement measure failure of which may embolden further violations of the plaintiffs' copyright." Unfortunately, the speed with which ISPs have complied with the order greatly varied. Publishers continue to monitor compliance with the order. Additionally, *Saregama*, a leading Indian entertainment IP company, successfully obtained a preliminary injunction targeting over 20 stream-ripping sites in November 2025.

Rights holders have also obtained orders that have the potential to allow for real-time blocking of unauthorized feeds of live sporting events through a combination of blocking and domain suspension and further obtained orders to

[4] The High Courts of Karnataka and Himachal Pradesh are also taking steps to adopt similar rules in their respective High Courts.

block backend domains of piracy apps often used on illicit streaming devices (ISDs). While court fees are high, the establishment of the IP Division of the Delhi High Court can be viewed as a major success for site blocking jurisprudence, buttressing positive precedents even while expert judges rotate in and out of the IP Division.

In relation to intermediaries other than registrars, courts have granted orders against intermediaries which facilitate piracy operations, including e-commerce platforms and application stores. In *Reliance Industries Limited v Pawan Kumar Gupta & Ors.*, (CS(COMM) 675 of 2025), the Court granted Reliance an order that allowed it to request e-commerce platforms to delist future trademark infringements without repeated court intervention. In *Star India Pvt. Ltd. v. IPTV Smarters Pro & Ors.*, (CS(COMM) 108 of 2025), the Indian Court extended blocking relief from rogue websites to rogue mobile applications and their associated domains which are found to be predominantly and flagrantly violating IP rights. These are positive developments, and it remains to be seen what other intermediaries the Courts would be prepared to grant orders against, to disrupt piracy operations. For example, implementation by the ISPs of website blocking orders passed by the Delhi High Court remains a challenge and needs tightening in terms of timelines as ISPs are not quick in implementing such orders. For instance, a judicial website blocking order obtained by Indian Music Industry (IMI) members on 12th January 2023 was only implemented in its entirety by telecommunications companies *Jio* and *Airtel* in July 2023 and May 2023, respectively.

Unfortunately, the positive outcomes mentioned above are rare outside the Delhi High Court. IIPA strongly recommends that similar rules and precedents are emulated in all states, where rights holders continue to have significant challenges. On civil enforcement specifically, these IP divisions should provide (i) timely and effective interim relief; (ii) meaningful enforcement of Court orders issued; and (iii) effective case management to ensure that cases progress in a timely manner. IIPA continues to await further details of how these IP divisions will function.

Additionally, while IIPA commends the establishment of several state-level dedicated IP and cybercrime enforcement entities, such as the Maharashtra IP Crime Unit (MIPCU) active since 2017, their level of engagement is inconsistent, and in some cases have effectively ceased operating. For example, MIPCU's first enforcement action in July 2021 against a pirate service called *Thop TV* remains the Unit's only known significant criminal enforcement action to date. Additionally, the Indian Music Industry (IMI) and other rights holders recently formed a public-private coalition with MIPCU intended to take action against infringing apps, including user-uploaded content (UUC) shortform video apps (a critical form of piracy facing the recorded music industry), but to date has not taken measurable actions.. With the designation of I4C as the national nodal agency for cybercrime, IIPA hopes to see increased coordination and action at the state level.

- **Ensure the speedy takedown of infringing content through the 2021 IT Rules.**

While court directed injunctive relief is having a measurable impact on piracy operations and on driving consumers to legal content, Indian courts have admitted they alone are not the solution to India's rampant piracy. For example, in 2023, the Delhi High Court granted an interim injunction restraining over 12,000 websites on the grounds of unauthorized streaming and broadcasting of cricket matches.[5] Apart from the successful outcome, the Court opined in the judgment that it may be useful for the legislature to formulate a policy to handle such disputes in a manner that does not take up the court's time.[6]

The 2021 IT Rules, updated in April 2023, might have addressed the Court's concerns by making it theoretically possible for pirated content distributed via an intermediary to be removed at an administrative level, without requiring rights holders to involve the courts. However, its implementation in practice and potential impact on piracy levels remains unclear. For example, the 2021 IT Rules require all intermediaries to appoint "Grievance Officers" to

[5] See *Star India Pvt. Ltd v Live4wap.click & Ors.,* Delhi High Court, November 1, 2023, available at https://delhihighcourt.nic.in/app/showlogo/97570320169950787037 4_97025_2023.pdf/2023 ("This Court finds itself inundated with such suits, which keep cropping up every now and then. It may be useful for the Legislature to formulate some kind of a policy by which such disputes can avoid being taking up the time of the courts.")
[6] *Id.*

whom any person, including a user or a rights holder, may make a complaint against certain content being hosted on the respective intermediary, including against infringing content. Upon receiving the complaint, the grievance officer must acknowledge the complaint within 24 hours and address and dispose of the complaint within 15 days, which rights holders report has not been swift enough to prevent damage from piracy and unhelpful for rights holders.[7] IIPA strongly recommends the 2021 IT Rules instead be implemented in a way that encourages the speedy takedown of infringing content.

- **Effectively enforce the Cinematograph (Amendment) Act, 2023 to criminalize camcording and the unauthorized transmission of films online.**

Unauthorized camcording of films is an ongoing challenge for rights holders in India, and criminal referrals to date against suspects have unfortunately not resulted in meaningful steps to deter such activities. The passage of the Cinematograph Bill in 2023 amended the Cinematograph Act of 1952 explicitly criminalizing camcording and the unauthorized transmission of films online.[8] The Parliamentary Standing Committee on Communications and Information Technology, which identified weak enforcement at the state level as the major reason for the proliferation of camcording in India, recommended this change. IIPA urges the Government of India to enforce the Cinematograph Act to address the problem of camcording in cinemas and the unauthorized transmission of films online.

LEGAL REFORMS

- **Amend the Copyright Act to fully comply with the WIPO Internet Treaties and align with international best practices.**

India is a member of the WIPO Internet Treaties but has failed to fully implement its obligations. To fully implement the WIPO Internet Treaties and to align with international best practices, key changes to the Copyright Act of 1957, last amended in 2012, are needed, including:

- While confirmed in recent court decisions, India should codify in its legislation the legal mechanisms that ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities.

- Amend Copyright Rule 75 sub-rule (3), (Chapter XIV) giving intermediaries 36 hours to take down content in line with recommendations to more effectively address the speed of distribution of illegitimate content online.

- Narrow Section 52(1)(c)—This section establishes that "transient or incidental storage of a work or performance for the purpose of providing electronic links, access or integration, where such links, access or integration has not been expressly prohibited by the rights holder, unless the person responsible is aware or has reasonable grounds for believing that such storage is of an infringing copy" is not an infringement of copyright. Instead, the provision should be amended as follows:
  - Eliminate the requirement that rights holders obtain an injunctive court order to prevent infringing content from being reinstated within 21 days of submitting a notice of infringement; and
  - Clarify that service providers mentioned in Section 52(1)(c) must remove or disable access to the copyright infringing content or links to such content expeditiously when (i) the material has previously

[7] See PIB Delhi, Ministry of Electronics & IT, *Three Grievance Appellate Committees (GACs) Notified on the recently amended "IT Rules 2021,* January 28, 2023, available at https://pib.gov.in/PressReleasePage.aspx?PRID=1894258.

[8] The Cinematograph Act, 1952 explicitly criminalizes camcording and makes it unlawful to use an audiovisual recording device to make or transmit an unauthorized copy of a motion picture (in whole or in part, audio or video) while it is being performed in a motion picture exhibition facility and introduced penalties against camcording. This law is a step in the right direction to deter content theft. The Cinematograph (Amendment) Act also imposes penalties higher than those specified in the Copyright Act, 1957. Camcording will now be punishable by imprisonment of between three months to three years and a fine of between INR 3 lakhs (US$3,640) to up to 5% of the audited gross production cost.

been removed from the originating site or access to it has been disabled; and (ii) the party giving the notification includes a statement confirming that the material has been removed from the originating site or access to it has been disabled, not only when a court orders it.

- Regarding Section 65A—Article 11 of the WCT and companion language in, Article 18 of the WPPT require Contracting Parties to provide "adequate legal protection and effective legal remedies against the circumvention of effective technological measures." These articles establish a right against unauthorized access that is independent from acts of traditional copyright infringement. To fully comply with these requirements, the following amendments are necessary:
  - Define the phrase "effective technological measure" to expressly cover common TPMs, including access and copy controls;
  - Expressly prohibit the manufacturing, importing, trafficking, and dealing in circumvention devices and software, as well as the provision of circumvention services and devices;
  - Establish civil and criminal sanctions for acts of circumvention, trafficking in circumvention devices and software, and offering circumvention services; and
  - Lower the burden of proof on rights holders to prove malicious intent of the person circumventing TPMs in order to establish a nexus between an act of circumvention and copyright infringement.

- Provide deterrent level civil and criminal penalties for violating TPM provisions and for the unauthorized removal of RMI.

- Provide legal remedies against PaaS, including clarifying that enabling, with knowledge, piracy sites and services is actionable. This is especially important because India is home to several pirate infrastructure providers that provide the backbone for piracy turn-key solutions that are used worldwide, such as *WHMCS Smarters.*

- Narrow the scope of the overbroad and vague exception in Section 65A(2)(a), namely "doing anything referred to therein for a purpose not expressly prohibited by this Act."

- Section 52(1)(b), which establishes that the transient or incidental storage of a work in the technical process of an electronic transmission or communication to the public is not an infringement of copyright should be narrowed to ensure it is limited to lawful sources.

- Regarding Chapter V—As applicable, increase the standard term of protection from life of the author plus 60 years, to life of the author plus 70 years to meet contemporary international standards of protection, and increase the term of protection for sound recordings and films from 60 to at least 70 years accordingly (The current 60 years is shorter than the term of protection in the United States, the EU, and at least 73 countries worldwide).

- Regarding Section 39A—This section appears to impose contractual limitations for authors established in Sections 18 and 19 on the ability of performers to decide the terms on which to license or transfer their exclusive rights in sound recording agreements. These limitations result in unreasonable changes to established practices in the recording industry. Section 39A does make clear that Sections 18 and 19 shall be applied to performers' rights "with necessary adaptations and modifications." India should eliminate the over-regulation of private contracts involving sound recordings.

- Regarding Section 52(1)(a)—Ensure the private use exception is compatible with the three-step test codified in the Berne and WTO TRIPS agreements and the WIPO Internet Treaties.

- Repeal the unjustifiable exception in Section 52(1)(za) of the Copyright Act, which provides for an exception to sound recording producers' and other rights holders' right of public performance in respect of "the performance of a literary, dramatic or musical work or the communication to the public of such work or of a sound recording in the course of any bona fide religious ceremony or an official ceremony held by the Central government or the State government or any local authority" (i.e., "social festivities associated with a marriage"). Although it is common for national laws to include limited exceptions for the use of certain copyrighted works in religious ceremonies, this exception extends to purely social festivities associated with a marriage ceremony, which are customarily subject to the public performance right. Importantly, the issuance of government circulars falsely interpreting Section 52(1)(za) has been misused by users to avoid obtaining permission from rights holders for the public performance of music.

IIPA urges the Government of India to amend the Copyright Act to fully comply with the WIPO Internet Treaties and to ensure that any ongoing review of copyright law and legislation relating to online liability is used as an opportunity to bolster, not weaken, existing IP protections.

- **Reform the 2021 IT Rules, particularly if India proceeds with its proposed DIA, to improve efforts to stop online piracy.**

On February 25, 2021, the Ministry of Electronics and Information Technology (MeitY) introduced the 2021 IT Rules, extending the scope of accountability and obligations on intermediary platforms. Unfortunately, the Rules did not improve India's inefficient notice and takedown regime. For example, Rule 3(1) of the 2021 IT Rules directs ISPs to take down infringing content upon being notified by an appropriate government authority. Unfortunately, the 2021 IT Rules also provide a 36-hour deadline for removal, which is too long for infringing content to remain on the Internet, particularly if the content is unlawfully made available prior to its official release date. There is a clear need for the introduction of a faster procedure to address copyright infringement and online piracy.

To resolve the situation with the online liability regime, the Indian government should use the ongoing introduction of the DIA to amend Section 79 of the IT Act and corresponding IT Rules to ensure that Indian content creators and content owners are fairly rewarded and that the legal framework in India supports the sustainable growth of the digital content market, instead of shielding copyright infringing services in India. In doing so, the Indian government should (i) limit safe harbor protection to passive and neutral intermediaries that do not contribute to infringing activity; (ii) implement measures demonstrated 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 ISPs) rather than leaving such decisions to the sole discretion of ISPs as provided under the existing draft..

- **Ensure legislative proposals related to AI meet the standards set forth by the G7 Hiroshima AI Process and oppose the recommendation for a statutory license and mandatory collective management of copyrights in works and sound recordings used to train AI models.**

India has neither a specific exception in its copyright framework for AI training nor an open-ended U.S.-style 'fair use' exception. Instead, it has a closed list of specific copyright exceptions, considered to fall within its "fair dealing" framework. On this basis, India's copyright framework requires authorization for use of copyright works for training, although AI companies are trying to expand the scope of existing exceptions (e.g., by claiming that AI training falls under the fair dealing research exception). Recently, DPIIT established a committee working group to consider AI and copyright issues and propose recommendations. On December 8, 2025, that committee issued a Working Paper on Generative AI and Copyright Part 1 entitled *One Nation, One License, One Payment; Balancing AI Innovation and Copyright*, which recommended a deeply problematic statutory license, combined with mandatory collective

management of rights, on copyrighted works and sound recordings for use in the training of AI models. There is no need to make this drastic change to the copyright framework in India. That framework is already well-equipped to accommodate the development of new technologies such as generative AI. As India looks to possibly regulate AI, IIPA strongly encourages the Government of India to look to the G7 Hiroshima AI Process, which has set forth important rules of the road for the development of AI systems.

For example, the International Code of Conduct for Organizations Developing Advanced AI Systems includes the following: "Organizations are encouraged to implement appropriate safeguards, to respect rights related to privacy and intellectual property, including copyright-protected content." [9] The International Guiding Principles for Organizations Developing Advanced AI Systems includes the following principle: "Implement appropriate data input measures and protections for personal data and intellectual property." [10] In the June 17, 2025, G7 Leaders' Statement on AI for Prosperity, the G7 Leaders indicated they would "leverage the outcomes of the Hiroshima AI Process (HAIP) to foster trust." [11] The Leaders further committed to "[p]romote economic prosperity by supporting SMEs to adopt and develop AI that respects personal data and intellectual property rights, and strengthen their readiness, efficiency, productivity and competitiveness" and stated, "We recognize the need to respect intellectual property rights in enabling these efforts."[12] India should also provide meaningful stakeholder engagement and due process regarding this type of work, including by affording adequate opportunity to review and comment on legislative and regulatory proposals governing copyright and AI.

- **Continue to reject any proposals that would extend the Copyright Act Section 31D statutory license to Internet transmissions and consider repealing the statutory license provisions completely.**

Following the 2012 revision to the Copyright Act which created a statutory license for the use of musical works and sound recordings for radio and television broadcasting, DPIIT drafted a 2016 Office Memorandum that sought to extend the Section 31D statutory license to Internet transmissions. Uncertainty about the scope of Section 31D remained even after two Bombay High Court decisions clarifying that Section 31D applies only to television and radio broadcasting and not Internet transmissions. On August 21, 2024, DPIIT officially withdrew its 2016 Memorandum, lifting significant uncertainty on this issue. However, a 2021 report titled "*Review of the Intellectual Property Rights Regime in India*" published by the Parliamentary Standing Committee on Commerce still recommends the Indian government amend Section 31D of the Copyright Act 1957 to incorporate 'Internet or digital broadcasters' under statutory license. IIPA encourages the Government of India to continue to reject any proposals that would extend the Section 31D statutory license to Internet transmissions and consider repealing the statutory license provisions completely as their objective was to nurture the nascent private FM radio industry, which has now matured with 388 private radio channels across the country.

- **Reject any legislative proposal for an additional statutory remuneration right for performers affecting contractual freedom and disrupting well-tested licensing practices.**

The Indian Singers and Musicians Rights Association ("ISAMRA"), a collective management organization (CMO), has long claimed an additional right to remuneration for performers from end-users despite rights assigned to the producers. After a ten-year period of litigation and negotiation, the Indian Music Industry reached an agreement with ISAMRA, through which ISAMRA will receive a share of industry public performance revenue and ISAMRA will drop all existing claims against users and refrain from making new ones, for any use of their performances recorded

[9] See Hiroshima Process International Code of Conduct for Organizations Developing Advanced AI Systems, p. 8, available at https://www.mofa.go.jp/files/100573473.pdf.

[10] See Hiroshima Process International Guiding Principles for Organizations Developing Advanced AI System, p. 5, available at https://www.mofa.go.jp/files/100573471.pdf.

[11] See G7 Leaders' Statement on AI for Prosperity, June 17, 2025, available at https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf.

[12] See G7 Leaders' Statement on AI for Prosperity, June 17, 2025, available at https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf.

by the signatory labels. ISAMRA will indemnify the signatories against claims by individual performers, ISAMRA members as well as non-members. At the end of April 2023, Trade and Industry Minister Goyal issued a press statement supporting the accord. However, discussions about additional remuneration rights continue, including at the WIPO Standing Committee for Copyright and Related Rights (SCCR). IIPA encourages the Government of India, including its delegation to the WIPO SCCR, to not adopt WIPO proposals that seek to support work on additional remuneration rights.

MARKET ACCESS

- **Eliminate local body entertainment taxes imposed over and above national Goods and Services Tax.**

In 2017, India rolled out a unified Goods and Services Tax (GST) nationwide. Cinema tickets are subject to a GST rate of between 12% and 18%, depending on ticket price. Effective October 1, 2021, the GST rate for "content licensing, right to broadcast and show original films" is taxed at a single rate of 18%. However, Local Body Entertainment Taxes (LBETs) collected by state governments have been left out of the GST, prompting state governments (e.g., Tamil Nadu and Kerala) to attempt to tax entertainment products (particularly cinema tickets) on top of GST. LBETs significantly increase the tax cost for exhibitors and work against the principle of "One Nation, One Tax" and the intent of the GST model (i.e., to remove a patchwork of high, differing tax regimes). Most recently, in July 2024, despite opposition from local industry, the State Government of Karnataka unanimously passed the Cine and Cultural Activists (Welfare) Bill, 2024 which imposes a 2% excess tax levied over and above the base tax liability of a taxpayer on all movie tickets and over-the-top (OTT) subscriptions in the state. The Karnataka Bill has been notified, although it has not been implemented as of December 2025. IIPA urges India to subsume all local taxes on cinema tickets into the national GST system.

- **Support the permanent extension of the WTO e-commerce moratorium on customs duties for electronic transmissions at the 2026 WTO MC 14.**

The Government of India has consistently expressed reservations regarding the renewal of the WTO e-commerce moratorium on customs duties for electronic transmissions. In April 2025, Minister for Commerce and Industry Piyush Goyal said that India was not against the renewal "per se," but was pushing for greater clarity around the definitions of e-commerce. Without this moratorium, customs duties would likely raise prices for consumers, placing India out of step with regional and international best practices and stifling the growth of India's expansive market for creative digital content and related services. IIPA urges the Government of India to support a permanent extension of the WTO e-commerce moratorium going into the next WTO MC 14 in 2026.

- **Remove onerous sets of economic regulations on the broadcast sector.**

The Government of India regulates the uplink and downlink of satellite signals beaming into India. Foreign broadcasters are required to set up offices in India licensed by the government and must pay prescribed fees per channel beaming into India. More generally, India's Telecom Regulatory Authority (TRAI) imposes an onerous set of economic regulations on the broadcast sector, thus stifling innovation and hindering competition. For example, TRAI has issued tariff orders that prescribe price ceilings for channels that broadcasters bundle into bouquets and then charge to consumers (these orders were upheld by India's Supreme Court in 2018), creating regulatory uncertainty around pricing of pay-TV channels. Despite some helpful moves in late 2022, TRAI has not done away with prescriptive pricing and packaging restrictions and has not moved towards forbearance despite several requests from content providers and broadcasters. Despite the lifting of many foreign direct investment restrictions in 2015, the government's attempt at price controls and prescriptive economic regulations reduces the sector's competitiveness to attract foreign direct investment (FDI). IIPA urges the Indian government to remove these regulations.

IIPA also encourages the Government of India to carefully consider the impact of forthcoming bills, such as the DIA, the National Broadcasting Policy, and the Broadcasting Services (Regulation) Bill, on the industry, as well as the interaction between these bills. If industry and other relevant stakeholders, including within government, are not consulted widely, such bills could create ambiguity for industry, impede ease of doing business, and stymie the development of a dynamic and durable broadcast sector and creative economy.

- **Provide commercial certainty in the statutory licensing and rate-setting process in India, including Copyright Act Section 31D Royalty Rates for Radio Broadcasts.**

On December 31, 2020, the Indian Intellectual Property Appellate Board (IPAB) handed down its decision on the Copyright Act Section 31D royalty rate to be paid by commercial radio stations for the broadcasting of sound recordings and the underlying works. While the decision set new "needle hour" rates that increased the rate from the existing rate of 2% of the net advertising revenue rate, it still undervalues the rights in question. In February 2021, various tribunals in India were dissolved, including the IPAB, and its powers and duties were transferred to the High Courts and Commercial Courts (including related to copyright matters). The IPAB's decision was therefore appealed to the New Delhi High Court where the case remains pending. The process highlights a fundamental problem with the speed and lack of commercial certainty related to the statutory licensing and the rate-setting process in India. The recording industry's priority is to secure a rate that represents the economic value of the use of sound recordings to broadcasters.

- **Re-register Phonographic Performance Limited India's operating license to ensure the proper collective management of music producers' "performance" rights.**

Phonographic Performance Limited (PPL) India has been seeking to be re-registered as a CMO since 2018, following a fundamental reform of its governance and management structures. The lack of accreditation for PPL as a registered CMO in India is causing confusion in the market and, worse, encourages users to avoid seeking licenses for their uses of recorded music. In the meantime, the Recorded Music Performance Ltd. (RMPL) remains the only registered copyright society for sound recording works and has been in operation for almost two years. However, RMPL still constitutes less than one percent of the total sound recording repertoire in the Indian recorded music market. Following the initial and unexpected denial of its registration by DPIIT, PPL has approached the Delhi High Court asking the court to vacate the DPIIT decision. The case remains pending; however, DPIIT should reconsider its decision on its own initiative and re-register PPL, which represents the majority of domestic and international music rights in India.

- **Remove Direct to Home Guidelines that prohibit operators from entering exclusive contracts with any broadcaster.**

The Direct to Home (DTH) guidelines, issued by TRAI, prohibit DTH operators from entering exclusive contracts with any broadcaster. The rules also prohibit DTH operators from carrying signals of any broadcaster who has entered any exclusive contracts with any distribution medium, and/or against whom any litigation is pending in such regard. These regulations limit choice and undermine competition laws.

- **Remove foreign ownership restrictions, including foreign direct investment restrictions for Indian news channels.**

Although India in recent years has raised the FDI cap for Indian news channels from 26% to 49%, foreign investments above 49% for news channels require government approval. Further, FDI in digital news sites is restricted to the earlier 26% limit. Helpfully, the Indian government has since clarified that the 26% cap does not apply to OTT platforms, so those platforms can carry news from any news channel that has uplinking/downlinking permission, eliminating the need for FDI approval for hosting news feeds.

- **Reject calls to mandate providers to pay a network usage fee to ISPs.**

ISPs in India have publicly called for content providers to pay them a network usage fee. The 2023 Telecommunications Act does not expressly include content providers (e.g., OTT/VOD service providers) within its scope, leaving the commercial relationship between content providers and ISPs to market dynamics. However, some ISPs and trusted service providers continue to call for network usage fees and the Department of Telecommunications/TRAI's intervention in the OTT market, even though such proposals would restrict trade and freedom of contract; these calls continue as of November 2025. Rather than pursue such harmful policies, a balanced approach would instead safeguard consumer choice and foster innovation.

INDONESIA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Indonesia remain on the Priority Watch List in 2026. 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 in remedying the deficiencies identified below.[1]

Executive Summary: Indonesia's stated goal to become a regional hub for the creative industries is hampered by its failure to take criminal actions against the well-known and well-established online piracy syndicates based in Indonesia and the country's growing market access restrictions. Online piracy remains a serious concern. While government agencies' recent efforts to disable access to piracy sites, including blocking the backend domain of the notorious piracy sites, have sped up over the past couple of years, cases can be hindered by staff shortages and overly burdensome formalities. Moreover, the complete failure to bring criminal enforcement actions and deterrent penalties against commercial-scale online piracy services remains the major enforcement hurdle.

Indonesia has commenced a process to revise its Copyright Law; IIPA urges that any revisions must be in line with international commitments and best practices and not weaken copyright protections. 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. IIPA remains concerned about Indonesia's previous threats to impose customs duties on electronic transmissions and opposition to extending the WTO e-commerce moratorium. However, IIPA welcomed the July 2025 Joint Statement on Framework for United States-Indonesia Agreement on Reciprocal Trade where Indonesia committed to support the permanent extension of the moratorium. Finally, IIPA expresses its grave concerns over the government's recent proposed amendments to the Copyright Law and CMO regulations, which would maintain country's ineffective and byzantine collective management structure and impose mandatory collective management of rights in musical works and sound recordings, including for digital rights and services.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Bring criminal enforcement actions, with deterrent penalties, against the major commercial-scale digital piracy syndicates currently operating freely in Indonesia.
- Further expedite and reduce formalities for 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 theatrical 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 piracy devices (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.

[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/2026/01/Appendix-C-FINAL-2026.pdf.

Market Access

- 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 the permanent extension of the WTO e-commerce moratorium on customs duties for electronic transmissions at the 2026 WTO Ministerial Conference (MC) 14 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

Digital piracy in Indonesia remains a serious concern. Stream ripping remains the most popular form of music piracy, with websites such as *Savefrom.net*, *YTmp3.mobi,* and *Y2mate.nu* leading the pack. According to data from *Similarweb* over the last 12 months (December 2024 to November 2025), *Savefrom.net* received its highest level of traffic from Indonesia with over 25% of traffic to the site. *YTmp3.mobi* also received its highest level of traffic from Indonesia with over 80% of traffic. The second highest level of traffic to *Y2mate.nu* was from Indonesia with over 12% of traffic. Further, Indonesia is a hub for operators of music piracy sites. It is believed to be the home of the operators of popular stream-ripping site, *YTMP3.MOBI* and linking sites which make available unauthorized downloads of music content, including sites such as *JPFILES.SE* and *ILKPOP.IN* which specialize in Japanese and Korean repertoire. 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 home to well-known and established online piracy syndicates. These criminal groups, who are behind piracy sites such as *LK21*, *Idlix*, and *Nonton*, continue to operate freely by routinely "hopping" domains or through hundreds of copycat domains or IP address. While the administrative process of disabling access to these sites works well, without criminal enforcement as a follow-up, these online piracy syndicates persist. Additionally, the notorious piracy app, *LokLok*, remains a significant problem for the audiovisual industry. The Indonesian government should be lauded for their disruptive 2025 actions in blocking backend domains of *LokLok* and successor apps, thus forcing operators to rebrand and move most services behind a paywall. However, a more coordinated cross-border enforcement effort will be needed to shut down the operators of *LokLok* for good. *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 variably altering the availability of content based on region. Additionally, Indonesia is also a major exporter of piracy. For example, *Goojara.to*, and its associated active domains, suspected to be operated out of Indonesia, received a total global traffic of 620.2 million visits in 2024.

Given these significant piracy challenges in Indonesia, IIPA and its members strongly encourage the Government of Indonesia to take the priority actions identified below.

- **Bring criminal enforcement actions, with deterrent penalties, against the major commercial-scale digital piracy syndicates currently operating freely in Indonesia.**

The lack of criminal enforcement actions against well-established online piracy syndicates based in Indonesia has undermined the creative industries in Indonesia and around the world. Many of the local syndicates, such as *LK21* and *Nonton,* have been around for many years and continue to operate despite consistent enforcement efforts. This

environment has also become conducive to the growth of new illegal streaming sites, such as *Idlix*. Levels of online piracy are unlikely to decrease unless the government takes meaningful criminal enforcement action against the owners/operators behind these syndicates. In fact, Indonesian government officials told rights holders representatives this year that they could not remember a single criminal conviction on copyright piracy over the past five years. The syndicates' protection from criminal prosecution has not only polluted Indonesia's population with a wide range of available pirated content but has also exposed these same consumers to significant cybersecurity risks from the rampant piracy services that these same syndicates are certainly leveraging for illicit gains. These syndicates are well known to be participating in other illicit conduct in Indonesia, such as illegal online gambling. Criminal enforcement procedures in general are also extremely slow and opaque, with many cases stalling with limited information provided. There is significant room for improvement in communications from authorities regarding the status and progress of cases.

Until Indonesia takes purposeful criminal actions, with deterrent penalties, against these three criminal piracy syndicates, Indonesia has no hope to stop its piracy epidemic. Since these piracy services are allegedly located in Indonesia and uniquely consolidated, targeted criminal actions against these syndicates could have immediate consequences to remove commercial-scale piracy from the Indonesian market and drive consumers to legitimate and safe sources of creative content. However, the lack of any criminal prosecution of content piracy crimes over the past five years questions whether the lack of capacity or political will is the driving force behind this inexcusable lack of action against these targets. If capacity is the concern, Indonesia should also increase the capacity and training of its enforcement officials, who generally lack familiarity in investigating and handling digital forensic evidence, including the ease with which pirates are able to use anonymizing software and infrastructure to generally evade detection. 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 to encourage consumers to migrate to legitimate offerings. The blocking of the *LokLok* backend domains in 2025 is a good example of how capacity building can lead to positive results and impacts. We look to the Government of Indonesia, who we thank for their support, to facilitate and encourage more of the same against these criminal syndicates.

- **Further expedite and reduce formalities for enforcement actions under the Copyright Law and Regulation Nos. 14 and 26 of 2015 to disable access to piracy sites and domains.**

The Government of Indonesia continued to make efforts in 2025 to improve enforcement actions under the Copyright Law and Regulation Nos. 14 and 26 of 2015 to disable access to piracy sites and domains. This included disabling access to the backend domains operating the notorious piracy app known as *LokLok*, However, the app was then replicated by three additional apps, and it will be incumbent on the government to block these replicas to have any permanent and meaningful impact on the piracy ecosystem. Additionally, rights holders applaud *Direktorat Jenderal Kekayaan Intelektual* (Directorate General of Intellectual Property, DGIP) and *Kementerian Komunikasi dan Digital* (Ministry of Communication and Digital Affairs, KOMDIGI) for their willingness to seek solutions to tackle new piracy technologies including piracy app infrastructure under the existing regulations, but continue to ask the government to address the root of the problem by taking more coordinated enforcement actions against syndicates such as those running the *LokLok* and related apps.

While DGIP has shown a commitment to swiftly providing orders to disable egregious piracy sites, some actions may not always be subject to strict timelines which can cause delays at certain times of the year and can often require burdensome evidentiary requirements. Understaffing at DGIP is also a problem, including cases coordinated through Interpol's Stop Online Piracy initiative. Pirates have also 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 for search engine results), 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. This reemphasizes the need for the government to work with rights holders on more coordinated enforcement actions.

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; (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; (iv) ensure a consistent process once an application is filed; (v) reduce burdensome or costly measures imposed on rights holders; (vi) establish protocols for blocking pirate apps, including the backend domains; and (vii) develop a comprehensive roadmap for addressing online piracy in consultation with both domestic and foreign copyright stakeholders.

- **Combat illicit live streaming and unauthorized theatrical 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 and prioritizing action against these illegal acts. Despite a reduction in 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) proceeding with prosecutions against those engaged in this damaging activity.[2] 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,* and *SYBER TV*. This content may be pre-loaded prior to shipment, or instructions may be given to download or install infringing applications after the purchase. Sellers of PDs often do not install the infringing apps and thus use the claim that the manufacture or sale of the devices themselves is not illegal. IIPA encourages the Indonesian government to take steps to crack down on such PD manufacturers or resellers, as well as to take action against key distribution points for devices that are being used illegally.

LEGAL REFORMS

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

[2] 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.

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 World Intellectual Property Organization (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 several long-standing concerns of rights holders, the direction of planned reform is far from 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 on 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 period 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 must 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.

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 Indonesia's CMO. 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.[3] 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.

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.[4] 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 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.

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

[3] "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.
[4] 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.

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 undermine Indonesia's commendable 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. Thus, 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 amendments, which continue to be under consideration by the House of Representatives, were proposed without consultation with appropriate Ministries such as KOMINFO, or any period of public consultation. Such requirements would ignore the current self-regulatory best practices already being adopted by OTT/VOD services, act as a significant market entry barrier, and serve as a disincentive to bring creative industries to Indonesia.

Overall, IIPA remains 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.**

The mandatory multi-layered collective licensing system in Indonesia is problematic. LMKN is the government-appointed national collective management organisation. It determines tariffs (lower than market rates) and distribution matters without adequate rights holders' representation and, under the CMO Regulations revised in December 2018, is allowed to take up to 10% of the collections from rights holders as 'operational costs.' This creates unnecessary bureaucracy and takes away income from artists and labels, reducing investment into Indonesia.

This system is already unsatisfactory. The Indonesian government is now considering plans to impose collective management through LMKN for a wide array of rights, including for uses that are currently licensed directly by rights holders. This would represent a significant intrusion on rights holders' freedom of contract and property rights. The Indonesian government should abandon these plans and instead confirm that rights holders can chose to license directly, or through any CMO they choose, and that all CMOs should be owned or controlled by their member rights holders. The Indonesian government should also instead focus on making sure that all CMOs set tariffs that reflect the

economic value of creative works, that CMOs are non-profit, and that CMOs must be voluntary, transparent, and governed by rights holders, without interference by Indonesia's government.

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.

More recently, in 2025, DGIP began internal discussions to revise laws and regulations related to CMOs. The direction of planned reform is far from clear, and it remains to be seen whether potential revisions will result in enhanced copyright protection. However, some rights holders are reporting that DGIP is looking to add 'digital' collections to LMKN's authority; implying that management of digital services, such as Spotify or Apple Music, would fall under LMKN's remit and de facto turning the exclusive making available right of performers and record labels into a remuneration one subject to collective management. As of this report, DGIP has also failed to openly engage with rights holders on these potential revisions. DGIP should avoid any new regulation that seeks to impose fees on enforcement of intellectual property rights or additional remuneration rights. Such fees and additional tariffs would conflict with international best practices and distort the well-functioning music streaming market, the necessity to introduce such trade-affecting measures are unclear as performers are benefitting from the growing music ecosystem like never before.[5] Any Copyright Law revision should neither weaken exclusive making available rights, nor retrofit new remuneration rights that would convert exclusive digital rights into CMO-administered levies. Any CMO changes must remain voluntary, transparent, rights holder-governed, and aligned with international best practices.

Finally, at the 47th Session of WIPO's Standing Committee on Copyright and Related Rights, Indonesia presented their proposal on the "Jakarta Protocol" (the Protocol), a legally binding instrument on the governance of copyright royalty in the digital environment (SCCR/47/6).[6] The proposal seeks to establish a global digital platform, administered by WIPO, to reform the way royalties are collected and distributed. While IIPA shares the concern regarding the lack of accountability and transparency of the Indonesian CMO sector, expressly admitted within the Indonesian proposal, the solutions proposed by the Indonesian government in the Protocol are deeply flawed. IIPA cautions against regulating creative markets through an international legal instrument that could affect copyright protection and the integrity of exclusive rights as set out in existing WIPO-administered treaties through mechanisms that could deeply unbalance the licensing ecosystem on which creative industries rely. While it seems the underlying problem that the Government of Indonesia seeks to address is national and arises from commercial or competition issues, those matters should be regulated at the national level. They should not be conflated with international IP policy and law.

- **Support the permanent extension of the WTO e-commerce moratorium on customs duties for electronic transmissions at the 2026 WTO MC 14 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

[5] See https://ifpi-website-cms.s3.eu-west-2.amazonaws.com/GMR_2024_Todays_Record_Companies_dfa01be46a.pdf
[6] Available at https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=651405.

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. Most recently, per the Joint Statement on Framework for United States-Indonesia Agreement on Reciprocal Trade, IIPA welcomes Indonesia's commitment to support the permanent extension of the moratorium.[7] The Government of Indonesia must follow through with this commitment at MC 14.

- **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, some of KPI's statements regarding implementation have raised concerns — such a burdensome rule, which would be practically challenging for pan-regional services (if implemented) would likely result in consumers absorbing the additional associated costs. The timeline for revising the Broadcasting Law remains unclear, and the government should consult with industry to support developing a business-friendly pay-TV environment.

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

KOMINFO issued Ministerial Regulation 5 (MR5) in late 2020, which 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.

Additionally, the House of Representatives continues to actively consider a revision of the Broadcasting Law which, if passed, would significantly expand the remit of KPI beyond traditional TV channels to include OTT and VOD services. For VOD services, the draft law presents several challenges: it disregards current self-regulatory best practices already adopted by the industry, risks overlapping with existing frameworks such as the ITE Law and its implementing regulations and introduces regulatory uncertainty that could act as a market entry barrier and disincentive for new investment.

Most recently, KOMDIGI is actively considering further revisions to Government Regulation 71 (GR71) of 2019, which governs private electronic systems operators (ESOs). The proposed revisions could expand the government's access to private ESOs' data for the purposes of enforcing content moderation. If implemented, these changes could introduce further unnecessary regulation and increase compliance costs for streaming platforms in Indonesia.

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

[7] See https://www.whitehouse.gov/briefings-statements/2025/07/joint-statement-on-framework-for-united-states-indonesia-agreement-on-reciprocal-trade/.

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).

MEXICO

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Mexico remain on the Priority Watch List in 2026 and that USTR conduct an out-of-cycle review (OCR) on whether to move Mexico to the Watch List in 2026 if Mexico publishes and fully operationalizes the implementing regulations of the 2020 Copyright Law amendments.[1]

Executive Summary: Even after Mexico's elevation to the Priority Watch List in USTR's 2025 Special 301 Report, the first time in the history of the Report, the government failed to take meaningful and lasting action to solve its long standing piracy concerns, including by still not issuing the ever-promised implementing regulations of the 2020 Copyright Law amendments as part of its obligations under the U.S.–Mexico–Canada Agreement (USMCA). These, and other wide-ranging intellectual property (IP) concerns, can no longer be fully blamed on the previous administration.

Mexico continues to face a systemic and long-standing lack of adequate application, enforcement, and respect of its current laws, regulations, and judicial bodies, affecting legal certainty and security in the business environment. Criminal enforcement against pirates remains uncoordinated and generally weak, slowed by procedural and structural deficiencies, low prioritization, and a lack of adequate resources. Furthermore, civil cases in Mexico are expensive and difficult for rights holders (especially small businesses) to undertake and are slowed by onerous procedural hurdles and insufficient remedies. These concerns were exacerbated when Mexico overhauled its judiciary in 2024 resulting in unexperienced judges at all levels undermining the rule of law, due process, and access to justice in Mexico.

However, IIPA recognizes the significant steps the Mexican Institute of Intellectual Property (IMPI) has taken during the current administration, notably its robust administrative infringement actions targeting physical warehouses, marketplaces, and specific sites in Mexico's territory. The so called "Operación Limpieza" has already seized more than 300,000 illicit products since November 2024. However, these efforts must be intensified and complemented by strengthened collaboration with criminal prosecution offices and customs authorities, who continue to remain silent. Additionally, the Mexican government must assume greater responsibility in combating online piracy, which disproportionately impacts the creative industries compared to physical piracy and counterfeiting.

Obstacles also remain in Mexico's compliance with its USMCA obligations, primarily due to a lack of implementing regulations of the 2020 Copyright Law amendments that were statutorily required more than five years ago. Additionally, while the 2020 reforms included many positive copyright provisions, it did not provide a clear principle of secondary liability for those inducing or promoting copyright infringement, which would incentivize Internet service providers (ISPs) to take preventive actions. Further, the 2022 Cultural Heritage Law created even more significant legal uncertainty for a range of creative industries due primarily again to a lack of implementing regulations, and risks further undermining Mexico's IP regime. It is more critical than ever for the Government of Mexico to work closely with industry representatives and rights holders from the creative industries to ensure any legislative or regulative revisions finally allow Mexico to fully implement its obligations under the USMCA and international treaties and meet international best practices.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

[1] For more details on Mexico's Special 301 history, see previous years' reports at https://iipa.org/reports/reports-by-country/. For the history of Mexico's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

- Empower Mexican IP agencies with the necessary political will and financial and human resources to tackle years of unaddressed rampant physical and online piracy, in particular, through stronger actions from criminal prosecutors and customs authorities.
- Remove burdensome and unnecessary legal and administrative barriers, formalities, requirements, and procedures that prevent effective IP enforcement including injunctive relief, and particularly those related to unreasonable burden of proof (namely related to copyright ownership and large-scale infringement), statutory damages, physical copy requirements, mandatory expert opinions, among others. Develop and adopt a high-level national anti-piracy plan to target major online piracy and counterfeiting operations, which includes improving coordination between federal, state, and municipal enforcement activities.
- Provide training to improve IP expertise in the judiciary, particularly for the newly appointed judges stemming from Mexico's recent judicial overhaul.
- Improve enforcement against theatrical camcording.

Legal Reforms

- Issue the implementing regulations of the 2020 Copyright Law amendments and reject interpretations of those amendments that would impede their effective implementation and positive progress resulting from those changes.
- Amend the Copyright Law and related laws and publish related implementing regulations to address issues not resolved in the 2020 amendments.
- Provide incentives for ISPs to cooperate in enforcement against online copyright infringement, including applying the reform of the 2020 Copyright Law to provide secondary liability for copyright infringement.
- Ensure implementation of the Cultural Heritage Law, and all secondary legislation arising from the 2024 amendment to Article 2 of the Mexican Constitution, does not undermine protections for copyright and related rights.
- Reject amendments to the Copyright Law that would establish a remuneration system through a "Private Copy Levy" (PCL)
- Ensure legislative proposals related to artificial intelligence (AI) meet the standards set forth by the G7 Hiroshima AI Process.

Market Access

- Reject policies proposing Local Content Quotas that limit distribution to theaters and online platforms.
- Reject discriminatory investment obligations in the audiovisual industry.

ENFORCEMENT

Digital and physical piracy is widespread, and its main sources are stream-ripping sites, mobile apps, illicit IPTV services, and social media platforms. Fragmentation among legitimate streaming services and high subscription costs further contribute to consumer reliance on unauthorized sources. Stream ripping, the most widespread source of music piracy in Mexico remains popular with go-to sites including *y2mate.nu*, *mp3juice.blog* and *flvto.nu*. Stream-ripping mobile apps including *Stube-offline-music-videos, and MusiChic-Offline Music Player* are very popular means for Mexican users to obtain illegal content. Additionally, copycat apps for *SnapTube* and *Tube mate* remain popular along with parasitic apps such as *Demus*.

Video game publishers continue to experience among the highest levels worldwide of e-commerce infringement in Mexico, notably of modded hardware and circumvention devices. In 2024, Mexico ranked 18th in the world for the number of connections by peers participating in the unauthorized file-sharing of Entertainment Software Association (ESA) member video game titles on public peer-to-peer (P2P) networks, and by the same metric, 4th in the world for unauthorized file-sharing of mobile games, and 7th in the world for illicit console-based games.

Additionally, The Confederation of National Chambers of Commerce, Services and Tourism of Mexico (CONCANACO SERVYTUR) highlighted in 2024 that according to a study conducted by the University of Michigan,

Center for Anti-Counterfeiting and Product Protection, 50% of Mexican consumers voluntarily purchased some type of product knowing that it was pirated during the last 12 months. Further, according to the *Mapping Global Trade in Fakes 2025* report published by the Organisation for Economic Co-operation and Development (OECD) in collaboration with the European Union Intellectual Property Office (EUIPO), Mexico has been identified as one of the top ten countries most closely associated with the global trade in counterfeit goods.[2]

Given these significant IP challenges in Mexico, IIPA and its members strongly encourage Mexico to take the following priority actions.

- **Empower Mexican IP agencies with the necessary political will and financial and human resources to tackle years of unaddressed rampant physical and online piracy, in particular, through stronger actions from criminal prosecutors and customs authorities.**

Mexican officials are admittedly aware of this longstanding and growing digital and physical piracy problem and its impact to the Mexican creative industries. In October 2024, just days after being sworn in as the new director of IMPI, Director Santiago Nieto Castillo stated that fighting piracy is a priority of the new administration under President Claudia Sheinbaum.[3] Director Nieto noted that "[p]iracy is not only physical; in the digital sphere we see the illegal distribution of music, videos and artistic works," "[p]iracy generates a parallel economy that affects Mexican businessmen and workers. It is essential that consumers understand that by buying pirated products they are contributing to a system that harms everyone," and "piracy not only harms national companies that pay taxes and generate jobs but also impacts consumers."[4] Additionally, in 2024 the Cámara Nacional de la Industria de Transformación (National Chamber of the Transformation Industry *CANACINTRA*) warned that piracy is one of the factors, along with contraband and extortion, directly contributing to the closure of businesses and the relocation of investments in Mexico and that these illicit activities are severely affecting key industries and undermining the country's productive infrastructure, prompting calls for a coordinated national strategy to address insecurity and protect formal commerce[5].

IIPA recognizes the significant steps IMPI has taken during this administration to begin tackling these long-standing piracy concerns.[6] One of the most visible and impactful initiatives has been the launch of "*Operación Limpieza*" ("Clean-Up Operation"), a nationwide enforcement program aimed at strengthening IP protection in Mexico. The program involved coordinated actions with federal and local authorities, including the Navy, National Guard, Customs officials, and State prosecutors, to dismantle piracy hubs in major commercial areas across the country. These operations have targeted both physical marketplaces and distribution centers. *"Operación Limpieza"* was conducted between November 11, 2024, and October 2, 2025, resulting in the seizure of hundreds of thousands of counterfeit goods, including apparel, toys, electronics, and accessories bearing unauthorized trademarks. Enforcement actions were carried out in the states of Hidalgo, Nuevo León, Puebla, Coahuila, as well as in various locations throughout Mexico City and the State of Mexico. These coordinated operations resulted in the seizure of 376,071 counterfeit products, with an estimated commercial value of 62.9 million pesos[7]. A notable example includes the seizure of over 262,000 infringing items at the Izazaga 89 shopping center in Mexico City, with an estimated value exceeding 56 million

[2] Forbes México, "México, entre los 10 principales países que comercian piratería: OCDE," May 7, 2025. Based on the OECD–EUIPO report *Mapping Global Trade in Fakes 2025*. Available at: https://forbes.com.mx/mexico-entre-los-10-principales-paises-que-comercian-pirateria-ocde/.
[3] Cristina Protugues, *Piracy in Mexico, an urgent challenge: Santiago Nieto Castillo, director of IMPI*, ContraRéplica, October 15, 2024, available at https://www.contrareplica.mx/nota-Pirateria-en-Mexico-un-desafio-urgente-Santiago-Nieto-Castillo-director-del-IMPI--2024141012.
[4] Id.
[5] Forbes Mexico. "Canacintra denuncia cierre de empresas en México por la extorsión, contrabando y piratería". October 11, 2024. [https://forbes.com.mx/canacintra-denuncia-cierre-de-empresas-en-mexico-por-la-extorsion-contrabando-y-pirateria/]
[6] In 2024, based on the public statistics issued by IMPI, the Institute processed 406 administrative actions related to industrial property infringements, issuing 247 precautionary measures. Additionally, 330 procedures were initiated for copyright violations, with 79 precautionary measures applied. Throughout the year, IMPI resolved 576 industrial property infringement cases and 381 copyright-related cases.
[7] Id.

pesos[8]. IMPI has also publicly identified at least ten customs brokers allegedly involved in facilitating the illegal entry of smuggling and counterfeit goods, primarily from Asia[9]. IMPI has emphasized the importance of intelligence-sharing and inter-agency collaboration to ensure effective enforcement. Investigations are ongoing in coordination with the National Customs Agency (ANAM) and the Attorney General's Office (FGR). However, it is notable that no criminal charges or prosecutions have resulted from these actions.

Although *"Operación Limpieza"* signifies a significant change in Mexico's enforcement strategy and highlights strengthened political commitment, its long-term success will require ongoing institutional backing, transparent legal proceedings for customs violations, consistent judicial action, and the extension of enforcement measures to cover online piracy and activities on digital platforms. Enforcement agencies face resource and coordination limitations, along with two key hurdles that continue to drive piracy in Mexico. First, IP cases have traditionally been regarded as "less relevant" compared to other types of illegal conduct. Second, ongoing budget cuts have affected the following key federal agencies responsible for copyright enforcement in Mexico:

- IMPI – oversees administrative enforcement actions under the Industrial Property and Copyright Law;
- *Instituto Nacional del Derecho de Autor* (the National Copyright Institute, INDAUTOR) – registers copyrights and conducts mediation proceedings for aggrieved rights holders;
- Scientific Police (part of the Federal Police) of *Secretaria de Gobernación* (the Secretariat of the Interior) – assists rights holders by providing information on illegal software websites and seizing the domain names of infringing sites; and
- *Fiscalía Especial en Investigación de Delitos contra los Derechos de Autor y la Propiedad Industrial*, (the Special Prosecutor´s office on Investigation of Crimes Committed Against Industrial Property and Copyright, *FEIDCDP*) within the FGR – responsible for federal criminal enforcement.

The lack of prioritization and budget cuts have directly led to sizable reductions or full curtailments in effective enforcement activities under the previous administration, particularly by the FGR. For example, one video game publisher reported a decline in counterfeit game product seizures from 35,315 products seized in 2022 down to only 3,045 in 2023, and 5,380 in 2024. This significant drop in seizures exists despite numerous IP trainings programs for customs officials in the past two years. No police raids occurred from 2022 until November 2024, when the Ministry of Economy and IMPI led a first of its kind joint effort that seized over 200,000 illicit goods, the "Izazaga 89 operation".[10] This raid should be commended and repeated.

Further, FGR and FEIDCDP remain reluctant to prosecute IP crimes under the previous and current administrations, and there have been very few criminal enforcement actions against piracy services or operators, both in the online and physical realms. This low prioritization is even more apparent regarding investigations into crimes of small quantities of illicit products such as piracy devices (PDs, also known as illicit streaming devices or ISDs), including mod chips, and circumvention devices, especially in the case of products entering through customs. These illegal devices are increasingly being offered in online marketplaces and through social media, without any detainments or seizures of such devices by customs. A general understanding existed in all previous administrations' government offices that few to no administrative actions would be taken against piracy operations. Also, within the FEIDCDP stood a general order not to seek any search warrants for these types of cases. The Attorney General's Office also has not published IP enforcement statistics in recent years. However, in late November 2025, a new head of FGR was appointed to replace the person that occupied the position since January 2019. This could constitute an opportunity to promote a change in the approach followed for seven years now in this key criminal prosecution office.

[8] Gobierno de México. Secretaría de Economía e IMPI redoblan esfuerzos para combatir la Piratería y Competencia Desleal, en el marco de "Operación Limpieza", April 03, 2025 [https://www.gob.mx/impi/prensa/secretaria-de-economia-e-impi-redoblan-esfuerzos-para-combatir-la-pirateria-y-competencia-desleal-en-el-marco-de-operacion-limpieza?idiom=es].

[9] El Universal, "IMPI anuncia dos nuevos "Operativos Limpieza"; acusa a 10 agencias aduanales de contrabando y piratería". January 23, 2025 [https://www.eluniversal.com.mx/cartera/impi-anuncia-dos-nuevos-operativos-limpieza-acusa-a-10-agencias-aduanales-de-contrabando-y-pirateria/].

[10] Authorities seize over 200,000 counterfeit Chinese products in Mexico City, Mexico News Daily.

IIPA strongly urges the Government of Mexico to follow through on its initial public statements about fighting Mexico's rampant piracy by ensuring that all relevant Mexican IP enforcement agencies have the political will to make the changes noted below, prioritize IP cases, and have the financial and personnel resources to fully implement their objectives and Mexico's new IP legal framework.

- **Remove burdensome and unnecessary legal and administrative barriers, formalities, requirements, and procedures that prevent effective IP enforcement including injunctive relief, and particularly those related to unreasonable burden of proof (namely related to copyright ownership and large-scale infringement), statutory damages, physical copy requirements, mandatory expert opinions, among others.**

IIPA continues to recommend several detailed structural reforms and agency actions to improve copyright enforcement that have been detailed in previous submissions.[11]

Administrative Enforcement Challenges

- **Formalities to Institute Administrative Actions:** On July 1, 2020, the new *Ley Federal de Protección a la Propiedad Industrial* (Federal Protection of Industrial Property Act) was enacted. The law entered into force in November 2020, and its implementing regulations have yet to be issued. As part of this new law, IMPI was now empowered to issue blocking orders against infringing sites which, in practice, is a clarification of the powers that IMPI previously exercised as part of its general duties. However, under the current framework, IMPI requires the petitioner to comply with an extreme – and sometimes impossible – burden of proof and disproportionate costs related to providing large number of authenticated copyright certificates and expert reports as to the infringement scale. The requirements for filing a siteblocking case for one individual website prevent rights holders from effectively protecting their rights and meaningfully impacting large-scale piracy. The Government of Mexico should allow the initiation of administrative proceedings before IMPI to seek the blocking of structurally infringing sites, based on a more reasonable evidence threshold and applying the presumption of copyright ownership. Meaningful impact on piracy does also require dynamic injunctive relief in the sense that the blocking decision needs to be extended to new online locations set up by the pirates to circumvent the effect of the measure.

Civil Enforcement Challenges

- **Burdensome Procedures with Minimal Remedies:** In general, Mexico's three-tiered civil procedure system makes civil litigation overly complicated, time consuming, and costly for rights holders, even against obvious infringers. The Copyright Law allows rights holders to seek damages in civil courts even before an administrative infringement decision is issued (or becomes final), but the law does not provide for statutory damages (e.g., additional or pre-established damages), and the USMCA-related amendments implemented in 2020 did not address this deficiency. Rights holders can seek 40% of the gross sales revenues from infringing products as damage awards. The Government of Mexico should amend the Civil Code and improve the procedures of the courts to add pre-established remedies and allow the recovery of costs and attorney's fees; current law does not provide compensatory damages, including lost profits or sufficient monetary damages, nor costs or fees. Mexico needs to amend its Copyright Law to provide for "pre-established" and/or "additional damages" consistent with the USMCA Article 20.81.6 that are "an amount sufficient to constitute a deterrent to future infringements and to compensate fully the rights holder for the harm" as set forth in Article 20.81.8.

[11] See, e.g., IIPA 2019, 46-47, available at https://iipa.org/files/uploads/2019/02/2019SPEC301MEXICO.pdf; IIPA 2022, p. 68-69, available at https://www.iipa.org/files/uploads/2022/01/2022-SPEC301-3.pdf.

- **Requirements to Prove Ownership:** There are unreasonable, time consuming, and unduly burdensome requirements to prove copyright ownership in lieu of presumptions of ownership (which, as noted, is an unfulfilled USMCA obligation).

- **Electronic Evidence:** Mexican law grants full validity to electronic documents and discovery, although some judges are unfamiliar with these rules.

- **Destruction of Evidence:** The Civil Code provides *ex-parte* measures to avoid the destruction of evidence, but these provisions have never been fully implemented.

Criminal Enforcement Challenges

- ***Ex Officio* Authority:** Since Mexico transitioned to an adversarial justice system in 2008—despite the availability of *ex officio* action in the Criminal Code—prosecutors no longer prosecute criminal copyright cases without the filing of a complaint against an infringer by the rights holder. This change has resulted in prosecutorial delays of IP-related crimes, including at FGR.

- **Physical Copy Requirement:** A complicating element in combating piracy in Mexico is the cumbersome requirement (by FGR) that each copy of an infringing product must be accompanied in prosecution files by a physical copy of a legitimate original for comparative examination by experts (*peritos*). This requirement is followed as a general practice, even though the law does not explicitly require it. In one 2023 case involving 7,000 video game consoles preloaded with infringing games, the prosecutor terminated the investigation claiming the products did not show the publisher's trademarks and copyrighted works, despite evidence established at the time of seizure. This complicates online or digital matters that do not involve hard goods.

- **Requirement for Expert Testimony for Repeat Offences:** Prosecutors must understand that expert opinions are not required in every case to analyze genuine and counterfeit specimens. Under the existing system, when the comparison involves multiple copies of the same infringing game, music, or film, rights holders must submit an equal number of legitimate game, music, and film DVD copies to the experts for comparison. This results in delays and, in some cases, investigations have been dropped due to undertrained prosecutors, leading brand owners to re-introduce actions often against repeat offenders. These expert opinions or *peritos'* reports are a burdensome administrative requirement that take too long to complete, in addition to the fact that the *peritos* are insufficiently trained in digital issues, produce factually incorrect determinations, and are often reluctant to cooperate with investigations and prosecutions. Rights holders then must appeal those decisions through a Control Judge, including having to hire a private expert to counter the *perito's* determination, adding to the expense and delay, which undermines effective enforcement.

- **Copyright Registration Documentation Requirements:** Although Article 5 of the Copyright Law refers to copyright registrations as only voluntary ("recognition of copyright and neighboring rights does not require registration"), in practice, the FGR and courts require registrations to commence a criminal case. This is an additional formalistic practice of Mexican authorities contrary to the main purpose of international commitments on IP recognition and protection. The USMCA (Article 20.79.1) requires Mexico to provide clear presumptions of ownership in civil, criminal, and administrative matters, based on the copyright notice appearing on the work, or on a screen, without the need for a mandatory and certified registration. Mexico needs to change its Copyright Law to ensure these presumptions of ownership apply to all works (it currently exists only for sound recordings), even after the 2020 amendments.

- **Commercial Scale Piracy:** In 2023, FGR and FEIDCDP reverted to their previous criteria to reject complaints of IP infringements based on the lack of loss of profits or lack of commercial scale, affecting the initiation of – and creating more burdens to initiate – any criminal investigation against counterfeit and copyright piracy. As

a result, criminal penalties have not been available in Mexico for commercial scale infringements without a direct economic benefit. The "direct economic benefit" for criminal cases is a difficult hurdle to overcome for a prosecutor willing to commence a case in a country already short on resources for such cases. Additionally, Mexican courts generally do not consider file sharing via online networks to be a serious legal violation; this is a continuing obstacle to effective criminal enforcement. Consistent with its WTO TRIPS Agreement obligations, Mexico should have "effective" criminal remedies, including "imprisonment and/or monetary fines," available in cases of "willful … copyright piracy on a commercial scale."[12] The Criminal Code, Copyright Law, and Federal Protection of Industrial Property Law need to be amended to delete "for profit" provisions and replace them with "acts carried out for commercial advantage or financial gain" and "significant acts not carried out for commercial advantage or financial gain that have a substantial impact on the interests of the copyright or related rights holder." This change would allow the initiation of enforcement procedures in FGR and FEIDCDP, and criminal penalties would be available in Mexico for commercial scale infringements absent proof of actual lost profits (in other words, without a direct economic benefit).

- **Destruction of Infringing Goods:** Enforcement agencies should adopt clear and consistent policies for the expeditious destruction of seized infringing goods. Another of the positive 2020 amendments (in the Protection of Industrial Property Law) gives IMPI the authority to order the destruction of infringing goods 15 days after a final court decision, which is faster than previous procedures. The copyright industries have also successfully utilized the *Ley Federal de Extinción de Dominio* (Federal Law for Property Forfeiture) in piracy cases, but materials seized in FGR enforcement operations continue to find their way back into the black market. Another recommendation is for *Procuraduría Federal del Consumidor* (Office of the Federal Prosecutor for the Consumer, PROFECO) to use its *ex officio* powers for consumer protection, and its resources against street market piracy.

- **Coordination with Rights Holders:** FGR had been reorganized under the previous administration and is closed to the general public, meaning that there have been no coordination meetings with rights holders or rights holder organizations, and such practices, which are common in other countries, are not allowed. The lack of communication with the private sector and the absence of any significant enforcement action by FGR against IPR violations have significantly worsened the piracy situation in the last year.

- **Forensic Standards:** FGR should improve the forensic standards for digital enforcement and eliminate the required experts and mandated registrations (as a practice, if not a legal requirement) for criminal cases.

Customs Enforcement Challenges

- **Seizure of Illicit Goods:** Exacerbated by the lack of *ex officio* authority, FGR and FEIDCDP have ceased executing border measures to detain containers of pirated goods, including those comprising counterfeit video game consoles, controllers, and merchandise bound for the local market. They also do not stop in-transit shipments and trans-shipments, resulting in a worsening situation for rights holders. For example, absent an official order from IMPI, customs authorities will not seize infringing products entering the country or detain them for more than a few hours, even where the material is clearly infringing. While IMPI has attempted to address this issue through expeditious communications with customs to seize infringing goods, the lack of action by customs authorities and FGR undermines the enforcement of IPR.

- **Leadership:** During the past administration, there were four changes to the head of Customs in less than four years–– including the establishment of the *Agencia Nacional de Aduanas de México* (National Customs Agency of Mexico)–only to be followed by transferring Customs' authority to the Ministry of the Navy for maritime customs matters and to the Ministry of National Defense for customs matters on land. These inconsistencies in leadership and transfers of power have created an unstable and uncertain customs

[12] See WTO TRIPS Agreement, Articles 41 and 61.

enforcement regime that is nearly impossible for rights holders to effectively navigate to enforce their rights. Leadership stability and consistency is urgently needed in Mexico's customs procedures and authorities. The aforementioned problems with Mexican customs authorities continue to be exacerbated by the presence and control of criminal organizations and cartels in Mexico.[13]

- **Develop and adopt a high-level national anti-piracy plan to target major physical and online piracy operations, which includes improving coordination between federal, state, and municipal enforcement activities.**

The lack of coordination and capacity among IP enforcement bodies remains a major problem in Mexico, especially when tackling large-scale piracy operations that may be located throughout the country. Mexico should therefore develop and adopt a high-level national anti-piracy plan to target major and commercial-scale physical and online piracy operations and operators and to coordinate these enforcement operations with federal, state, and municipal officials. For coordination, this strategy should establish a centralized coordinator for copyright enforcement to improve the efficiency and effectiveness of each of these agencies. Through this coordinator, the Government of Mexico could coordinate municipal, state, and federal government criminal enforcement actions across Mexico's 32 states and 2,400+ municipal governments while helping in many regions of the country where state and municipal government anti-piracy efforts are weak. This strategy should include a national *ex officio* anti-piracy campaign with a consistent focus on major targets, emphasizing coordination of police and prosecutorial resources. For example, Mexico should replicate and expand the success of the "Izazaga 89 operation" from November 2024.

Further, this strategy should have a strong capacity building component to ensure Mexico's IP enforcement agencies have access to the necessary skills, techniques, and best practices to fight today's modern and evolving piracy operations. Some particularly important areas of capacity building should include specialized training on: (i) initiating effective enforcement procedures against sites offering illegal video game downloads and unauthorized digital goods (UDGs); (ii) search engine sites that provide links to enable the downloading of game content hosted on cyberlocker platforms; (iii) BitTorrent index sites; (iv) piracy and circumvention devices and ISDs, including media boxes, set-top boxes, or other devices that allow users, in combination with illegal software applications (apps), to stream, download, or otherwise access unauthorized content from the Internet, and; (v) devices imported into Mexico pre-loaded with the apps to infringe IPR, apps that are added as a complementary after-sale service, or apps that can easily be installed by the users to access infringing content. There should also be a capacity building component on developing new and enhanced guidelines for prosecuting IP crimes and training on technological solutions and methodologies for properly undertaking criminal investigations directed against online piracy.

Finally, the Government of Mexico should ensure this strategy promotes increasing international cooperation with U.S. prosecutorial and law enforcement authorities to facilitate exchanges of communication and cooperation in criminal investigations and enforcement proceedings in Mexico. Additionally, the collaboration with rights holders to better streamline IP cases should be prioritized in this strategy as it has already had a positive impact on IP enforcement in Mexico. For example, in 2024, the Motion Picture Association (MPA) successfully filed an infringement proceeding before IMPI against one of the largest sites distributing pirated audiovisual content to audiences in Mexico, *Gnula.nu* and *Gnulahd.nu*. As a result, IMPI issued an effective site-blocking order that was successful in general implementation with support from many of the ISPs. Only one ISP filed an injunction to challenge the order. The challenge was dismissed by the District Court but is still pending, as the Federal Appeal Court referred the case to the Supreme Court to clarify several constitutional aspects but the request for a provisional suspension was denied. IIPA hopes this type of collaboration can be mirrored by other IP enforcement agencies.

In another positive example demonstrating the importance of public-private collaboration, IMPI signed a Memorandum of Understanding (MOU) with ESA on August 18th, 2022, to enforce and protect video game IP. Under

[13] Jonathan Nácar, *Corruption investigated in the FGR's Anti-Piracy Prosecutor's Office*, ejeCentral, August 12, 2024, available at https://www.ejecentral.com.mx/category/nuestro-eje/indagan-corrupcion-en-fiscalia-antipirateria-de-la-fgr.

the auspices of the MOU and in accordance with the relevant laws and regulations, IMPI has conducted enforcement activities including infringement referrals, online inspection visits, and investigations, promoting the importance of IP to creative and innovative industries. Practical efforts to execute the MOU continued in 2024 including an ESA-led training with members of the IMPI enforcement team on issues specifically impacting the video game industry. Given the new administration at IMPI, it is crucial in 2026 to maintain the work under IMPI's existing MOUs, such as the one it concluded with ESA. As an example of the strong cooperation provided by the new IMPI administration—particularly by Director General Santiago Nieto—in December 2025, the Motion Picture Association (MPA) signed an MOU with IMPI to strengthen enforcement. It is also important to grow the partnerships between IMPI and other Mexican IP enforcement agencies with additional rights holders to ensure that Mexico continues to undertake administrative IP proceedings, as well as to enhance the removal of illegal content from digital platforms.

- **Provide training to improve IP expertise in the judiciary, particularly for the newly appointed judges stemming from Mexico's recent judicial overhaul.**

In September 2024, the Mexican Congress enacted a sweeping reform requiring that justices, magistrates, and judges be elected by popular vote. The reform generated significant debate in Mexico on how the new model will guarantee the independence and impartiality of the judiciary. The first elections, held on June 1, 2025, resulted in the election of all nine Supreme Court Justices, 486 magistrates, and 386 judges; elections for the second half of the judiciary will be held in 2027. Unfortunately, initial reports indicate that none of the new judges have experience trying IP cases, and many lack experience handling general judicial matters, including proof of ownership and evidentiary procedures. Without properly trained judges, IIPA is concerned that this judicial upheaval will undermine the rule of law, due process, and access to justice in Mexico. More particularly, without a fully functioning judiciary, Mexico will be unable to tackle its piracy concerns and to meet its USMCA obligations to effectively enforce copyright protections.

To ensure this reform does not undermine the rule of law in Mexico and not affect the basic rights of due process and access to justice, the Government of Mexico must provide IP training to these judges. Training should focus especially on technology, digital distribution and piracy, and the use of circumvention technologies. Mexico's new judiciary should also be trained on calculating and providing deterrent-level sentences for IP cases, which are rare in Mexico. Regarding deterrent penalties more broadly, Mexico should consider mandatory sentencing regulations for criminal copyright cases or have the Supreme Court issue recommended guidelines to assist judges with the imposition of deterrent sentences and the award of damages. Besides simply increasing training on these topics, Mexico could also create specialized IP judges and courts.

- **Improve enforcement against theatrical camcording.**

Criminal enforcement against illicit camcording is historically ineffective in Mexico for two reasons: (1) inadequate laws and (2) weak and infrequent enforcement of the existing laws. One of the 2020 amendments adopted to comply with the USMCA corrects the legal regime deficiency. New Article 424bis of the Criminal Code criminalizes camcording, and, as the only exception in the Code, deleted the for-profit motive as a prerequisite for criminal infringement, a practice that thwarted effective prosecutions of camcording. However, the new provision does require a rights holder to file a claim. Until the 2020 change, the few camcording criminal convictions that had been successful were the result of prosecutions based on an array of crimes other than camcording. As reported in prior IIPA filings, in recent years, many MPA member films have been sourced from illicit camcords in Mexican theaters. Camcords have resurfaced as a piracy problem in Mexico upon theaters reopening post-pandemic, and it is hoped the new laws and improved enforcement will properly address this problem. The independent sector of the film and television industry (namely, the Independent Film & Television Alliance (IFTA)) is especially concerned about Internet piracy derived from camcording because of its harm to the legitimate online distribution platforms and services that provide revenue for financing the development of new creative works worldwide. IIPA suggests that the Government of Mexico organize capacity building programs between prosecutors and relevant agencies in Mexico that encourage improved enforcement against theatrical camcord piracy.

LEGAL REFORMS

- **Publish the implementing regulations of the 2020 Copyright Law amendments and reject interpretations of those amendments that would impede the positive progress resulting from these changes.**

Mexico amended its Copyright Law in 2020 to attempt to fully implement the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively, the WIPO Internet Treaties) and meet its obligations under the USMCA. These amendments represented needed reforms to Mexico's Copyright Law and included: notice and take down, safe harbor, and related provisions; protection for TPMs and RMI; explicit making available right and right of communication to the public for works and recordings, as well as adaptation or transformation of the phonogram and rent of the original or copies of the phonogram; and sanctions for camcording, as well as against satellite and cable signal theft.

After the Copyright Law reform passed, three constitutional challenges were filed seeking to repeal key provisions of the amendments. These challenges caused several years of legal uncertainty and generated a chilling impact on practical implementation of the reforms because authorities were not willing to address cases based on a challenged law. In May 2024, over three years after the first challenge was filed, the Mexican Supreme Court upheld the 2020 reforms as constitutional. IIPA welcomed this development.

As mandated by the 2020 copyright reform, the Mexican government, and particularly INDAUTOR, were given 180 days to publish implementing regulations for the Copyright Law. However, after more than five years since enaction, more than 180 days since the Supreme Court's 2024 ruling, and more than 180 days since the new administration came to power, this obligation remains unfulfilled. The copyright sector is justifiably concerned by this delay because it indicates that the Secretary of Culture and INDAUTOR did not adequately prioritize this matter under the previous administration and it appears it is similarly not a priority for the current administration. IIPA urges the Government of Mexico to promptly introduce the implementing regulations of the Copyright Act to prevent a breach of Article 20.88 of the USMCA.

- **Amend the Copyright Law and related laws and publish related implementing regulations to address issues not resolved in the 2020 amendments.**

While the passage of the 2020 Copyright Law amendment was a welcome development, more revisions are needed to the Copyright Law, as well as to the Industrial Property, Criminal, and Criminal Procedure Codes for Mexico. Further, related implementing regulations must be published, to meet Mexico's obligations in USMCA and international treaties and comply with other international best practices. Some key reforms that are needed, but were not achieved through the 2020 changes include:

- Establish explicit secondary liability for copyright infringement.
- Amend the Forfeiture Law to cover copyright infringements undertaken by organized crime syndicates.
- Add criminal provisions to enforce against the production or distribution of PDs, ISDs, or circumvention devices.
- Provide proper civil and criminal sanctions for all activities relating to the manufacturing of, or trafficking in, circumvention devices or technologies that circumvent TPMs. This is especially relevant in the importation of circumvention devices used in video games that are entering Mexico in small consignments and via courier packages.
- Enhance penalties for repeat infringers.
- Provide *ex officio* authority for all IP enforcement agencies and the ability to detain containers with pirated goods that are in transit or being transshipped.
- Severely restrict or eliminate exceptions to infringement for certain public performances where retransmission is not "for profit-making purposes" (Copyright Law, Article 150, transmissions of works) and "no direct

economic benefit is sought" (Copyright Law, Article 151, neighboring rights). These exceptions are too broad, exceeding what treaties permit.

- **Provide incentives for ISPs to cooperate in enforcement against online copyright infringement, including applying the reform of the 2020 Copyright Law to provide secondary liability for copyright infringement.**

In a positive development, the 2020 Copyright Law required compliance with notices to remove infringing content, contained measures to prevent infringing content from being uploaded again, and provided safe harbors for services and platforms that comply with the notices. The 2020 package of amendments adopted notice and takedown procedures, defined ISPs, and included legal remedies and safe harbors to ISPs providing mere conduit, caching, and storage and information location tools, by limiting monetary damages (not administrative sanctions for ISPs that respond properly and timely to notices (Copyright Act, new Article 114 *Octies*). The liability limitations are notwithstanding the obligation for ISPs to provide injunctive relief. The changes add specific provisional measures to order the suspension, stay down, blocking, or removal of content, and the cessation of acts that are infringing or unauthorized. The new provisions also require ISPs to have repeat infringer policies and counter-notification procedures (requiring rights holders to commence judicial, administrative, or criminal actions within 15 days of notification by an ISP). The Copyright Law also now compels an ISP receiving a notice of infringement to comply and there are administrative penalties (fines) for non-compliance with notices. However, Mexican law should also require an ISP with actual knowledge of an infringement or awareness of facts or circumstances from which infringement is apparent (so-called "red flag" knowledge), to take down material. ISPs also have the right to file an injunction against a takedown order by IMPI that could suspend the decision of authority and frustrate the takedown of the infringing content. Moreover, these amendments have not been in practice in Mexico's legal regime because even though the Supreme Court confirmed the constitutionality of these provisions, the Mexican government has not issued implementing regulations to the Copyright Law.

The Mexican legal system also includes general liability principles contained in the Civil and Criminal Codes, but it does not include explicit secondary liability for copyright infringement for ISPs and similar parties in the Civil Code. The safe harbors imply that such potential secondary liability exists, but IIPA urges the Government of Mexico to make such liability explicit in its law. The USMCA (Article 20.88) requires Mexico to implement "legal incentives for Internet Service Providers to cooperate with copyright owners to deter the unauthorized storage and transmission of infringing materials or, in the alternative, to take other action to deter the unauthorized storage and transmission of copyrighted materials." While notice and takedown and related provisions are a strong first step, ISPs need further encouragement to meaningfully cooperate with all rights holders (large and small) to deter the unauthorized storage, transmission, or making available of copyrighted materials. One suggestion is to designate one Mexican IP enforcement agency to take the lead on enhancing cooperation or facilitating communication with ISPs with the purpose to improve a notice and takedown system in Mexico.

IMPI is the competent authority to issue injunctions and order the ISPs (as third parties) to suspend, block, and remove content, and to cease the infringing acts through virtual, digital, or electronic means (known or to be known) on an ex officio basis. IMPI has sought to incorporate constitutional considerations, including proportionality and net neutrality, when issuing site-blocking orders by weighing IP rights against the impact on Internet users. However, stronger coordination among IP enforcement authorities remains necessary to ensure a consistent interpretation of these principles, and to align constitutional analysis with effective IP enforcement. In late 2024, IMPI issued a site blocking order against major infringing sites, namely *Gnula.nu* and *Gnulahd.nu*. The order was successfully implemented by most ISPs; one provider challenged IMPI's order requesting the suspension thereof and challenging the order on its merits through an *Amparo Indirecto* trial; both were denied. Notably, this is the first time a technological measure for site blocking has not been lifted, as IMPI found that the criteria of necessity and proportionality were met-marking a shift from the precedent established by the Second Chamber of the Mexican Supreme Court in ruling 1/2017. However, the procedure remains ongoing, because last December the Federal Court of Appeals decided to refer the case to the Supreme Court for clarification of certain constitutional considerations invoked by one ISP.

Finally, specific provisions in the Telecommunications Law prohibit ISPs from disclosing a customer's personal information to rights holders seeking civil recourse against alleged infringers (although Article 189 of the Telecommunications Law, as amended in 2014, does allow an ISP to cooperate with an order from any competent authority). Additionally, ISPs have been reluctant to include clauses in their subscriber agreements to permit termination of service contracts if subscribers infringe IPR. ISP contractual practices thus compound the difficulties of obtaining access to information necessary for seeking civil remedies. For file sharing, the two major ISPs (*Telmex Infinitum*, which has about 70% of the domestic broadband connections in Mexico, and *ALESTRA*) have, to date, been reluctant to take any actions. As such, the collaboration between ISPs, IP enforcement agencies, and rights holders remain crucial to addressing Mexico's piracy challenges.

- **Ensure implementation of the Cultural Heritage Law, and all secondary legislation arising from the 2024 amendment to Article 2 of the Mexican Constitution, does not undermine protections for copyright and related rights.**

On January 18, 2022, Mexico enacted the "Federal Law for the Protection of the Cultural Heritage of Indigenous and Afro Mexican Peoples and Communities" (the Cultural Heritage Law), which raises serious concerns regarding Mexico's USMCA obligations on copyright.[14] The law requires free, prior, and informed consent of any third-party for the use of traditional cultural expressions (TCEs), and foresees an authorization process, however, the law's complex procedures and ambiguities create ongoing uncertainty for its application. In addition, the law aims to register, classify, and document the TCEs of indigenous communities, while broadening their scope of protection, acknowledging their economic rights, and introducing an enforcement scheme. The law's implementing regulations should have been issued within 180 days of its publication. As of today, no instrument has been published. However, the *Instituto Nacional del Derecho de Autor* (INDAUTOR, the National Copyright Office) asserted the law can be enforced even in the absence of implementing regulations. Unfortunately, the lack of implementing regulations continues to create legal uncertainty for a range of creative industries, especially regarding the granting of authorization for certain works and the fact that some forms of creative expressions could be removed from the public domain.

The law also lists a catalog of administrative infringements that are unclear and ambiguous and establishes fines that range from US$2,240.00 to US$224,000.00. In addition, the law establishes criminal penalties for the improper use and exploitation of the elements of cultural heritage of indigenous and Afro-Mexican communities or peoples, and for the cultural appropriation of elements of the cultural heritage of indigenous communities or peoples. Criminal penalties range from two to ten years of imprisonment and double if the conduct results in "cultural ethnocide." Mexico's Human Rights Commission filed a claim of unconstitutionality against the Cultural Heritage Law, citing policymakers' lack of consultation with indigenous communities during the law's formulation, and the excessive nature of the penalties. Unfortunately, the case remains pending before the Supreme Court but has been deferred due to ongoing judicial upheaval, making resolution unlikely in the near term.

In September 2024, the Mexican Senate approved a constitutional amendment to Article 2 on Indigenous Communities, establishing TCE protection as a communities' right and expressly establishes that indigenous people hold collective rights over their TCEs. Consequently, both federal and local governments must now create a legal framework for protecting and promoting this right. Implementing regulations will be critical for the practical use of this reform. This constitutional reform, coupled with the 2022 Cultural Heritage Law, increases legal uncertainty for creative industry investments. The U.S. government should encourage Mexico to implement this initiative transparently, with stakeholder engagement, good regulatory practices, and adherence to USMCA commitments.

Because the scope of these provisions is unclear, IIPA is concerned that the implementation of this *sui generis* system for the protection of TCEs threatens to undermine copyright exclusive rights that are guaranteed by the USMCA, including in Articles 20.57-20.61 and risks non-compliance with contractual transfer (Article 20.65). Furthermore, to the

[14] *Ley Federal de Protección al Patrimonio Cultural de los Pueblos Indígenas y Afromexicanos*, January 17, 2022, available at https://www.diputados.gob.mx/LeyesBiblio/ref/lfppcpcia.htm.

extent that protections for TCEs function as a limitation or exception to these exclusive rights, these protections must be within the scope of the three-step test governing copyright exceptions and limitations (Article 20.64). To ensure that U.S. rights holders are protected, IIPA recommends that as an outcome of this Review process Mexico signs a side letter or other binding instrument with the United States confirming that protections for copyright and related rights under USMCA will not be undermined by Mexico's implementation of TCE protections.

- **Ensure legislative proposals related to AI meet the standards set forth by the G7 Hiroshima AI Process.**

The Government of Mexico is beginning to discuss regulating AI. In particular, the President of Mexico convened a presidential commission on AI and asked INDAUTOR, to put together a proposal for potential regulations. Some local collective management organizations (in particular, EGEDA) tried to use this platform to advocate for mandatory collective management for AI use of copyrighted material, as well as for remuneration rights in exchange for an AI levy. Additionally, the Specialized Intellectual Property Chamber (SEPI), which is the administrative judicial tribunal with the authority to confirm or modify the administrative determinations of IMPI and INDUTOR, ruled in 2024 that AI-generated works cannot be copyrighted, as human creativity is legally required. The Supreme Court of Justice confirmed that decision and ruled, in 2025, that recognizing authorship for synthetic or artificial entities is impossible, as creative protection is a human right intrinsically tied to human qualities, making it incompatible with AI. As Mexico looks to possibly regulate AI, IIPA strongly encourages the Government of Mexico to look towards the G7 Hiroshima AI Process, which has set forth important rules of the road for the development of AI systems.

For example, the International Code of Conduct for Organizations Developing Advanced AI Systems includes the following: "Organizations are encouraged to implement appropriate safeguards, to respect rights related to privacy and intellectual property, including copyright-protected content." [15] The International Guiding Principles for Organizations Developing Advanced AI Systems includes the following principle: "Implement appropriate data input measures and protections for personal data and intellectual property." [16] In the June 17, 2025, G7 Leaders' Statement on AI for Prosperity, the G7 Leaders indicated they would "leverage the outcomes of the Hiroshima AI Process (HAIP) to foster trust." [17] The Leaders further committed to "[p]romote economic prosperity by supporting SMEs to adopt and develop AI that respects personal data and intellectual property rights, and strengthen their readiness, efficiency, productivity and competitiveness" and stated, "We recognize the need to respect intellectual property rights in enabling these efforts."[18] Mexico should also provide meaningful stakeholder engagement and due process regarding this type of work, including by affording adequate opportunity to review and comment on legislative and regulatory proposals governing copyright and AI.

- **Reject amendments to the Copyright Law that would establish a remuneration system through a PCL.**

The Government of Mexico should reject proposed amendments of the Copyright Law that would establish a remuneration system through a PCL. Such amendments would require manufacturers and importers of equipment, devices, and technological goods to pay a fixed "compensatory remuneration" for the supposed copying, storing, compacting and/or reproduction of protected works that could occur in the future. This initiative will normalize copyright infringement, offering a blank check to consumers of devices for the unrestricted copying of content, on the assumption that the relevant manufacturer or distributor has already "prepaid" for the reproduction of protected works.

MARKET ACCESS

[15] See Hiroshima Process International Code of Conduct for Organizations Developing Advanced AI Systems, p. 8, available at https://www.mofa.go.jp/files/100573473.pdf.

[16] See Hiroshima Process International Guiding Principles for Organizations Developing Advanced AI System, p. 5, available at https://www.mofa.go.jp/files/100573471.pdf.

[17] See G7 Leaders' Statement on AI for Prosperity, June 17, 2025, available at https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf.

[18] See G7 Leaders' Statement on AI for Prosperity, June 17, 2025, available at https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf.

- **Reject policies proposing Local Content Quotas that limit distribution to theaters and online platforms.**

On a regular basis, Mexican lawmakers and policymakers propose protectionist policies, such as the imposition of local content quotas in both theatrical and streaming, over-the-top (OTT) windows, limiting the number of screens in which a given movie can be exhibited, or regulating the dubbing of films regardless of the market preferences. If adopted, such measures would severely limit the exhibition of U.S. films in Mexico and would potentially contravene Mexico's USMCA national treatment provision and market access commitments. Instead, Mexican policymakers should encourage open markets, investments, and collaborations that would result in job creation, knowledge transfer, and the internationalization of the alignment of local industry with international best practices for the benefit of both Mexican and U.S. industries.

Several bills aimed at improving accessibility and transparency in cinemas and protecting dubbing actors from AI were introduced between March and April 2025 but remain stalled at the committee stage, making further progress unlikely this session. However, the Mexican Executive Branch has been silent regarding these proposals. Additionally, the Ministry of Culture announced a MX$115 million increase in funding for national cinema, prioritizing training, preservation, and decentralized exhibition while limiting foreign studio participation. Additionally, Plan México 2025 reinforced protectionist measures favoring domestic stakeholders, creating challenges for broader industry growth.

- **Reject discriminatory investment obligations in the audiovisual industry.**

In 2025, Mexico's Congress introduced several bills on digital platforms, cinematography, AI, telecommunications, cybersecurity, and labor; most did not advance, except for the new Telecommunications and Broadcasting Federal Law. However, lawmakers continue to pursue legislation in these areas, and if any of these proposals are approved, they could potentially raise concerns regarding Mexico's USMCA commitments. Additionally, on September 8, 2025, the 2026 Economic Package introduced an amendment to Article 30-B of the Federal Tax Code, requiring digital service providers to grant real-time system access to tax authorities, with non-compliance resulting in temporary platform blocking "kill switch". This measure could raise serious constitutional concerns and conflicts with Mexico's USMCA obligations.

RUSSIAN FEDERATION

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that the Russian Federation remain on the Priority Watch List in 2026.[1]

Executive Summary: This submission is again provided against the backdrop of Russia's 2022 invasion of Ukraine, the attendant sanctions against Russia by the United States and its allies, the suspension of operations in Russia by U.S. and many foreign companies, and the disturbing trend by the Government of Russia to ignore the intellectual property rights (IPR) of companies that have withdrawn from the market because of the invasion. The Government of Russia continues to intentionally weaken intellectual property (IP) protections and is considering implementation of a compulsory licensing scheme that permits exploitation of a copyrighted work if a partner from an "unfriendly state" (including the United States) partially or completely unilaterally repudiated an existing license agreement with a Russian entity on grounds not related to a violation of such contract by a licensee. Russia's blatant and unabashed stance that U.S. IP will no longer benefit from protection or enforcement within its borders continues to be an unprecedented rejection of the international norms that govern the global digital marketplace for copyrighted works. Russia should abandon these punitive proposals and instead focus on improving criminal, civil, and administrative enforcement, particularly against organized criminal syndicates and large-scale unlicensed services; addressing longstanding problems with collective management of music rights; preventing the camcording of motion pictures; and preventing or disrupting the proliferation of illegal screenings of films in Russian theaters. Persuading the current Russian administration to reverse discriminatory IP laws or to enhance measures against piracy remains difficult. We outline below the steps Russia should take to return to compliance with international trade norms.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Increase the number and effectiveness of criminal copyright digital piracy cases, especially deterrent criminal actions directed against organized criminal syndicates.
- Improve administrative enforcement against large-scale unlicensed services, including by imposing deterrent-level penalties.
- Improve civil enforcement, including by amending the Civil Code or other relevant laws to address the issue of "domain hopping."
- Encourage domain registrars to refrain from harboring piracy sites and services, and ensure that the registries Coordination Center for Top-Level Domains (TLD) *.RU/PФ* and the Russian Institute for Public Networks (RIPN) properly address illegal activities.
- Prevent or disrupt the unauthorized screenings of motion pictures in cinemas.

Legal Reforms

- Continue to resist efforts to implement state-sanctioned IP theft regardless of existing license agreements, which is having serious, long-term implications for Russia's economy and creative ecosystem.
- Ensure recent legal reform proposals do not worsen copyright protection and enforcement.
- Reject proposed legislation that would allow esports event organizers to profit from copyright-protected video game content without authorization from rights holders.

[1] For more details on Russia's Special 301 history, see previous years' reports, at https://iipa.org/reports/reports-by-country/. For the history of Russia's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

- Convert the memorandum of understanding (MOU) between Internet service providers (ISPs) and rights holders into law with broader applicability and sanctions for non-compliance and enforce the addendum to the MOU.
- Implement regulations on the operation of collective management organizations (CMOs) that confirm that rights holders, whether local or foreign, have the legal and practical ability to determine how to exercise their rights.
- Amend the Administrative Code and Criminal Code to prevent theatrical camcording.
- Amend the Civil Code, Part IV, to incentivize ISPs to cooperate with rights holders to effectively address online piracy.
- Amend the Civil Code and Criminal Code to provide adequate protection for technological protection measures (TPMs).
- Ensure legislative proposals related to artificial intelligence (AI) meet the standards set forth by the G7 Hiroshima AI Process.

Market Access

- Remove market access restrictions negatively impacting the U.S. creative industries, including the value-added tax (VAT), foreign ownership restrictions, customs duties, a local presence requirement and a proposal that would limit the share of foreign participation in music platforms.

ENFORCEMENT

- **Increase the number and effectiveness of criminal copyright digital piracy cases, especially deterrent criminal actions directed against organized criminal syndicates.**

The Government of Russia has unfulfilled commitments to take action against digital piracy under the 2006 U.S.-Russia Bilateral WTO Market Access Agreement Side Letter on Intellectual Property Rights (2006 IPR Side Letter). In the 2006 IPR Side Letter, Russia agreed to combat the growing threat of Internet piracy "with the objective of shutting down websites that permit illegal distribution of content protected by copyright or related rights" (especially for websites registered in Russia's *.ru* domain name, or whose servers are situated in Russia), and "to investigate and prosecute companies that illegally distribute objects of copyright or related rights on the Internet." When Russia joined the WTO in 2012, as part of its accession, Russia pledged that it would "continue to take actions against the operation of websites with servers located in the Russian Federation that promote illegal distribution of content protected by copyright or related rights, such as phonograms (sound recordings), and investigate and prosecute companies that illegally distribute objects of copyright or related rights on the Internet."[2] Also in 2012, Russia agreed it would take "enforcement actions targeting piracy over the Internet" and more specifically it would, *inter alia*:

> Take measures to disrupt the functioning of websites that facilitate criminal copyright infringement, and provide for takedown of infringing content: …Take actions against the creators and administrators of websites through which intellectual property crimes are committed …Conduct meaningful consultations with rights holders to target and to take action against high-priority infringing websites.[3]

The Government of Russia should fully and properly implement these obligations.

Russia remains host to several illicit sites that cater to English-speaking audiences, negatively impacting markets worldwide. The lack of explicit liability provisions for hosting providers creates a supportive environment for infringing services to use the infrastructure in Russia. Infringement on Russian social media and hosting platforms such as *vKontakte (VK)*, *Odnoklassniki* (*OK)*, and *DDoS-Guard*, as well as dealing with registrars such as *Reg.ru*, *Beget*, and *RU-CENTER* remains a significant concern for rights holders.

[2] WTO Working Party Report (paragraph 1339).
[3] U.S.–Russia Intellectual Property Rights (IPR) Action Plan (2012).

Examples of the types of large-scale online piracy problems that persist are evident in the annual Notorious Markets List, and in IIPA's past filings with the U.S. government. Many large-scale sites in Russia, including those on the Notorious Markets List, operate unimpeded, offering unauthorized copies of films. The U.S. government included seven Russian online sites on the 2024 Notorious Markets List, including *Sci-Hub*, *Lib-Gen* (and related sites), *Rapidgator*, and *DDoS-Guard*.[4] All of the aforementioned online markets were nominated by IIPA and its members for listing on USTR's Notorious Markets list. The following illustrate the impact the persistent nature of this large-scale piracy in Russia has on various sectors of copyright-based industries.

Motion Picture and Television: The motion picture and television industry remains particularly concerned about *VK*, one of the most popular sites in the world and the most popular social network in Russia. *VK*, along with *OK*, are infringement hubs whose impact extends well beyond Russia. Users of *VK* and *OK* can illegally distribute thousands of unlicensed motion picture files (even though *VK* negotiated licenses a few years ago with some of the music companies for its use of music). Previously, *VK* had demonstrated improvements in their responsiveness to takedown notices and limiting access to third-party apps. However, dozens of groups dedicated to movie and TV piracy with millions of users have been illegally uploading and sharing infringing content on *VK* for several years, despite multiple removal requests from rights holders.

Video Games: *VK* has historically been one of the main platforms for promoting video game piracy sites and marketplaces. Before the invasion, Russian social networks had improved their responsiveness to take-down notices from the video game industry, removing infringing material including cheats and other unauthorized digital goods (UDGs). Today, video game piracy remains a problem in Russia and is feared to fuel piracy in other markets. The video game industry has been impacted by historically weak overall compliance in Russia with takedown notices regarding links to pages with infringing content via forums, cyberlockers, and direct download sites, and very quick reposting of materials that are taken down. BitTorrent sites are significant sources in Russia for downloading illegal copies of video games, with no abatement in recent years. In 2024, Russia ranked number one in the world for the number of connections by peers participating in the unauthorized file-sharing of Entertainment Software Association (ESA)-member video game titles on public peer-to-peer (P2P) networks**.** By the same metric, Russia ranked first in the world for unauthorized file-sharing of PC-based games, and for console-based games.

Recorded Music: The most prominent forms of music piracy in Russia remain web downloads, BitTorrent, and stream-ripping sites. The most popular BitTorrent site in Russia is *rutracker.org*, which according to SimilarWeb received globally over 413.9 million visits from November 2024 to October 2025. Indeed, the highest traffic to the site comes from Russia with 54% of the traffic. Visits to the site remain high as Russian users have learned how to circumvent the block imposed on the site by authorities enabling users to easily access the large amounts of both English and Russian content available on the site, including enormous quantities of discographies for many music artists.

SaveFrom.net is an extremely popular stream-ripping site in Russia, receiving roughly 1.48 billion visits globally and over 83.7 million visits from Russia according to *SimilarWeb* in the last 12 months (November 2024 to October 2025). Over the same period, *Y2down.cc* received over 5.4 million visits from Russia; *ssyoutube.com* received over 8.5 million visits from Russia; and Russian-language MP3 download site *Zaycev.net*, which offers popular music content to download or stream, was visited over 69 million times from Russia.

[4] See USTR, "2024 Review of Notorious Markets for Counterfeiting and Piracy," available at https://ustr.gov/sites/default/files/2024%20Review%20of%20Notorious%20Markets%20of%20Counterfeiting%20and%20Piracy%20(final).pdf (2024 NML). The 2024 NML also included three physical markets in Russia, all of which are on the list for the prevalence of counterfeit materials.

Book and Journal Publishing: Most concerning to book and journal publishers are the online book and journal piracy websites operating out of Russia. Key Sources for the problem are *Sci-Hub.se* (also *Sci-Hub.ru* and *Sci-Hub.st*), which remains the most problematic piracy site for professional and scholarly journal publishers, and now it's extension, *sci-net*, which allows users to request articles in exchange for *sci-hub* crypto. Articles that are "funded" through *sci-net* are added to *sci-hub*. *Sci-net* further allows new content to be distributed in circumvention of international blocking orders in place. Infringing journal articles pirated by the site's operator are likewise available on a network of sites collaborating under the "Library Genesis Project" collection of piracy sites. *Sci-Hub* claims it holds over 88 million copyright-protected journal articles, as well as millions of books found on *Lib-Gen*, *Z-Library*, and numerous other mirror sites.[5]

In October 2018, publishers successfully sought an injunction to block the sites' primary domain in Russia. In 2019, a permanent block was issued against *Libgen.org*, while a permanent injunction against several *Sci-Hub* mirrors in Russia took effect in 2020. It remains the unfortunate case that despite the seizure of some 244 *Z-Library*-related domains by the U.S. Department of Justice in November 2022—and the arrest of the alleged Russian operators in Argentina—*Z-Library* operators continue infringe. [6] Despite a further seizure of several alternative *Z-Library* domains (such as *singlelogin.click*) in November 2023, with assistance from enforcement authorities in Europe, various domains remain live, such as *zlibrary.to*.

In addition to these large-scale book and journal piracy platforms, Russian Internet users also use P2P file-sharing services. Over the last year, an AAP member company registered 1.3 million P2P downloads of pirated copies of its books originating from Russia approximately equal to the aggregated volume from the next top five countries (China, France, India, the United States, and the UK). Publishers have identified dozens of pirate platforms (among them *Vdoc.pub, rapidgator.net, alfafile.net, pixel-brush.ru, VK, prizrak.ws, libramar.net,* and *torrentdownloads.pro)* hosted in Russia that either host pirated books or link to pirated content. *DDOS-Guard* also plays a prominent role in hosting at least seven highly popular book piracy platforms. Finally, there is significant e-book piracy on *VK*, particularly of trade books. Although the site responds to notifications of infringement, piracy remains unabated given the ease with which users can continuously upload and make available pirated e-books and audiobooks.

The copyright industries continue to report elevated levels of piracy and declining levels of criminal enforcement, continuing a trend of the past several years. Currently, criminal cases for online piracy do not reach courts due to outdated provisions of the Criminal Code that are difficult to enforce for online infringements, specifically, the "value of the crime" definition. This definition, which means the value of the produced physical copies (e.g. DVDs, books, CDs. video game discs, etc.) or the value of the rights granted to a licensor, is not always appropriate for calculation of damages for digital releases. Official statistics of the Ministry of Interior demonstrate a continuous decrease in the number of registered copyright-related crimes, dropping from 423 cases in 2020 to 317 cases in 2021 (a 22% decrease) and zero copyright infringement cases in 2022. The Ministry stopped publishing these statistics since the invasion.

Prior to the invasion changes to criminal procedures that placed copyright infringement cases into the category of serious crimes had enabled Russian law enforcement agencies to conduct thorough and comprehensive investigations against owners and operators of piratical operations, although significant challenges persisted. Since the invasion, nearly all criminal prosecutions and procedures related to fighting piracy have been suspended. More

[5] Sci-Hub is an adjudged pirate entity, with two Association of American Publishers (AAP) members having secured judgments against the site and its operator in 2017 and 2015 in two U.S. courts. These judgments resulted in injunctions requiring U.S. domain name registries to suspend the site's U.S. administered domains. In October 2018, publishers successfully sought an injunction to block the sites' primary domain in Russia. In 2019, a permanent block was issued against *Libgen.org*, while a permanent injunction against several Sci-Hub mirrors in Russia took effect in 2020. *Sci-Hub* provides access to nearly all scholarly literature. See https://www.insidehighered.com/news/2020/01/17/universities-ignore-growing-concern-over-sci-hub-cyber-risk

[6] In November 2022, *Z-Library* domains were seized by the Department of Justice, and the network of some 244 sites taken offline. The alleged operators, two Russian nationals, were also arrested in Argentina and await extradition. See U.S. Attorney's Office, Eastern District of New York Press Release, *Two Russian Nationals Charged with Running Massive E-Book Piracy Website*, November 16, 2022, available at https://www.justice.gov/usao-edny/pr/two-russian-nationals-charged-running-massive-e-book-piracy-website.

information about deficiencies in Russia's anti-piracy enforcement before the invasion can be found in previous IIPA reports.

- **Improve administrative enforcement against large-scale unlicensed services, including by imposing deterrent-level penalties.**

In addition to criminal enforcement, the relevant administrative agencies should target large illegal distribution enterprises, such as the large-scale unlicensed services responsible for most of the illegal distribution of music and film in Russia. The Administrative Code (Article 7.12) provides a range of fines for infringement by natural persons (1,500 to 2000 rubles, US$20 to US$27), the owners or managers of legal entities (10,000 to 20,000 rubles, US$133 to US$266), and legal entities themselves (30,000 to 40,000 rubles, US$400 to US$533) and permits the confiscation and destruction of pirated products. The police or agencies file administrative cases, but the courts of general jurisdiction levy fines. Imposing significant administrative fines on legal entities would have a deterrent effect, especially in instances when criminal cases are terminated for failing to meet the high evidentiary burdens. Unfortunately, current administrative procedures are inadequate because of the very low level of fines imposed, as well as the inability to reach commercial enterprises that distribute infringing content. Moreover, enforcement under the Administrative Code has been ineffective due to the lack of enforcement actions. In 2024, there were 224 cases under this article, of which only 116 cases included fines totaling 1,643,000 rubles (approx. US$20,000).

- **Improve civil enforcement, including by amending the Civil Code or other relevant laws to address the issue of "domain hopping."**

Though civil judicial and administrative remedies had begun to improve before Russia's invasion of Ukraine in 2022 (with legal reforms in 2013, 2014, 2017, and 2020), the ability for U.S. rights holders to bring civil action in Russia has since completely ceased.[7] Prior to 2022, civil injunctive relief mechanisms allowed rights holders to enjoin notoriously infringing sites though critical gaps remained. These include the lack of relevant laws targeted at online piracy, "domain hopping" of pirate sites that continued after the Moscow City Court issued an initial content-removal order, and the liability of hosting providers. Current regulations were designed in the offline environment, and some provisions are difficult to apply to diversified online piracy, particularly regarding timelines, evidence fixation, and damages calculation.

Moreover, pirates have found tools to navigate around the content protection tools provided in recent legal reforms. Part of the problem lies in how *Yandex*, the major search engine in Russia, indexes sites. Neither internal *Yandex* policy nor laws oblige *Yandex* to improve search and retrieval algorithms to reduce the number of pirate sites and links to infringing content. *Yandex* algorithms instantly or even automatically include updated mirror sites. Another tactic is to use an empty site with a relevant domain name for search engine results, which redirects to a site with infringing content. Significant changes and improvements in the piracy situation will require adoption of anti-piracy laws and policies that are relevant to the current issues affecting the creative industries.

In addition, court practice related to title-specific civil injunctions has worsened. The Moscow City Court, under the influence of the first appellate court, changed its approach to decisions in title-specific civil injunction cases. Previously, the court prohibited a site from using the title on the site in general. Now, the court prohibits the use of the title on only the page on which it was captured. Thus, any change of the URL allows the site to avoid enforcement under the court decision.

- **Encourage domain registrars to refrain from harboring piracy sites and services, and ensure that the registries Coordination Center for Top-Level Domains (TLD) *.RU/РФ* and the Russian Institute for Public Networks (RIPN) properly address illegal activities.**

[7] Prior IIPA filings have detailed the 2013, 2014, 2017, and 2020 legal reforms, which implemented ISP liability and safe harbors and injunctive relief against infringing content online. See, e.g., IIPA 2022 at 79-80.

Increasingly, copyright owners face difficulties in enforcement against domains with *.ru* or *.su*. While the official registry administrators, Coordination Center for Top-Level Domains (TLD) RU/РФ (for .ru) and Russian Institute for Public Networks (RIPN) (for .su), have rules against illegal services, the complex legal landscape in Russia, as well as the complexities of Internet governance and international laws (and, e.g., lack of extraterritoriality) means that these domains can be exploited by malicious actors in the commercial market. Such is the case in the copyright space with respect to piracy services. A good example of this is the Piracy-as-a-Service (PaaS) known as *vidsrc*, which is a PaaS responsible for over 100 of the world's top piracy sites. Recent court orders in India managed to suspend a couple *vidsrc* domains, which prompted their operators to swiftly establish new domains with the *.ru* and *.su* country-code top level domains (ccTLDs). Without engagement, the commercial domain registrars for *.ru* and *.su* (as opposed to the official registry administrators), will do nothing. Often, the pirates are hiding behind domain registrars like RU 01/RU-CENTER knowing these specific registrars will not cooperate with rights holders. To foster a healthy internet, the Russian government should ensure that its registries and associated domain name registrars are doing their part to combat piracy.

- **Prevent or disrupt the unauthorized screenings of motion pictures in cinemas.**

Before the invasion, Russia was the source of the illegal copying of many feature films in theaters that migrated online. Piracy operators obtain their source materials for infringing copies by camcording films at local Russian theaters or soliciting third parties to camcord films in disparate locations and then upload these copies onto the Internet and sell illegal hard copies. Russia remains the home to some of the world's most prolific criminal release groups of motion pictures with substantial operations outside of Russia, organized by Russian expatriates.

After Russia's invasion, the U.S. film, broadcast, and streaming industries, along with many other industries, suspended operations in Russia. As a result, theatrical piracy has skyrocketed. Unfortunately, third-party operators have recently begun organizing illegal screenings of U.S. films in theaters throughout Russia. At first, the theaters did not advertise the screenings openly, referring to them as "private club" events. However, by August 2023, most of the theater chains included such screenings in their schedules and started promoting them along with the legal exhibitions, such as *Barbie*, *Blue Beetle*, and *Oppenheimer*. In 2024, most cinemas continued to openly show unlicensed content. However, the growing number of locally produced features has resulted in a decrease of the overall percentage of cinema screenings that are pirated. The content shown at these illegal screenings is sourced from pirated Digital Cinema Packages (DCP), allegedly created from legitimate copies supplied to exhibitors in the region, that are illegally distributed online. Moreover, there is evidence of camcording occurring at these illegal screenings, compounding the harm.

LEGAL REFORMS

- **Ensure recent legal reform proposals do not worsen copyright protection and enforcement.**

Major overarching concerns in the Civil Code include: (a) a lack of clarity on numerous provisions, especially on exceptions and limitations; and (b) administrative law principles throughout the Civil Code that likely cannot be enforced by civil or criminal procedures. Moreover, since its invasion of Ukraine, Russia has introduced several troubling legal reforms that threaten to further worsen copyright protection and enforcement in Russia.

- On May 27, 2022, the Russian President issued Decree #322 regarding the payment of remuneration to foreign rights holders from "unfriendly" countries (i.e., the countries that imposed sanctions against Russia in response to its invasion of Ukraine). The Decree orders that Russian persons (including the Russian authorities, organizations, companies, and residents) make payments for the use of IP to foreign rights holders in rubles to a special O-type bank account opened in the name of the foreign rights holder. Russian entities

have no obligation to make payments to foreign rights holders until the rights holder agrees to the new method, and rights holders may not transfer funds from O-type bank accounts outside of Russia without government permission. The Decree restricts the rights holders subject to the Decree from receiving license payments other than through governmental approval.

- Russian law requires persons and organizations receiving international support or whom Moscow deems under foreign influence to be registered as a "foreign agent." On December 17, 2024, the Duma passed a bill requiring these "foreign agents" to transfer all income from creative industries, including works of literature, performances, and broadcasting to special ruble accounts. Funds are only accessible once individuals are removed from the registry of foreign agents. The law entered into force on March 1, 2025. The recorded music industry is concerned about the inability to collect payment for the broadcasting of their sound recordings in Russia.
- In June 2024, the Russian President signed into law amendments to the Criminal Code that further increased the threshold for criminal liability for copyright infringement – the threshold is now five times higher than it was prior to the amendment. This law has made initiation of a criminal investigation, which remains impossible for U.S. rights holders, even more difficult.
- The Ministry of Justice has published a bill proposing softer thresholds of liability for copyright infringement crimes. The Ministry is expected to decriminalize a quarter of such crimes as a result.
- In July 2024, a law amending Part IV of the Civil Code was adopted. The bill established a procedure for the use of orphan works, including the creation of a database for orphan works and the appointment of a CMO to manage rights for such works. The amendments limit the possible uses of the orphan works as follows: reproduction and distribution of the copies, making them available to the public, and creation of derivative works. The remuneration rates are subject to determination by the government and such rates were published in the Spring of 2025. If the potential licensee is unable to identify the copyright holder, the licensee would have the right to apply to the CMO authorized by the Ministry of Culture with a statement of intent to use the corresponding copyrighted work. The Ministry of Culture would determine the necessary and sufficient measures to be taken by a potential licensee to identify the rights holder before applying to the CMO. The authorized CMO must place an announcement about the rights holder's search on its official website. If the rights holder is not identified within 30 days, the CMO will record information about the copyrighted work in the database, including the measures taken to find the rights holder, after which the CMO will have the right to grant the right to use the work on the terms of a non-exclusive license. The CMO will deposit the remuneration in a dedicated account until the rights holder submits a payment request. Although the amendments contain a provision securing the rights holder's right to terminate the license agreement concluded by the CMO and recover damages if the CMO fails to take proper measures to identify the rights holder, the procedure for determination of fees and the measures to identify the rights holders create unnecessary state involvement in rights management, raising concerns that rights holders' copyright rights will be undermined. It is important that the Government of Russia and its Ministry of Culture introduce adequate due diligence obligations to establish that a work or sound recording is orphan. Given the geopolitical situation, record companies that are no longer present in the Russian market are concerned that due diligence requirements may be scoped to make it easy for their catalogues to be considered orphan, allowing them to be misrepresented by local CMOs.
- Additional problematic developments which have yet to be formally introduced include:
    a. Plans to introduce forms of compulsory licensing in relation to copyright and related rights (with or without remuneration);
    b. Mechanisms to extend the terms of license agreements automatically and without authorization of the licensor when they are from territories that have applied sanctions against Russia;
    c. Significant limits to the availability of damages for copyright infringements, and suspensions of certain intellectual property rights which, if adopted in relation to copyright and related rights, would result in a significant step backwards, a worrying precedent for IP protection and a clear breach of international treaties.

- **Continue to resist efforts to implement state-sanctioned IP theft, which is having serious, long-term implications for Russia's economy and creative ecosystem.**

In mid-April 2022, Russia began drafting legislation that, if enacted, would drastically undermine exclusive rights. This unprecedented bill would allow a Russian licensee of a copyrighted work to apply to the court for a compulsory license to exploit a copyrighted work if a partner from an "unfriendly state" (including the United States) partially or completely unilaterally repudiated the license agreement on grounds not related to the violation of such a contract by the licensee. As U.S. industries have suspended operations in Russia in the wake of Russia's invasion of Ukraine, such a bill, in effect, would legalize piracy of copyrighted materials owned by U.S. rights holders, in clear violation of Russia's WTO obligations—essentially amounting to state-sanctioned IP theft. On August 19, 2022, the first version of the draft was submitted to the State Duma. However, after the pushback from a local industry association, the sponsor of the bill stated the bill would be withdrawn and an alternative version would be drafted. A new draft law with similar provisions was submitted to the State Duma in July 2024, with a preliminary hearing date set for December 2024.That bill was rejected after the first reading in June 2025.

- **Reject proposed legislation that would allow esports event organizers to profit from copyright-protected video game content without authorization from rights holders.**

Russian lawmakers recently proposed legislation that would allow esports tournament organizers to profit from video game content without obtaining licensing agreements directly from video game publishers. The bill contemplates the creation of a public-law company (PLC), which would replace the role of rights holders to manage licensing fees associated with the use of games in esports tournaments, interfering with the exclusive right of publishers to maintain brand integrity and to exercise rights to their protected works.

- **Convert the MOU between ISPs and rights holders into law with broader applicability and sanctions for non-compliance and enforce the addendum to the MOU.**

Although the civil law reforms had improved enforcement by the courts before the invasion, absent these court orders, most ISPs and website operators still did not comply with takedown notices; instead, they merely forward notices to users without taking down infringing material. Often, as a delaying tactic, the Russian websites insisted on proof of copyright ownership before even considering compliance with takedown requests. The advertising agencies and payment processors that financially support infringing sites continue to resist cooperation with the copyright industries.

The only alternative has been the voluntary MOU, signed in November 2018 between the largest Russian ISPs and certain local rights holders regarding delisting of infringing sites from search engines at rights holders' request. Subject to amendments adopted in April 2025, the MOU's term will automatically be extended each year for the subsequent year unless any of the parties to the MOU reject the extension before March 1 of the current year. In August 2023, the parties to the MOU agreed to extend it to music and literary works and simplified the approval procedure for new members, eliminating the requirement to apply via a non-commercial organization for certain rights holders. The candidates for membership must still obtain approval from most of the existing members; however, they can now apply directly if they own a catalog of at least 100 works.

In June 2021, legislation was proposed in the Duma to convert the ISP-rights holder MOU into legislation. The Duma was to consider the bill in February 2022 but still has not taken any action. The legislation should provide sanctions for non-compliance with takedown notices and should be applicable to all platforms and search engines and all copyrighted works. An addendum to the MOU, MOU 2.0, was signed in December 2021, but is subject to the adoption of the legislation and has not been enforced. MOU 2.0 provides for several new measures to stop search engines from providing easy access to infringing services. New measures include removal of repeat offender sites from

search results, removal of sites displaying over one hundred links to infringing content from search results, and measures to defeat "domain gluing."[8]

- **Implement regulations on the operation of CMOs that confirm that rights holders have the legal and practical ability to determine how to exercise their rights.**

The long-standing problem concerning the collective management of music rights in Russia needs to be addressed properly. After years of missed deadlines, Russia adopted new legislation in 2017 (in force, May 2018) that did not address key relevant issues and created even more problems. The new collective management system denies transparency to rights holders and good governance consistent with international norms, as well as best practices for CMOs as required by Russia's WTO accession obligations. The 2017 law amended the Civil Code and the Administrative Code to revise the make up and activities of CMOs. One obvious failure of the 2017 law regarding transparency is that it does not allow rights holders to see how much money their CMO collects or distributes to their members. Moreover, in terms of a lack of good governance, the law does not allow rights holders to control their CMOs.

The so-called "fiscal control improvements" in the new law, including regular audit reports, will not improve accountability because the audit obligations are for reports only to the government for taxation purposes, not to rights holders. The new law creates "supervisory boards" for each of the various authors' CMOs (the Russian Authors Society, the Russian Union of Right Holders, and the All-Russian Intellectual Property Organization) consisting of members of each CMO but also including government representatives and "user" group representatives. This structure does not allow rights holders to be involved in the selection and management of the organizations that purport to manage their rights. Proper management would allow for a supervisory board of rights holders to oversee the internal management of the CMO and would include international rights holders with local representatives on the board. Instead, partial control of CMOs by the Government of Russia deprives rights holders of their ability to control the licensing and collection of monies for their works and recordings and is resulting in less, not more, money flowing to authors and producers and certainly less money than should be collected for a market the size of Russia.

To develop properly functioning music broadcasting and public performance payment systems via collective management, the Government of Russia should re-visit the 2017 law to ensure that rights holders are able to control and manage their own CMOs or can effectively opt out of collective management. This change would result in fair representation characterized by direct representation of rights holders on the board in a manner that is proportionate to relevant market share and reflects commercial realities, with no conflicts of interest in the governance structures. Many models for proper governance of CMOs exist, including WIPO best practices, international rights holder group best practices, as well as U.S. and European Union (EU) existing practices. Instead, the existing regulations and state accreditations have institutionalized a system that is neither transparent, nor well governed with accountability for authors, record labels, and performers, who have no other option except for the state CMOs.

- **Amend the Administrative Code and Criminal Code to prevent theatrical camcording.**

In August 2021, the Government of Russia adopted a Decree establishing the rules for film exhibition in theatres that cover the rights and obligations of both exhibitors and viewers. The Decree replaced the older document from 1994 and extended the exhibitors' rights to remove from the screening room viewers who disregard the exhibition rules, including those who attempt to record the film illicitly. While the Decree provides an explicit framework to address viewers who illicitly attempt to record a film in the theater, it does not resolve the issue of lack of liability for camcording.

To adequately address the camcording problem requires changes in the Russian legal framework, as well as dedicating sufficient resources and government willpower to engage in effective enforcement. Owing to the complex burden of proof procedure that the Administrative Code requires for copyright infringements, law enforcement is

[8] Domain gluing" is a process used by operators of infringing services allowing them to return to the same search ranking from which they were removed by "gluing" pages together.

reluctant to investigate camcording incidents. Separate provisions addressing illegal recording in theaters and tailored to that specific form of infringement, could enhance enforcement. The Government of Russia should amend the Administrative Code to add liability for camcording to the general liability provisions on copyright infringements (Article 7.12) and to provide criminal law penalties as well. In 2020, the Government of Russia prepared changes to a new Administrative Code to address camcording, but the timing for revising the Code remains unclear. The new rules, if adopted, would explicitly prohibit video or audio recordings of films in theaters and would allow theater owners to act to stop any such recordings, including removing the offending party from a theater. The proposed new law would also add administrative sanctions for camcording. While this is a step in the right direction, unfortunately, no proposals exist to amend the Criminal Code or to add any criminal sanctions for camcording pursuant to Russia's WTO and bilateral obligations. In addition to these needed legal reforms, IIPA recommends that the Government of Russia properly resource enforcement actions and undertake more effective enforcement against illegal camcording of motion pictures.

- **Amend the Civil Code, Part IV, to incentivize ISPs to cooperate with rights holders to effectively address online piracy.**

IIPA and its members continue to note one ISP-related major overarching concern in the Civil Code: the absence of clear liability rules for online websites and services that induce or encourage infringement, as well as the applicability of safe harbors for such services. The law does not define ISPs and the various services they provide, nor does it link liability and safe harbors in a manner that will incentivize cooperation with rights holders to effectively address Internet piracy. Lastly, Russia's law does not define secondary liability. The law should be clarified regarding the liability of online infringing websites and services, including that safe harbors should apply to only passive and neutral intermediaries that do not contribute to infringing activities. Further, it is critical that Russia amend its legal regime to allow for civil injunctive relief that is quick and effective and applicable to all works.

- **Amend the Civil Code and Criminal Code to provide adequate protection for technological protection measures (TPMs).**

Article 1299 of the Civil Code prohibits the commercial distribution (i.e., trafficking) in circumvention devices and services that circumvent TPMs. The law should be amended to expand liability to the commercial trafficking in all variety of circumvention devices (including software) and services. In addition, commercial trafficking in circumvention devices, including by importation, should be criminalized. IIPA also recommends amending Article 1252(5) of the Civil Code, which currently includes remedies for the seizure and destruction of materials and equipment used in infringements, by deleting the exception for the sale of materials by the state for "income" and by making corresponding changes in the respective procedural codes.

- **Ensure legislative proposals related to AI meet the standards set forth by the G7 Hiroshima AI Process.**

The State Duma has recently commenced discussions on the preparation of a bill that would regulate AI in Russia. As Russia looks to possibly regulate AI, IIPA strongly encourages the Government of Russia to look towards the G7 Hiroshima AI Process, which has set forth important rules of the road for the development of AI systems.

Examples of important principles set forth by the G7 Hiroshima AI Process include, the International Code of Conduct for Organizations Developing Advanced AI Systems including the following: "Organizations are encouraged to implement appropriate safeguards, to respect rights related to privacy and intellectual property, including copyright-protected content."[9] The International Guiding Principles for Organizations Developing Advanced AI Systems includes the following principle: "Implement appropriate data input measures and protections for personal data and intellectual

[9] See Hiroshima Process International Code of Conduct for Organizations Developing Advanced AI Systems, p. 8, available at https://www.mofa.go.jp/files/100573473.pdf.

property."[10] In the June 17, 2025, G7 Leaders' Statement on AI for Prosperity, the G7 Leaders indicated they would "leverage the outcomes of the Hiroshima AI Process (HAIP) to foster trust."[11] The Leaders further committed to "[p]romote economic prosperity by supporting SMEs to adopt and develop AI that respects personal data and intellectual property rights, and strengthen their readiness, efficiency, productivity and competitiveness" and stated, "We recognize the need to respect intellectual property rights in enabling these efforts."[12].

MARKET ACCESS

- **Remove market access restrictions negatively impacting the U.S. creative industries, including the value-added tax (VAT), foreign ownership restrictions, customs duties, a local presence requirement and a proposal that would limit the share of foreign participation in music platforms.**

While U.S. industries have largely suspended operations in Russia since the invasion, significant market access barriers remain, including a discriminatory VAT; foreign ownership restrictions in broadcasters, mass media entities, and over-the-top (OTT) services; and an advertising ban on pay-TV. In 2022, in response to invasion-related sanctions imposed on Russia, the Russian government adopted several restrictive measures targeting foreign investors from unfriendly jurisdictions. The measures include an obligation for the foreign shareholders of the Russian joint-stock and limited liability companies to obtain governmental approval for any deals involving their shares.

In addition to these barriers, the video game industry also faces significant market access issues in Russia. For example, Russia imposes customs duties on the royalty value of some imported audiovisual materials, including some video games, rather than solely on the value of the physical carrier medium, contrary to standard international practice. Another barrier affecting the video game industry is a law, adopted by the State Duma on June 17, 2021, mandating foreign Information Technology (IT) companies with a daily audience over 500 thousand users to open a branch, a representative office, or an authorized legal entity in Russia.

At the beginning of 2025 State Duma deputy Andrey Lugonov tabled a proposal that would limit the share of foreign participation in music platforms. The initiative is unclear but would likely aim to further restrict market access to foreign stakeholders and collection of royalties by foreign right holders. IIPA urges the resistance of proposals of the sort.

[10] See Hiroshima Process International Guiding Principles for Organizations Developing Advanced AI System, p. 5, available at https://www.mofa.go.jp/files/100573471.pdf.

[11] See G7 Leaders' Statement on AI for Prosperity, June 17, 2025, available at https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf.

[12] Id.

SOUTH AFRICA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that South Africa be placed on the Priority Watch List in 2025.[1] IIPA further recommends that through the ongoing Generalized System of Preferences (GSP) review, the U.S. government continue to indicate that the Copyright Amendment Bill (CAB) and the Performers' Protection Amendment Bill (PPAB) that were referred to the Constitutional Court are fatally flawed and to work with the South African government to remedy the deficiencies in South Africa's legal and enforcement regimes. This includes by redrafting the bills to address the serious concerns detailed below and in IIPA's previous submissions. If, at the conclusion of the review, South Africa has not made requisite improvements, the U.S. government should suspend or withdraw GSP benefits to South Africa, in whole or in part.

Executive Summary: South Africa's current copyright protection and enforcement framework fails to meet the challenges of the digital age. New technologies provide South Africa's consumers with increased access to legitimate creative content and opportunities for the growth of its copyright industries and all creators. Unfortunately, South Africa's inadequate response to persistent piracy enabled by many of these same technologies, demonstrated by the significant number of notorious piracy sites visited by South Africans, is undercutting this burgeoning market.

IIPA is encouraged that South Africa's government has stated its commitment to protecting intellectual property (IP) and its desire to bring its laws into compliance with international treaties and commitments. As an important emerging market and a dominant economy in Sub-Saharan Africa that other countries in the region may seek to emulate, the stakes for copyright reform are very high. South Africa is uniquely positioned to demonstrate how a modern copyright regime can contribute to the growth of creative industries in an era of rapid digital and mobile expansion throughout the country and the region.

However, IIPA remains seriously concerned about the bills—the CAB and the PPAB—that President Ramaphosa referred to the Constitutional Court. These bills remain inconsistent with the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively, the WIPO Internet Treaties) and, if enacted, would violate South Africa's obligations under the WTO TRIPS Agreement and the Berne Convention, potentially violate South Africa's Constitution and Bill of Rights, and move South Africa even further away from international treaty obligations and best practices. As such, considering the importance of modernizing South Africa's copyright legal framework and the degree of concern raised by the creative industries over the years, IIPA recommends that the U.S. government continue to recommend that the bills should be entirely redrafted, in close consultation with rights holders, to allow South Africa to accede to the WIPO Internet Treaties, allow it to meet its international obligations, ensure adherence to best practices, and promote an environment favorable to investment. The bills that were referred to the Constitutional Court fail to meet these standards and would have unintended and harmful consequences, including threatening and hampering the growth of and investment in the country's creative economy and weakening South Africa's market for creative content, both for U.S. exports and the local creative sector.

Additionally, the latest (third) *Draft White Paper on Audio and Audiovisual Media Services and Online Safety* (DWP) is a step back from previous versions and should be revised to include discussion of effective mechanisms and statutory remedies to disable access to services that infringe domestic and foreign content and to ensure a stable

[1] For more details on South Africa's Special 301 history, see previous years' reports at https://iipa.org/reports/reports-by-country/. For the history of South Africa's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

regulatory framework that avoids overly prescriptive and cumbersome requirements for online content distribution in South Africa.

PRIORITY ACTIONS REQUESTED IN 2026

Legal Reforms

- Ratify and fully implement the WIPO Internet Treaties.
- Should the Constitutional Court declare the CAB and the PPAB unconstitutional, the Minister of Trade Industry and Competition (DTIC) should seek cabinet approval to withdraw the bills from Parliament to enable the substantive re-drafting of the fundamentally flawed bills. The redrafted bills should ensure compliance with South Africa's Bill of Rights and Constitution and with international treaty obligations and best practices, informed by an independent economic impact assessment study as required by the government's Socio-Economic Impact Assessment System (SEIAS) guidelines, and in consultation with rights holders.
- Enact amendments to the Electronic Communications and Transactions Act (ECTA) to include a remedy that includes mechanisms that ensure Internet service providers (ISPs) can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities.
- Increase the term of protection for works and sound recordings from 50 years to at least 70 years, in line with the international standard.

Market Access

- Remove market access restrictions that negatively impact the U.S. creative industries, including broadcast quotas, "must provide" requirements, video-on-demand (VOD) quotas, online value added tax (VAT), the proposed digital services tax (DST), and concerning proposals in the Draft National Music Sector Policy and Strategy.

Enforcement

- Improve enforcement to combat South Africa's growing online piracy problem.

LEGAL REFORMS

- **Ratify and fully implement the WIPO Internet Treaties.**

Significant reforms are needed to South Africa's Copyright Act and Performers' Protection Act to bring the country's laws into compliance with international agreements, including the WTO TRIPS Agreement and the WIPO Internet Treaties.[2] As IIPA previously reported, in 2019 the South African Parliament adopted the first major revision of the country's copyright and related laws in decades.[3] While the intent of South Africa's copyright reform process was to bring the country's laws into compliance with international agreements, the bills that ultimately passed fell far short of international norms for the protection of copyrighted works in the digital era. Moreover, the copyright reform process failed to consider whether the proposed changes would be compliant with South Africa's Constitution and international obligations. Further, contrary to the required SEIAS process, the government did not publish an updated SEIAS report to adequately measure the economic impact of the bills on South Africa's creative sector. The absence of an updated SEIAS report leaves a critical gap in assessing the full economic impact of the bills on South Africa's creative sector–that is, the proposed reforms' likely impact on stakeholders within the creative industries, including producers, performers, and other rights holders. This failure to evaluate the economic implications raises concerns about the overall effectiveness and sustainability of the reforms, particularly in addressing the unique challenges posed by the

[2] South Africa's Cabinet has approved the country's accession to the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively, the "WIPO Internet Treaties"), and the Beijing Treaty.
[3] See IIPA's 2020 Special 301 Report on South Africa, https://www.iipa.org/files/uploads/2020/02/2020SPEC301SOUTHAFRICA.pdf at 76.

digital era. As such, a comprehensive and updated SEIAS report is crucial to ensure that the legislative changes are aligned with the interests of South Africa's creative economy and its international commitments.

- **Should the Constitutional Court declare the CAB and the PPAB unconstitutional, the Minister of DTIC should seek cabinet approval to withdraw the bills from Parliament to enable the substantive re-drafting of the fundamentally flawed bills. The redrafted bills should ensure compliance with South Africa's Bill of Rights and Constitution and with international treaty obligations and best practices, informed by an independent economic impact assessment study as required by the government's SEIAS guidelines, and in consultation with rights holders.**

In June 2020, the President referred the CAB and the PPAB back to the National Assembly given reservations regarding the bills' compliance with South Africa's Constitution and its international commitments. Parliament adopted the revised legislation in February 2024, but the revised legislation failed to address the major concerns with the bills. In October 2024, President Ramaphosa referred the bills to the Constitutional Court to determine their constitutionality, stating that the legislation did not fully accommodate his previous reservations regarding CAB Sections 6A, 7A, 8A, 12A to 12D, 19B and 19C and related provisions in the PPAB to the extent that they incorporate these CAB provisions. Subsequently, the President filed an affidavit supporting the grounds for his referral stating that his reservations concerning arbitrary deprivation of property and alignment with South Africa's international law treaty obligations are legitimate and justified reasons for his decision to refer the bills to the Constitutional Court. The President was restricted in his final assessment to provisions that he raised concerns about in 2020 when he rejected the bills and sent them back to Parliament to be reconsidered. The President's referral is made only with respect to the "impugned provisions" of the CAB (and by implication the PPAB) – Sections 6A, 7A, 8A, 12A to 12D, 19B and 19C.[4] The scope of the referral includes most of the new copyright exceptions and limitations, including an expanded fair use provision, and also encompasses concerns regarding the retrospectivity of new statutory royalty and remuneration entitlements for authors and performers (including audiovisual works) (despite Parliament removing Section 8A(5) of the CAB on the retrospective application of the provision). The Constitutional Court's hearing on the President's referral of the bills took place on May 21 and 22, 2025.

The bills contain many other concerning proposals that are not addressed in the President's referral, backed up by any updated economic impact assessments, nor supported by independent legal opinions regarding compliance with relevant treaties and South Africa's Bill of Rights. As discussed below, this includes problematic provisions that would unduly restrict contractual freedoms (such as a contract override clause that indiscriminately applies to all copyright contracts and prevents waivers of any rights granted in the Act or afforded under exceptions), the 25-year limitation on all assignments of literary and musical works (which would render it practically impossible for producers to consolidate all rights in music and film productions), and inadequate legal protections for Technological Protection Measures (TPMs). Moreover, the bills do not include any provisions that would enable or support rights holders' actions against infringing services operated by non-domestic entities, such as content infringing website operators that locate their servers and assets in other jurisdictions while targeting South African audiences and consumers. The bills also contain numerous provisions that are inconsistent with the WIPO Internet Treaties and the Berne Convention. In sum, the bills do not modernize South Africa's Copyright Law to address the challenges posed by the digital age; instead, the legislation does the opposite, focusing on an approach towards copyright that weakens rights holders' ability to protect and effectively commercialize their works in the online environment.

Enactment of the bills in their current form would place South Africa out of compliance with international norms, such as the obligations of the WTO TRIPS Agreement, the WIPO Internet Treaties, and the Berne Convention, as well

[4] The impugned provisions include: CAB Section 6A: *Equitable remuneration or share in royalties regarding literary or musical works*; Section 7A: *Equitable remuneration or share in royalties regarding visual artistic works*; Section 8A: *Equitable remuneration or share in royalties regarding audiovisual works*; Sections 12A to 12D: *General exceptions from copyright protection*; Section 19B: *General exceptions regarding protection of computer programs*; Section 19C: *General exceptions regarding protection of copyright work for libraries, archives, museums and galleries*; and related provisions in the PPAB to the extent that they incorporate these CAB provisions.

as the eligibility criteria of both the GSP and the African Growth and Opportunity Act (AGOA) regarding IP.[5] Should the Constitutional Court declare that the CAB and the PPAB are unconstitutional based on one or more of the President's reservations, the Court can send the bills to Parliament, which can amend those provisions deemed unconstitutional and send the amended bills back to the President. The Minister of DTIC can then seek cabinet approval to withdraw the bills from Parliament to enable the substantive re-drafting of the fundamentally flawed bills. The redrafted bills should ensure compliance with South Africa's Bill of Rights and Constitution and with international treaty obligations and best practices, informed by an independent economic impact assessment study as required by the government's SEIAS guidelines, and in consultation with rights holders. While it does not appear that Parliament commissioned an independent legal opinion on the bills in their current form, the most comprehensive legal analysis of the bills to date, co-authored by practicing copyright lawyers who are members of the Copyright Committee of the South African Institute of Intellectual Property Law (SAIIPL), concluded that the bills require significant amendments to pass constitutional muster and meet the requirements of international treaties.[6] At a time when South Africa's economy is struggling with unprecedented levels of unemployment, the stakes are extremely high for the Parliament to redraft these bills to avoid destabilizing the creative industries and to support a thriving copyright sector, which contributes significantly to economic and job growth in the country, and has potential for substantial growth under the proper conditions.[7]

The bills that were referred to the Constitutional Court contain many provisions that lack clarity, risk major negative disruption of the creative industries, and pose significant harm to the creators they purport to protect. Major issues of immediate and primary concern to the copyright industries, which are maintained in the current versions of the bills, despite numerous submissions from local stakeholders, include the following. A detailed discussion of IIPA's concerns with the bills can be found in IIPA's 2025 Special 301 South Africa Country Report.[8]

- The bills would severely restrict the contractual freedom of authors, performers, and other rights holders, a key factor for the healthy growth of the entire creative sector. These restrictions would fundamentally impair the value of copyrighted materials by depriving rights holders of the ability to freely license and otherwise derive value from their copyrighted works, performances, and sound recordings. For example, both the CAB and the PPAB limit certain assignments of rights to a maximum of 25 years, and both bills provide ministerial powers to set standard contractual terms for contracts covering seemingly any transfer or use of rights.

- The bills would create an overbroad amalgamation of copyright exceptions that includes an expansive "fair use" rubric (bearing no relationship to the U.S. doctrine) appended to a large number of extremely open-ended new exceptions and limitations to copyright protection (on top of the existing "fair dealing" provision), resulting in an unclear thicket of exceptions and limitations.

- The bills would unjustly interfere with and over-regulate the relationship between creative parties, including by introducing statutory royalty and remuneration entitlements and onerous reporting obligations coupled with disproportionate penalties for non-compliance, all of which would undermine producers' ability to finance content, undermine the digital marketplace, and introduce legal risks for the legitimate use of audiovisual works and sound recordings by rights holders and their licensees. Instead, the bills should provide a flexible and robust legal framework for the protection of creative content and investment in production, enabling private parties to freely negotiate the terms of their relationships and the exploitation of copyrighted works and sound recordings.

[5] See IIPA's comments and post-hearing brief on South Africa's Generalized System of Preferences (GSP) eligibility in the 2019 annual GSP review, available at http://www.iipa.org/files/uploads/2020/01/2020-01-17-IIPA-South-Africa-GSP-Review-Written-Comments-and-Notice-of-Intent-to-Testify.pdf and https://www.iipa.org/files/uploads/2020/03/SOUTH-AFRICA-IIPA-GSP-Post-Hearing-Brief.pdf; and IIPA's comments on the 2026 African Growth and Opportunity Act (AGOA) Eligibility Review, available at https://www.iipa.org/files/uploads/2025/12/AGOA-2026-Final-062725.pdf.

[6] See Myburgh et al, *Copyright Reform or Reframe?*, available at https://juta.co.za/uploads/Copyright_Reform_or_Reframe/.

[7] According to a study commissioned by the Department of Trade and Industry (the DTI) in 2010 using data from 2008, the South African copyright-based industries contributed 4.11% to gross domestic product (GDP) and 4.08% to employment. See WIPO, Economic Contributions of Copyright Based Industries in South Africa, available at https://tind.wipo.int/record/28292?ln=en&v=pdf.

[8] See IIPA's 2025 Special 301 Report on South Africa, https://www.iipa.org/files/uploads/2025/01/SOUTH-AFRICA-2025-Copyedited-010625.pdf, 84-95.

- The bills would not provide adequate legal remedies for rights holders to take effective action to enforce their rights against infringers and to combat piracy, especially in the online environment, thus thwarting the development of legitimate markets for copyrighted works and sound recordings.

- The bills' provisions on TPMs are inadequate, falling short of the requirements of the WIPO Internet Treaties, and the overly broad exceptions to prohibitions on the circumvention of such measures would further impinge on the ability of legitimate markets for copyrighted materials to further develop.

These provisions are inconsistent with South Africa's international obligations, for example, by far exceeding the scope of exceptions and limitations permitted under the WTO TRIPS Agreement (Article 13) and the Berne Convention (Article 9). Moreover, aspects of both bills are incompatible with the WIPO Internet Treaties. The provisions are also inconsistent with other established international legal norms and commercial practices, posing a significant risk to investments in South Africa.

Beyond their individual failings, the two bills suffer from fundamental systemic failings that are not amenable to discrete fixes, nor correction through implementing regulations.[9] Without a fundamental course correction of its copyright reform process, South Africa will take a step backward in its effort to strengthen copyright incentives and align its laws with international standards and practices. South Africa would be better served by providing clear and unencumbered rights (subject only to targeted and clearly delineated exceptions and limitations that are justified by a clear evidentiary basis and comply with the three-step test), without unreasonable restrictions on contractual freedoms, to allow the creative communities to increase investment in the South African economy to meet the growing demand for creative works of all kinds, in all formats, at all price points. This is particularly important in light of the President's clear objective to improve levels of domestic and foreign direct investment, as well as the imperative to improve the lives and legacies of South Africa's own artists and creators.

It is important to note that the CAB and PPAB are extremely broad-reaching pieces of legislation. It should also be noted that the bills, when read together, are incoherent. For example, Clause 3 of the PPAB purports to introduce a new Section 3B into the Performers' Protection Act that would set out the nature of copyright in sound recordings, which would be already enumerated in the Copyright Act, as amended by the CAB. Clause 9 of the CAB would introduce new rights and entitlements for performers under a new Section 8A in the Copyright Act, which should exclusively be dealt with under the Performers' Protection Act. Thus, in addition to the very significant flaws in the bills described below, from a technical perspective, the bills are inadequate and risk introducing widespread uncertainty into South African law.

- **Enact amendments to the Electronic Communications and Transactions Act (ECTA) to include a remedy that includes mechanisms that ensure Internet service providers (ISPs) can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities.**

Infringing services in South Africa are impossible to locate and are usually hosted outside of the country, draining South African consumers (in the case of "VIP" subscription piracy) of their resources and exposing them to risks of malware. Rights holders desperately need the South African government to implement a remedy, for example, in the Electronic Communications and Transactions Act (ECTA), that includes mechanisms that ensure ISPs can impose effective relief to address infringement, including, where applicable, to disrupt or disable access to structurally

[9] Regulations cannot cure fundamental problems with the bills because a basic legal principle adhered to in South Africa is that regulations must be confined to the limits of the law itself and cannot fundamentally alter primary legislation. See *Executive Council, Western Cape Legislature and Others v President of the Republic of South Africa and Others* 1995 (4) SA 877 (CC) (holding by the South Africa Constitutional Court that while "detailed provisions" are necessary to implement laws, "[t]here is, however, a difference between delegating authority to make subordinate legislation within the framework of a statute under which the delegation is made, and assigning plenary legislative power to another body. . ."). Furthermore, the number of provisions in the bills that require future regulation are very limited and do not relate to the vast majority of the problematic issues raised by IIPA in this and previous submissions.

infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities.[10] Rights holders welcomed the Department of Communications and Digital Technologies' (DCDT) recognition in the DWP of the need for such a remedy with the explicit recommendation for "the inclusion of the provisions for a streamlined and fast track process for removal and site blocking by ISPs upon notification by verified rights holders" that includes "search engine operators in the scope of site blocking."[11] While IIPA is disappointed that the Third DWP removed this recommendation, IIPA appreciates DCDT's focus on "online safety" in the DWP and understands DCDT in its call for implementation in Stage One is open to introducing a remedy including mechanisms that ensure ISPs can impose effective relief to address infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities.[12]

- **Increase the term of protection for works and sound recordings from 50 years to at least 70 years, in line with the international standard.**

At present, sound recordings receive a term of protection of only 50 years from the year in which the recording was first published, and for literary, musical, and artistic works, the term of protection is 50 years from the author's death or 50 years from publication if first published after the author's death. The CAB should be revised to extend the term of protection for copyrighted works and sound recordings to at least 70 years, in line with the international standard. This will provide greater incentives for the production of copyrighted works and sound recordings, and provide producers with a stronger incentive to invest in the local recording industry, spurring economic growth, as well as tax revenues, and enabling producers to continue offering works and recordings to local consumers in updated and restored formats as those formats are developed.

MARKET ACCESS

- **Remove market access restrictions that negatively impact the U.S. creative industries, including broadcast quotas, "must provide" requirements, video-on-demand (VOD) quotas, online value added tax (VAT), the proposed digital services tax (DST), and concerning proposals in the Draft National Music Sector Policy and Strategy.**

Broadcast Quota: In 2014, the Independent Communications Authority of South Africa (ICASA) began the "Review of Regulation on South African Local Content: Television and Radio" and published local program quotas for licensed broadcasters of television content in March 2016. In May 2020, ICASA published a new regulation, fully exempting "television broadcasting service licensees" from compliance with the local television content quotas during the National State of Disaster (NSD) and allowing a three-month grace period from the end of the NSD. Non-domestic media service providers licensing content to local broadcasters are exempt from the program quotas and, in 2018, ICASA clarified that this exemption also applies to non-domestic, over-the-top (OTT) services. In 2021, ICASA

[10] Government agencies and courts in over 50 countries—including Australia, Belgium, Brazil, Denmark, France, India, Ireland, Italy, Peru, Portugal, Singapore, South Korea, Spain, Sweden, the United Kingdom, and the United States—employ or have made legally available injunctive relief or administrative orders to compel ISPs to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities. The European Union (EU) has addressed this problem through Article 8.3 of the EU Copyright Directive, which is the basis for injunctive relief against intermediaries to disable access to infringing content or websites. The Electronic Communications and Transactions Act (ECTA), read with the Copyright Act, is the law that rights holders rely upon for title, site, and link takedowns. It is the natural home for a remedy to disable access to infringing sites and services, as so many other countries have implemented over time.

[11] See Draft White Paper on Audio and Audiovisual Media Services and Online Content Safety: A New Vision for South Africa, 23 (July 2023) available at https://www.dcdt.gov.za/documents/legislations/policies/file/261-government-gazette-no-1934-of-2023-draft-white-paper-on-audio-and-audiovisual-mediaservices-and-online-content-safety-a-new-vision-for-south-africa-2023.html?start=20.

[12] The DCDT announced that it intends to publish the Final DWP for adoption by Parliament before the end of this Parliamentary term (i.e., March 31, 2026). DCDT proposes a multi-stage approach to research and implement policy changes stemming from the DWP that would follow Parliament's adoption of the final DWP. Industry had the opportunity to engage with DCDT at the recent annual South African Cultural Observatory Conference (2025) at which the issues of online piracy and its link to online consumer safety were discussed. A recent study commissioned by the Alliance for Creativity and Entertainment (ACE) concluded that consumers in Southeast Asia who access piracy sites are 65 times more likely to encounter malware than those using legitimate platforms. This poses a real threat to families, small businesses, and digital infrastructure. Piracy platforms, whether streaming services, peer-to-peer sites, or illegal IPTV operations, carry a cyber threat risk more than 22 times higher than mainstream legal sites. See https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5371543.

reinstated local content quotas for television. IIPA recommends removing these quotas to ensure that businesses have the freedom to determine content programming according to their business models and relevant consumer demands.

"Must Provide" Requirements: In April 2019, ICASA published its draft findings on the "Inquiry into Subscription Television Broadcasting Services" and proposed a new licensing regime that would severely impact the contractual freedoms of rights holders to license their content in South Africa, thereby undermining their exclusive rights. Unfortunately, the report's methodology, and therefore its conclusions, are flawed because ICASA failed to consider the impact of OTT media services on the market, nor did it consult with rights holders on who the proposed measures would affect. As of January 2026, there have been no updates since ICASA published its draft findings. IIPA encourages the U.S. government to engage with the South African government to ensure that any regulatory interventions into the pay-TV market are informed by international best practices and current market realities and preserve the contractual freedoms of all parties concerned, while developing a legislative and regulatory framework that promotes investment and growth.

Video-on-Demand (VOD) Quotas: For several years, DCDT has considered how to adapt South Africa's content regulatory framework to the online marketplace. In July 2025, the DCDT issued the Third DWP. The Third DWP omits contentious provisions included in previous versions, including a 2% digital tax and local content quotas, but unfortunately DCDT may still be seriously considering local content quotas and a network fees framework. The DCDT also envisions expanding the regulatory powers of ICASA to regulate On-Demand Content Services (OCS) and OTT services within the same regulatory framework as traditional broadcasters, to level the playing field. This creates the threat of competing regulatory oversight between the Films and Publication Board, which was also recently tasked to regulate OCS and ICASA. IIPA encourages continued engagement with DCDT to avoid the introduction of overly prescriptive requirements subjecting OCS to unnecessary regulatory burdens.

Online Value-Added Tax (VAT): South Africa currently levies a 15% VAT on the online selling of content, including films and television programming. As of April 2019, income on B2B services provided to South African businesses by foreign providers is also subject to VAT.

Digital Services Tax (DST): The Third DWP removes mention of the 2% turnover tax first introduced in the 2023 iteration. However, the newest iteration introduces a proposal for a new registration regime applicable to online content services to address the perceived fiscal gap in tax contributions by non-resident players.

Draft National Music Sector Policy and Strategy: The Department of Sport, Arts and Culture's Draft National Music Sector Policy and Strategy for South Africa, which is intended to promote the continued growth and development of South Africa's music sector, helpfully recognizes the concerns with the CAB and PPAB. However, the Draft includes some concerning proposals such as regulatory mechanisms for the music sector: (i) requiring international record companies to sign a percentage of non-mainstream artists, which would be counter-productive and will only serve to drive investment away from South Africa; and (ii) requiring the use of local content, which should be rejected as such intervention is not needed in the streaming market, particularly where the local market/local repertoire in South Africa is developing in a very positive way.

ENFORCEMENT

- **Improve enforcement to combat South Africa's growing online piracy problem.**

U.S. creative sectors offering services in South Africa face significant and existential challenges from rampant piracy. Improved infrastructure and accessibility to broadband Internet has changed the landscape of copyright piracy

in South Africa over the last decade, now significantly dwarfing any remnants of physical piracy remaining (e.g., pirate CDs and DVDs). [13]

Although South African consumers have increasing options available to stream legitimate creative content, online piracy has exploded in recent years in South Africa, along with growth in bandwidth speeds. Top piracy sites in South Africa, including *goojara*, *hianime*, *hdtoday*, *yts*, *9anime*, *lookmovie*, *123movies*, *aniwatch*, *vidsrc*, *sflix*, *myflixerz*, and *kisskh*, are among the overall top websites accessed in South Africa and worldwide. These sites alone amount to 40 million monthly piracy visits by just South African web traffic in a country of 64 million, almost one visit per capita, demonstrating that not enough has been done to curb piracy in the country.

Key music piracy threats include the direct download sites *Tubidy.cool*, *afrohouseking.com*, and *hiphopkit.com*, as well as stream-ripping sites such as *savefrom.net* and *ssyoutube.com*. According to *SimilarWeb* data, from November 2024 to October 2025 *Tubidy.cool* received the highest level of traffic from South Africa with over 11 million visits. *Tubidy.cool* even identifies the most popular downloaded songs from the site in the year. *Afrohousking.com* received over 93% of its traffic from South Africa with over 15 million visits in the same time period. The highest level of traffic to *hiphopkit.com* was also from South Africa, with over ten million visits during this time.

According to IFPI's 2023 Music Consumer Study (MCS), 23% of users stated they had downloaded pirated music from BitTorrent sites in the prior month from sites such as *1337x* (2.3 million visits from South Africa in Q2 2024 based on *SimilarWeb* data) and *TorrentGalaxy.to* (2.9 million visits from South Africa in Q2 2024 based on *SimilarWeb* data), and 22% had downloaded from cyberlockers using sites such as *Mega*. 'Blog' style sites that make available music for download without authorization are used in South Africa as well as in the region more broadly.

South Africa's enforcement framework is not up to the challenge of its piracy problems.[14] To combat such easy access to film, television, streaming content, and music piracy, including before local releases, as discussed above South Africa sorely needs a remedy that includes mechanisms that ensure ISPs can impose effective relief to address infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities, especially since current interdiction laws cannot reach foreign defendants.[15] In addition to such a remedy, the Government of South Africa should increase consumer education and awareness programs.

South Africa has a specialized unit tasked with financial crimes and counterfeiting (known as the "HAWKS" unit), but it does not appear to be adequately resourced or have a suitable remit to take effective action against digital piracy. There is also a need for ongoing training and education for South Africa's police and customs officials to improve the process for detention and seizure of counterfeit and pirated goods. In particular, law enforcement officials should better understand the arduous procedures and timelines in the Counterfeit Goods Act (which prohibits rights holders from getting involved in many of the required actions), including that non-compliance will result in the release of counterfeit and pirated goods back to the suspected infringer. The lack of cybercrime inspectors continues to limit the full potential of this law. To facilitate a healthy online ecosystem, South Africa should appoint cybercrime inspectors and develop a cybercrime security hub recognizing copyright as one of its priorities. Further, the ECTA currently only

[13] See, e.g., Frikkie Jonker, TheMediaOnline, *Cracking the Piracy Code*, https://themediaonline.co.za/2024/12/cracking-the-piracy-code/

[14] Border enforcement is inadequate because of a lack of manpower and lack of *ex officio* authority, which places a burden on the rights holder to file a complaint and institute costly proceedings to ensure that goods are seized and ultimately destroyed. Civil enforcement is not a practical option, because a High Court application or action currently takes two to three years to be heard, costs are high, and damages are low because South Africa lacks statutory damages or punitive damages, and proving actual damages and the amount of economic harm is notoriously difficult in copyright cases. Criminal enforcement suffers from a lack of specialized prosecutors and judges equipped to handle IP cases.

[15] While South Africa's current law allows for an "interdict" (or injunction) under certain circumstances, in practice, this remedy is limited and extremely difficult to obtain. Lower courts have jurisdiction to grant an interdict, but only if the "value of the relief sought in the matter" does not exceed a limit of ZAR400,000 (~US$30,000) or if the actual economic harm that the injunction is sought to prevent or restrain can be projected under that limit. It is also often difficult in IP cases to establish the required showings of "urgency" and "irreparable harm resulting if the order is not granted." Compounding this problem, judges in South Africa have little to no experience in IP infringement cases, further diminishing the utility of this remedy. As a result, in practice, the interdict remedy is not effective for rights holders in South Africa. Moreover, the proposed copyright reform legislation will further diminish the utility of this remedy because the ambiguous and overbroad exceptions could make it more difficult to establish a prima facie case of infringement on which to base an interdict order.

provides a general statutory duty to implement takedown policies and procedures for service providers that are part of an industry body that has been recognized by the Minister. At present, only ISPs are included. There should be a general statutory duty for intermediaries (such as online marketplaces) to implement takedown policies and procedures without needing to be part of a recognized industry body.

The enactment of the Films and Publications Amendment Act, No. 11 of 2019, which extends application of the Films and Publications Act to online distributors of publications, films, and video games, could be a positive step for enforcement, because it establishes an Enforcement Committee for investigating and adjudicating cases of non-compliance with any provision of the Act. South Africa's government should fully implement and operationalize the Act to improve enforcement against online piracy, and the Enforcement Committee may be a proper authority to determine eligibility to disable access to infringing sites and services.

Piracy Devices (PDs) and Apps: Set-top boxes offering unauthorized access to creative works and memory sticks pre-loaded with infringing content or apps continue to grow in popularity in South Africa. Consumers use these devices to bypass subscription services or to consume unauthorized copyrighted content such as music, movies, TV series, or sporting events. These devices are most commonly sold to South African consumers online. Some companies develop devices pre-loaded with infringing music content for use in various stores, pubs, and taverns. It is critical for South Africa to gain more understanding of these approaches and to work proactively with experts from the applicable creative industry sectors to localize and implement similar programs.

Infringing mobile apps are also a concern. Stream-ripping and MP3 download apps are prevalent on the mainstream app stores, and MP3 download apps receive a particularly significant number of downloads from South Africa. Unlicensed mobile apps used for music piracy increased in 2025, with the unlicensed app *Tubidy Music Mp3 Downloader* being the most popular, used by 82% of those in South Africa. Other popular unlicensed mobile apps for music piracy include *Music Downloader MP3 Download* and *RaMusi: offline music player*.

Parallel Imports: The Copyright Law does not protect against parallel imports. As a result, the motion picture industry has sought protection under the Film and Publications Act. The lack of protection against parallel imports raises concerns and interferes with rights holders' ability to license and protect their IP rights.

Capacity Building: The industry engages with government agencies and the private sector throughout the year to raise awareness of the severity of copyright piracy and to build capacity within the country. The motion picture industry has participated alongside government, stakeholders, and international organizations to discuss and raise awareness about piracy, the nexus between piracy services and risk to consumers of malware and other threats to online safety.[16] As a result of these engagements, government departments like DCDT are coming to realize that they need efficient tools to protect consumers from online harms associated with copyright piracy.

GENERALIZED SYSTEM OF PREFERENCES (GSP)

In November 2019, USTR opened an investigation, including holding a public hearing in January 2020, to review country practices in South Africa regarding IP rights and market access issues, and to determine whether South Africa still qualifies for beneficiary status under the GSP. Under the statute, the President of the United States must consider, in making GSP beneficiary determinations, "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." IIPA requests that through the ongoing GSP review, the U.S. government continue to send a clear message that the CAB and PPAB that were referred to the Constitutional Court are fatally flawed, and work with the South African government to remedy the deficiencies in South Africa's legal and enforcement regimes, including by redrafting the bills to address the serious concerns detailed above and in IIPA's previous submissions. If, at the conclusion of the review, the Government of South Africa

[16] See, e.g., supra fn. 24.

has not made the requisite improvements, IIPA requests that the U.S. government suspend or withdraw GSP benefits to South Africa, in whole or in part.

VIETNAM

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Vietnam be elevate to the Priority Watch List in 2026.[1]

Executive Summary: An important emerging market in Southeast Asia for the creative industries, Vietnam's creative economy remains severely stunted due to worsening piracy and debilitating market access barriers. Vietnam has become a leading exporter of piracy services both in the region and around the world, and Vietnamese operators have been associated with some of the world's most pervasive piracy websites, causing significant damage to both the local and international marketplaces. IIPA applauds Vietnam's enforcement authorities for recent actions, including tracking and dismantling *Fmovies*, one of the world's largest streaming piracy sites, but two important issues remain. First, greater clarity, transparency, and predictability in the criminal process, particularly regarding monetary and evidential thresholds and enforcement timelines, are necessary for the criminal referral process to be reliably extended to additional piracy operators. Second, deterrence against infringement in Vietnam remains lacking due to the low penalties meted out in the few criminal cases that have proceeded. Greater deterrent penalties are also needed for administrative copyright offenses. Making things worse, the dismantling of the Authority of Broadcasting and Electronic Information (ABEI) and the merging of the Ministry of Information and Communications (MIC) into the Ministry of Science and Technology (MOST) have left rights holders without a remedy to disable access to flagrantly infringing sites. Amendments to the Intellectual Property (IP) Law, which entered into force on January 1, 2023, contain some improvements, including certain measures that may allow rights holders to seek civil or criminal relief against online infringers. The implementing regulations, published in April 2023, also include some positive provisions that could improve protection and enforcement. In 2022, the Government of Vietnam acceded to both the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively, the WIPO Internet Treaties). Vietnam still needs to extend the term of copyright protection in line with evolving global norms and its obligations under the Bilateral Trade Agreement (BTA) with the United States, as well as further improve its enforcement framework to address online piracy including, bringing the definition of "commercial scale" into line with the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and evolving global norms. The Vietnamese government should reconsider recently passed (December 2025) amendments to the IP law that introduce a broad exception for artificial intelligence (AI) training, which moves Vietnam further away from its international obligations. Finally, Vietnam's piracy problems would also be mitigated if its restrictive market access barriers were removed.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Establish a robust enforcement framework, including clear monetary and evidential thresholds and enforcement timelines and appropriate deterrent penalties, and ensure enforcement officials—including the Ministry of Public Security (MPS) and the Ministry of Culture, Sports, and Tourism (MOCST)—increase the number and effectiveness of operations against commercial-scale piracy sites and services.
- Reestablish a remedy to disable access to flagrantly infringing sites following the dismantling of the Authority of Broadcasting and Electronic Information (ABEI) and the merging of the Ministry of Information and Communications (MIC) into the Ministry of Science and Technology (MOST), which have left rights holders without a remedy to combat flagrantly infringing sites in Vietnam.

[1] For more details on Vietnam's Special 301 history, see previous years' reports, at https://iipa.org/reports/reports-by-country/. For the history of Vietnam's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

Legal Reforms

- Repeal the Amended IP Law passed in December 2025, which includes a text-and-data mining (TDM) exception for artificial intelligence (AI) training (or at least ensure sufficient safeguards are applied in the implementing regulations).
- Make necessary changes to codes and laws and implement Resolutions, Decrees, and Circulars to address several critical issues (e.g., term of protection, broadcasting and communication rights, "communication to the public" definition, Internet service provider (ISP) liability, denial of protections, exceptions and limitations, hierarchy of rights, seizure of infringing goods) to improve copyright protection and enforcement and ensure Vietnam is in full compliance with the WIPO Internet Treaties, the BTA, the WTO TRIPS Agreement, and other international obligations and evolving global norms.
- Adopt a Supreme People's Court Resolution that clearly defines and interprets "commercial scale" consistent with Vietnam's international obligations and enables more effective criminal referrals by providing essential guidance on the evidence required in cases of copyright infringement.
- Introduce clear and transparent mechanisms that ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities.
- Amend measures on collective management organizations (CMOs) to guarantee that rates are reflective of the market value of creative works, that distribution rules are fair, and that all rights holders are able to participate in CMO decision making.

Market Access

- Remove severe market access restrictions that continue to negatively impact the U.S. creative industries, including strict licensing requirements that have constrained the ability of U.S. services to enter the market.

ENFORCEMENT

- **Establish a robust enforcement framework, including clear monetary and evidential thresholds and enforcement timelines and appropriate deterrent penalties, and ensure enforcement officials—including the MPS and the MOCST—increase the number and effectiveness of operations against commercial-scale piracy sites and services.**

Increase Enforcement Operations Against Commercial-Scale Piracy: Vietnam currently hosts some of the most egregious and popular piracy sites and services in the world that target a global and English-speaking audience.[2] Illegal content generally can be accessed via online and mobile network piracy, such as streaming sites, linking sites, apps, video hosting sites, download sites, peer-to-peer (P2P) networks, stream-ripping sites, search engines, and social media platforms. The video game industry reports that in 2025, Vietnam ranked eighth in the world for the number of connections by peers participating in the unauthorized file-sharing of ESA member mobile video game titles on public P2P networks, 25th for PC-based games, and 15th for console-based games. Piracy service operators often take advantage of free platform file hosting resources, including those from Facebook and Google, to store and share pirated content and stream the infringing content via piracy sites and apps.

Vietnam is a hub for piracy operators, with several regionally and globally popular stream-ripping services operated from the country. Thus, the need for effective enforcement tools and procedures and engagement from authorities is crucial. In October 2025, the sound recording industry was able to secure the closure of the stream-ripping site *y2mate.com* together with 11 other stream-ripping sites operated from Vietnam following targeted enforcement action. From January to December 2025, these sites collectively received more than 620 million visits

[2] Media Partners Asia 2022 study on creative industry losses in Vietnam caused by online piracy is summarized in Vietnamese here: https://nhandan.vn/hop-tac-ngan-chan-vi-pham-ban-quyen-truc-tuyen-tai-viet-nam-post706584.html?zarsrc=31&utm_source=zalo&utm_medium=zalo&utm_campaign=zalo.

globally. Nevertheless, visits from Vietnam to stream-ripping sites remain the main cause of music piracy in the country, with popular sites including *savefrom.net*, *y2mate.nu* and *y2meta.is*.

Efforts to tackle these sites, remain impeded by the fact that under the Penal Code of Vietnam 2015 (revised in 2017) there is no explicit crime for infringement by communication to the public. In contrast, recording industry representatives in 13 countries, including Brazil, Italy, Peru, and Spain have successfully used effective civil, criminal, or administrative measures against stream-ripping sites.

The Vietnamese-operated cyberlocker *fshare.vn* is also very popular with over 76 per cent of the traffic to the site coming from Vietnam. Mobile app piracy also constitutes a major issue, with stream ripping and MP3 download apps among the most popular categories.

Streaming and Internet protocol television (IPTV) piracy remain the most prominent type of online piracy in Vietnam. Piracy sites and services, including *2embed*,[3] *Hianime*, *9anime*, *Motchill*, *Rophim*, and *123movies* continue to cause significant damage to the local and international marketplaces and make Vietnam a haven for piracy.[4] Piracy sites and services have persisted despite initially successful enforcement efforts. For example, while the Alliance for Creativity and Entertainment (ACE) successfully shut down *2embed.to* and *zoro.to* in July 2023, in a matter of weeks, a new domain (*aniwatch.to*, later, *Hianime*) replaced *zoro.to* and a new domain (*2embed.me*) replaced *2embed.to*. Further criminal enforcement action by the MPS is needed to deter the operators and conclusively close such expansive piracy syndicates.

It is critical for responsible enforcement authorities, including the relevant police units, the MPS, and the MOCST, to follow through on infringement complaints, take meaningful and effective enforcement actions, and impose deterrent sanctions against infringing websites. Vietnam enforcement authorities have taken several important criminal enforcement actions in recent years. For example, in August 2024, the MPS, supported by ACE, shut down the largest pirate streaming operation in the world, including the piracy site *Fmovies* and other notorious piracy sites, such as *bflixz*, *flixtorz*, *movies7*, *myflixer*, and *aniwave*. *Vidsrc.to*, a notorious video hosting provider operated by the same individuals, was also taken down.

Establish a Robust Enforcement Framework: Vietnam should establish a robust criminal enforcement framework, including clear monetary and evidential thresholds, clear enforcement timelines, and appropriate deterrent penalties. Deterrent sentences are necessary to reduce widespread piracy. In April 2025, the operators of *Fmovies* were convicted but given suspended sentences. The primary operator was handed a suspended sentence of 33 months and five years of probation, while the secondary operator was handed a suspended sentence of 15 months and 30 months of probation. Several other recent enforcement actions against piracy operators have also resulted in nondeterrent penalties. In April 2024, the People's Court of Hanoi sentenced the operator of *BestBuy IPTV* to a 30-month suspended prison sentence. In July 2024, the People's Court of Quang Binh Province sentenced the primary operator of the illegal streaming websites *bilutvt.net*, *tvhayh.org*, and *hlss.pro* to 24 months in prison with a suspended sentence and 48 months of probation. The suspended nature of the sentences in Vietnamese Courts has been disappointing and does little to discourage operators from piracy. Vietnam should mete out stricter penalties available under the Penal Code to ensure they are commensurate with the significant damage and harm caused by such illegal activities.

Further, there is a need to clarify whether the Penal Code allows handling of intangible evidence, such as digital assets and domain names. The lack of express provisions addressing these issues may prevent enforcement agencies from taking steps to seize, handle, and preserve intangible evidence, all of which are crucial in IP cases.

[3] *2embed* carries out "Piracy as a service" (PaaS), offering tools for creating streaming sites, including templates, multilingual subtitles, and a user-friendly interface. It continues to provide a library of over 300,000 movies and TV shows, which are used by illicit streaming sites. *2embed* was found to be linked to another major pirate streaming site, *zoro.to*, which had an average of 200 million visits per month before its shutdown.
[4] In addition, several globally popular stream-ripping sites are operated from Vietnam, including *Y2mate.com*. Enforcement efforts in Vietnam by the music industry against *Y2mate* proved futile.

Moreover, despite defined procedures for handling criminal cases written into the Penal Code and the Criminal Procedure Code, the process for bringing criminal prosecutions remains opaque. There have also been significant difficulties identifying the evidence needed to meet the requirements for an offense under Article 225 of the Vietnamese Penal Code. Article 225(1) prohibits reproductions of copyrighted works or making available copyrighted works to the public. To establish the offense, it must be shown that the infringement was on a commercial scale, there was an illegal profit made, loss was caused to the rights holders, or the total value of the infringing goods crossed a threshold.

Additionally, there is a lack of guidance on what "commercial scale" means under Vietnamese law. Despite precedents from other jurisdictions, Vietnamese authorities have declined to initiate or prosecute cases on the premise of commercial-scale infringement. Vietnamese officials should clarify and interpret Vietnam's international commitments, including the requirement under the WTO TRIPS Agreement (Article 61) for criminal procedures and penalties to be applied at least in cases of piracy "on a commercial scale". Additionally, Vietnam should consider its commitments under the CPTPP, which defines "commercial scale" to include "significant acts, not carried out for commercial advantage or financial gain, that have a substantial prejudicial impact on the interests of the copyright or related rights holder in relation to the marketplace."

Furthermore, Vietnamese courts should clarify the necessity of evidence required to prove copyright ownership and damages in the initial stages of a copyright complaint and investigation. The requirement for rights holders to quantify the damage caused by the infringer is especially challenging in the case of digital piracy, considering the substantial upstream investment made to produce music, film and television content, books and journals, and video games and the non-financial harm caused to creators.

Like the criminal process, the administrative process in Vietnam is cumbersome, and the eventual penalties provided for in the current legislation lack any deterrence. Regarding civil enforcement, the process is currently unclear.

In June 2024, the National Assembly of Vietnam approved an amended Law on the Organization of People's Courts that will allow, for the first time in Vietnam, the establishment of a specialized IP court: the Court of First Instance for Intellectual Property. In 2025 two regional IP courts, one in Ho Chi Minh City and the other in Hanoi, were established. For now, these courts are primarily focused on civil cases, and it is not clear if they will have jurisdiction to hear criminal cases. This is a welcome development and should provide new opportunities for rights holders to enforce their IP It is also hoped this development will pave the way to improved outcomes in civil suits, such as clarity on the type of evidence required to prove copyright ownership, illegal profits, and damages.

The U.S. government (i.e., U.S. Department of Justice, U.S. Patent and Trademark Office) should remain involved in training not only for the judges, but also for police and prosecutors, who will ultimately play an important role in bringing criminal cases before the courts.[5] In addition, building IP expertise should be part of the overall judicial reform effort.

- **Reestablish a remedy to disable access to flagrantly infringing sites following the dismantling of the Authority of Broadcasting and Electronic Information (ABEI) and the merging of the Ministry of Information and Communications (MIC) into the Ministry of Science and Technology (MOST), which has left rights holders without a remedy to combat flagrantly infringing sites in Vietnam.**

In March 2025, the Authority of Broadcasting and Electronic Information (ABEI) was dismantled, and the Ministry of Information and Communications (MIC) was merged into the Ministry of Science and Technology (MOST). This led to the cessation of processes by which rights holders were able to work with the ABEI to disable access to flagrantly infringing sites and services. This has seriously hampered efforts to disrupt piracy services targeting users

[5] In July 2022 the Ministry of Information and Communication (MIC), in collaboration with the Alliance for Creativity and Entertainment (ACE) and local rights holder K+, organized a symposium focused on addressing online content issues related to copyright infringement. This conference brought together Vietnamese officials from relevant authorities and representatives of the local and international content industry to consider effective strategies to prevent and reduce online copyright infringement, while evaluating the efficiency of technological solutions (including site blocking processes).

in Vietnam. Since that time, key foreign rights holders have exited the market after years of struggles with, among other things, copyright piracy.[6] The Vietnamese government should demonstrate political will to tackle piracy by quickly reestablishing a remedy to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities.

LEGAL REFORMS

- **Repeal the Amended Intellectual Property Law passed in December 2025, which includes a TDM exception for artificial intelligence (AI) training (or at least ensure sufficient safeguards are applied in the implementing regulations).**

Rather than address deficiencies in Vietnam's copyright protection and enforcement regimes (as discussed below), in October 2025 the Vietnamese government introduced a broad exception to copyright protection for TDM to address the use of copyrighted materials by AI models for training purposes as part of the Amended Intellectual Property Law, which the National Assembly passed in December 2025. This broad exception is unnecessary, as licensing mechanisms have long been available to facilitate TDM activities, and there is no evidence that shows a need for such a broad TDM exception in Vietnam. Moreover, the exception lacks conditions to ensure compliance with the three-step test, in contravention of the international copyright treaties to which the United States and Vietnam are signatories. This exception should be repealed. However, in the meantime, it is crucial to implement strict limits on this TDM exception in implementing regulations to ensure that the exception is sufficiently limited in scope.

- **Make necessary changes to codes and laws and implement Resolutions, Decrees, and Circulars to address several critical issues (e.g., term of protection, broadcasting and communication rights, "communication to the public" definition, Internet service provider (ISP) liability, denial of protections, exceptions and limitations, hierarchy of rights, seizure of infringing goods) to improve copyright protection and enforcement and ensure Vietnam is in full compliance with the WIPO Internet Treaties, the BTA, the WTO TRIPS Agreement, and other international obligations and evolving global norms.**

Copyright protection and enforcement in Vietnam is governed by the IP Law (as amended in 2022), the Criminal Code (as amended in 2017), the Joint Circular (2012), and the Administrative Violations Decree (No. 131) (as amended in 2017). The copyright-related provisions in the IP Law entered into force on January 1, 2023. The 2022 amendments made several changes to the IP Law, including the addition of important protections required by the WIPO Internet Treaties. The implementing regulations to the IP Law were passed on April 26, 2023 (Decree 17). Decree 17 includes some positive provisions that improve protection and enforcement, but several concerns remain, as detailed below. IIPA is very pleased that the government acceded to the WCT on November 17, 2021, effective February 17, 2022, and acceded to the WPPT on April 1, 2022, effective July 1, 2022, as required under the CPTPP and Vietnam's Free Trade Agreement with the European Union (EU).[7] IIPA encourages Vietnam to take the necessary steps to fully implement these treaties, while rejecting proposed amendments that are inconsistent with the obligations in these treaties.

The IP Law amendments contain some improvements for rights holders, including clarifying that the illegal uploading and streaming of a cinematographic work is a violation of the communication right, and the copying of part of a work is a violation of the reproduction right (thereby creating additional opportunities for rights holders to seek civil or criminal relief against online infringers). Nevertheless, the amendments and implementing regulations (Decree 17) leave some issues and questions unresolved, including regarding Vietnam's compliance with the WIPO Internet

[6] K+ shuts down after 16 years, reshaping Vietnam's TV landscape, Vietnam Net, December 5, 2025, at https://vietnamnet.vn/en/k-shuts-down-after-16-years-reshaping-vietnam-s-tv-landscape-2469795.html.

[7] Vietnam formally ratified the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) in October 2018, and it entered into force in January 2019. Vietnam entered into a Free Trade Agreement (FTA) with the European Union (EU) in August 2020.

Treaties, the BTA, the WTO TRIPS Agreement, as well as other international obligations and evolving global norms. The following issues should be addressed in additional regulations or amendments:

- **Term of Protection:** The amended IP Law does not provide for an adequate term of protection for sound recordings, which should be updated to be in line with the international trend of a minimum of 70 years. The amended IP Law also retains an inadequate term of protection for all copyrighted works, including audiovisual works, and should be updated to be in line with the international trend of 70 years after the death of the author, or, when the term is calculated based on publication, at least 75 years (or 100 years from fixation) as required by BTA Article 4.4.[8]
- **Broadcasting and Communication Rights:** The IP Law now expressly and individually enumerates sound recording producers' exclusive rights in a manner that meets the minimum standards in WPPT. However, despite the inclusion of the broadcasting and communication rights in the list, their scope is dramatically limited by Article 33(1), which turns them into remuneration rights. Vietnam should provide sound recording producers with exclusive rights, or, at minimum, redraft Article 33(1) of the IP Law in a manner consistent with Vietnam's international obligations, for example along the lines of Article 15 of the WPPT. This includes making sure that implementing regulations do not limit remuneration rights by exempting certain users of music from payment, nor make interactive uses subject to a mere remuneration right.
- **Definition of Communication to the Public Departs from WPPT:** The definition of "communication to the public" in the IP Law does not include the second sentence of Article 2(g) of the WPPT on public performance. To avoid confusion and ensure consistency with the WPPT, this definition should be revised.
- **Making available right:** Further certainty would be helpful to ensure that stream ripping—an act of piracy in which a user downloads and stores streamed content, which has been licensed only for streaming, thus seriously hindering legitimate markets—is a violation of the making available right in Vietnam, as is the case in other jurisdictions and under WPPT.
- **ISP Liability:** Article 198b of the amended IP Law introduces an ISP liability regime, which is welcome, but IIPA is concerned that the scope of ISP liability limitations (i.e., safe harbors) may be too broad as currently provided. Under Vietnamese law, ISPs only respond to requests from competent state agencies. Vietnam should amend its law to ensure that there are strong incentives provided for neutral ISPs to work with rights holders to address infringement on their services. The Government of Vietnam should also expressly state that copyright safe harbors should (i) apply to only passive and neutral intermediaries that do not contribute to infringement, and (ii) that eligibility requirements for ISP liability limitations should include appropriate conditions, including obligations for ISPs to remove infringing content expeditiously, and within a specific timeframe, upon obtaining knowledge or awareness of infringing activity, to implement effective repeat infringer policies, and to take other measures demonstrated effective in preventing or restraining infringement. In addition, Vietnam should require marketplaces and encourage all relevant intermediaries to implement "know your business customer" (KYBC) policies to ensure they keep up to date and accurate information about their customers and to allow rights holders to obtain accurate information to protect their rights against direct infringers.
- **Denial of Protection for Certain Works:** Articles 7(2), 7(3), and 8(1) of the IP Law appear to give the state power to potentially restrict rights and may conflict with Vietnam's international commitments.
- **Hierarchy of Rights:** Article 17(4) of the IP Law creates an unacceptable hierarchy of the rights of authors versus neighboring rights owners. This is inconsistent with Vietnam's obligations to provide certain exclusive rights to neighboring rights holders, including producers, performers, and broadcasters, under international agreements, including the WTO TRIPS Agreement. Article 17(4) should be repealed.
- **Broad Exceptions and Limitations:** Certain exceptions and limitations in the IP Law may be overly broad and call into question Vietnam's compliance with its international obligations, including Article 13 of the WTO TRIPS Agreement and Article 4.8 of the BTA. For instance, exceptions for "public information and education purposes,"

[8] Article 4.4 of the Bilateral Trade Agreement (BTA) provides, "Each Party shall provide that, where the term of protection of a work is to be calculated on a basis other than the life of a natural person, the term shall be not less than 75 years from the end of the calendar year of the first authorized publication of the work or, failing such authorized publication within 25 years from the creation of the work, not less than 100 years from the end of the calendar year of the creation of the work."

as well as importation of copies of others' works for personal use, are overbroad. Further, a broad compulsory license (Article 26(1)(b)) applicable to all works except cinematographic works is not in line with international norms. In addition, Decree 17 should clarify that the exceptions apply only to copyrighted works and sound recordings that are lawfully acquired. Finally, Decree 17 should provide further scope to the exception in Article 32(1)(dd) of the IP Law regarding temporary copies for broadcasting to avoid it being abused.

- **Overbreadth of Draft Private Copy Exception:** The amended Article 25(1)(a) (private copy exception) should be limited to one physical copy in accordance with international standards.
- **Recirculation of Seized Good/Tools into Channels of Commerce:** Articles 202(5) and 214(3) of the IP Law permit seized infringing goods and the means of producing them to be distributed or used for "non-commercial purposes," rather than destroyed. These provisions fall short of Vietnam's BTA (Article 12.4) and WTO TRIPS Agreement obligations.

- **Adopt a Supreme People's Court Resolution that clearly defines and interprets "commercial scale" consistent with Vietnam's international obligations and enables more effective criminal referrals by providing essential guidance on the evidence required in cases of copyright infringement.**

Vietnam's Criminal Code, which became effective in January 2018, criminalizes piracy "on a commercial scale," although the Code does not define "on a commercial scale." Vietnam should implement its Criminal Code consistent with Vietnam's obligations under the WTO TRIPS Agreement and BTA, which require Vietnam to criminalize copyright piracy "on a commercial scale." A Supreme People's Court Resolution should be issued in line with Vietnam's commitments under the CPTPP, which defines "commercial scale" to include "significant acts, not carried out for commercial advantage or financial gain, that have a substantial prejudicial impact on the interests of the copyright or related rights holder in relation to the marketplace." The Resolution should also provide essential guidance on the evidence required in cases of copyright infringement, thereby enabling rights holders to make criminal referrals more effectively. In addition, further modernization of the Criminal Code would be helpful to ensure that there is congruity between acts considered copyright infringements under the amended IP Law and the Criminal Code (in other words, acts considered infringements, when carried out on a commercial scale, should be criminalized under the Criminal Code). This would include, for example, criminalizing commercial scale infringements involving the unauthorized making available or communication to the public of works or objects of related rights, as well as the act of circumvention of technical protection measures (TPMs) or trafficking in circumvention devices/services.[9] Unfortunately, as discussed above, the government has not followed through on these important changes and has not set in motion a more deterrent approach to rampant local piracy.

- **Introduce clear and transparent mechanisms that ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities.**

Over the past few years, MIC's ABEI worked with several rights holders to help combat online piracy, resulting in sanctions against infringing websites and the first-ever site blocks in Vietnam against egregious websites infringing the rights of Vietnamese television rights holders. There were thousands of infringing domains blocked in Vietnam, mostly under the process of the now defunct ABEI. However, blocking in Vietnam, without criminal investigation and prosecution of the site operators (as discussed above), does not stop these Vietnam-based services from harming overseas markets, including the U.S. market. Procedural difficulties also remain for U.S. rights holders.[10] Decree 17

[9] Under current Article 225 of the Criminal Code, only the following two acts are considered a criminal offense, (i) the unauthorized reproduction of copyright protected material, and (ii) its unauthorized distribution (applicable to tangible copies/products only). Therefore, to combat online piracy with criminal enforcement, rights holders have no choice but to base their complaints on an "unauthorized reproduction," which may not allow for inclusion of all acts of online piracy. It should be noted that Vietnam's IP Law includes the making available right under the right of communication to the public, not the reproduction right, or any secondary liabilities.

[10] As previously reported, in 2019, the music industry petitioned the Authority of Broadcasting and Electronic Information (ABEI) to block two sites, *saigonocean.com* and *chiasenhac.vn*. The ABEI only agreed to consider the petition against *chiasenhac.vn*. After significant delays, the MIC finally notified the music industry that Yeu Ca Hat Entertainment Joint Stock Company, owner of *chiasenhac.vn*, had, per request by MIC, monitored the accounts of those who uploaded copyright

should expressly include mechanisms that ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites (both those hosted in Vietnam and hosted or operated in other countries but available in Vietnam) on a no-fault basis, upon rights holders' applications to appropriate authorities. In addition, Vietnam should amend the criminal law to make it easier to establish criminal liability for digital piracy.

- **Amend measures on CMOs to guarantee that rates are reflective of the market value of creative works, that distribution rules are fair, and that all rights holders are able to participate in CMO decision making.**

Amended Article 56 of the IP Law introduces positive elements for greater transparency and more clarity regarding CMO operations. However, it also contains several flaws, which prevent free-market collective rights management.

Articles 56(3)(d), 56(3)(i) and 56(5) of the IP Law, which address the distribution of CMO-collected income, fall short of international standards. Under these provisions there is a risk that, in practice, the distribution will be unfair, discriminatory, and not reflective of rights holders' respective economic contributions. IIPA recommends that specific safeguards be introduced to prevent this outcome and ensure that the distribution will be accurate (according to the actual use of the sound recordings), prevent CMOs from discriminating between rights holders, and ensure that any deductions to support cultural development will be determined by CMO's government bodies.

The table of rates is intended to cover all tariffs applicable to collectively managed exploitations, including the broadcasting and public performance remuneration rights. In addition, under Article 56(3)(c) of the IP Law and Decree 17, CMOs must submit rates for approval to the Minister of Culture, Sports and Tourism, and for broadcasting and public performance remuneration rights, rates should be agreed upon between rights holders and users. However, if there is a disagreement, rates in the Decree are applicable. As a result, the rate determination mechanism risks not reflecting the value of the music used in the market. According to international best practice, rates should be negotiated between CMOs and users according to an established set of criteria, which should include the economic value of the use of the rights in trade. The specific rate setting mechanism for broadcasting and public performance remuneration rights should therefore be deleted, because rates for these rights should be the result of negotiations between CMOs and users of the repertoire.

For all rates, only cases in which there is disagreement regarding the rates should be submitted to the Ministry of Culture to settle the dispute. The Government of Vietnam should also introduce provisions to avoid unjustified claims and introduce an obligation for users to provide CMOs with information on the use of the rights. Decree 17 should also introduce an obligation for users to provide CMOs, in an agreed or pre-established timeframe, information on the use of the rights in an agreed format, taking into account voluntary industry standards, along the lines of Article 17 of the European Union Collective Rights Management (CRM) Directive.

Lastly, due to market access barriers and restrictions in the regulations of associations (Decree 45/2010/ND-CP), foreign producers, including their Vietnamese affiliates, are not allowed to be part of the board of CMOs. As a result, the Recording Industry Association of Vietnam (RIAV), is made up of just a handful of local producers and is not able to function effectively and professionally. The Government of Vietnam should amend the law to allow all rights holders, both local and foreign, to become members of a CMO. Any rights holder, including a foreign national, whose work is used in Vietnam should be able to establish a CMO. Without restriction, rights holders should be able to determine the scope (rights, uses, repertoire and territory) and character (exclusive or non-exclusive) of the rights mandates they give to the CMO. Rights holders should also have fair and balanced representation in all the governing bodies of a CMO.

infringing works, removed over 6,000 works from the company's system, sent warnings and blocked 41 infringing accounts, and simultaneously provided information to MIC relating to the 41 accounts that had been blocked. Despite this action by ABEI, *Chiasenhac* is a principal source of unlicensed music in Vietnam, with both local and international repertoire easily accessible via the site.

MARKET ACCESS

- **Remove severe market access restrictions that continue to negatively impact the U.S. creative industries, including strict licensing requirements that have constrained the ability of U.S. services to enter the market.**

Vietnam continues to generally restrict foreign companies from setting up subsidiaries to produce or distribute "cultural products." Restrictions via foreign investment quotas and other entry barriers regarding production, importation, and distribution of copyrighted materials (whether in the physical, online, or mobile marketplaces) persist. The Vietnamese government has publicly indicated that it prioritizes preserving cultural diversity and strengthening Vietnam as a producer and provider, not just as a consumer, of creative products. Unfortunately, Vietnam's restrictions on foreign investment in cultural production undermine this objective, severely limiting the content marketplace and discouraging investment in the creation of new Vietnamese cultural materials.

The restrictions also fuel demand for pirated products. Vietnam's virulent piracy problems would be reduced if the country removed its highly restrictive market access barriers. By limiting access to legitimate content, these barriers push Vietnamese consumers toward illegal alternatives. The restrictions instigate a vicious cycle in which fewer legitimate products are produced or available. To facilitate commercial development of Vietnam's cultural sector and the development of a potentially very significant digital content market, Vietnam should look to internationally accepted standards and practices, which recognize that constraining market access for legitimate creative content complicates efforts to effectively combat piracy. IIPA urges Vietnam to quickly discard the longstanding market access barriers identified below and open its market in the creative and cultural sectors.

Pay-TV Regulation: Vietnam requires that foreign channels on pay-TV services be capped at 30% of the total number of channels the service carries. Vietnam also requires operators to appoint and work through a locally registered landing agent to ensure the continued provision of their services in Vietnam. Furthermore, most foreign programming is required to be edited and translated by an approved licensed press agent, and all commercial advertisements airing on such channels in Vietnam must be produced or otherwise "conducted" in Vietnam. All channels are subject to Vietnam's censorship requirements and international channels are subject to "editing fees." These measures are unduly restrictive and continue to severely impede the growth and development of Vietnam's pay-TV industry.

Decree Regulating Over-the-Top (OTT) Services: In October 2022, amendments to Decree 06 were promulgated as Decree 71, expanding the scope of existing pay-TV regulations to include over-the-top (OTT)/VOD services. Most concerning is a non-transparent licensing scheme that is understood to require a local presence or joint venture in addition to onerous censorship provisions for any VOD service that offers content not considered to be "films" (which would be regulated under the Cinema Law). While industry welcomes the self-classification of "films" content on OTT services pursuant to the amended Cinema Law, this licensing scheme required by Decree 71 falls short of industry expectation and is likely to indirectly contribute to online infringement due to the removal or restriction of legitimate content services from the market. Further, the National Assembly passed the new Press Law in December 2025. Under the new Press Law, OTT/VOD services are considered radio and television services, and as such, are required to obtain a service license from the MOCST. This is yet another significant barrier to the legitimate provision of VOD/OTT services and content in Vietnam. IIPA urges the Vietnamese government to revisit digital media regulation in Vietnam with a view to alignment with international standards and best practices, particularly through the reform of VOD content regulation mechanisms, which have severely impeded market access for U.S. services.

Screen Quotas: Under Cinema Law/Decree 54, Vietnam required that at least 20% of total screen time be devoted to Vietnamese feature films. In June 2022, Vietnam passed Cinema Law amendments that entered

into force in January 2023, replacing Decree 54. Instead of the 20% screen quota under Decree 54, which was never implemented, the amended Cinema Law introduces a gradual phasing-in of the screen time requirement, with 15% of annual screen time to be allocated for Vietnamese feature films from January 2023 to December 2025; and 20% from January 2026 onwards (this phase-in approach was unnecessary as the domestic film market share exceeded the allocated screen time). While the policy of a gradual phasing-in offers some flexibility, Vietnam should nonetheless remove all screen quotas for the long-term development of the industry.

Broadcast Quotas: In the television sector, foreign content is limited to 50% of broadcast time, and foreign programming is not allowed during prime time. Broadcast stations must also allocate 30% airtime to Vietnamese feature films, which was affirmed by an initial draft decree of the Cinema Law. These restrictions limit U.S. exports of film and television content.

Foreign Investment Restrictions: The June 2022 Cinema Law reaffirmed that foreign companies may invest in cinema construction and film production and distribution through joint ventures with local Vietnamese partners, but these undertakings are subject to government approval and a 51% ownership ceiling. Such restrictions are an unnecessary market access barrier for U.S. film producers and distributors and should be eliminated.

Implement the existing age-based film classification system, and ensure the content review process is transparent, predictable, expeditious, and does not have a disparate impact on U.S. content: Vietnam helpfully introduced an age-based classification system in 2016. Vietnam has, on previous occasions, banned the distribution of content locally for political reasons, which foments unpredictable market conditions and fuels piracy as consumers are driven to unlawful sources to view content. IIPA urges the Government of Vietnam to fully implement its age-based classification system, which will help distributors ascertain the feasibility of a product's distribution.

Recent Amendments to Decree No. 72 Restrict Video Game Rights Holders: In 2023, Vietnam adopted Decree No. 72/2013/ND-CP ("Decree No. 72") on the management of Internet services and online information, which mandates that companies obtain an official license and certification from the government to distribute a video game in the Vietnamese market. These restrictions were maintained and expanded upon in Decree No. 147/2024/ND-CP on the management, provision, and use of Internet services and online information ("Decree No. 147"), which took effect on December 25, 2024. As set forth in Decree No. 72, online games are classified as a conditional investment sector for the purposes of foreign direct investment (FDI), which means that for a company to be an authorized "online gaming service" entity in Vietnam, it must have majority Vietnamese ownership via a joint venture or a business cooperation contract. For some games, the enterprise must obtain a license and approval of the contents of the game from MOCST. Other restrictions are imposed, including: censorship of the content of video games in order for them to be approved; outright prohibition of certain content within video games data collection; age of users; and license duration limits. In 2023, the Vietnamese government increased enforcement against foreign video games that are not fully certified, removing them from the Vietnamese market. IIPA urges the Government of Vietnam to work towards globally accepted trade standards to eliminate limitations on foreign investment for the provision of online games and related services in Vietnam.

Onerous Market Access Restrictions on the Music Sector: Onerous and discriminatory Vietnamese restrictions prevent U.S. record companies from engaging in production, publishing, distribution, and marketing of sound recordings in Vietnam. The lack of a meaningful commercial presence of U.S. record companies in Vietnam, coupled with restrictions on the ability of industries to conduct investigations in Vietnam, hinders anti-piracy efforts. These restrictions effectively mean the Vietnamese government must enforce IP rights related to U.S. content largely on its own, a task at which it has not succeeded thus far. To enable lawful trading and curb copyright piracy in Vietnam, foreign record companies should be given an

unrestricted right to import legitimate music products into Vietnam. Under the applicable Decree today, circulation permits for tapes and discs are granted by provincial-level MOCST Departments. However, restrictions placed on foreign companies limiting their ability to establish subsidiaries to produce and distribute "cultural products" in Vietnam, in turn, make it difficult for foreign companies to obtain circulation permits, as the applications must be submitted by local (Vietnamese) companies. Vietnam should consider encouraging foreign investment by allowing foreign investors to apply for business permits.

COMPLIANCE WITH EXISTING OBLIGATIONS TO THE UNITED STATES

As outlined above, Vietnam's copyright protection and enforcement frameworks are inconsistent with its international obligations to the United States in many respects. These include the following:

- All infringements on a commercial scale may not be subject to criminal liability as required by WTO TRIPS Agreement Article 61 and BTA Article 14;
- Several copyright exceptions may be overbroad and inconsistent with the three-step test of WTO TRIPS Agreement Article 13 and BTA Article 4.9;
- Remedies for civil, administrative, and border enforcement permit "non-commercial" distribution of infringing goods and the materials and means for producing them, which is inconsistent with the obligations of WTO TRIPS Agreement Articles 46 and 59 and BTA Articles 12.4 and 15.12;
- Inadequate enforcement framework, complicated and non-transparent civil procedures, and inadequate training of enforcement officials all are inconsistent with Vietnam's obligations under the WTO TRIPS enforcement provisions, including Articles 41, 42, and 61, and under BTA Articles 11, 12, and 14;
- Limited and inadequate pre-established damages do not meet the requirements of BTA Articles 12.2D and 12.3; and
- Term of copyright protection falls short of the requirements of BTA Article 4.4.

WATCH LIST

ARGENTINA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Argentina be moved to the Watch List in 2026.[1]

Executive Summary: The Government of Argentina has taken some positive intellectual property (IP) enforcement and market access actions during President Javier Milei's first two years, however sweeping reforms matched with full political prioritization are still needed to make meaningful and sustainable improvements to Argentina's copyright protection and enforcement regime and tackle its high piracy rates. While there were several notable anti-piracy actions this year, including participation in the eighth phase of Operation 404, Argentina's IP enforcement agencies continue to lack the necessary political will and resources to address significant and long-standing piracy concerns, which have accelerated and diversified in the past several years. Overall, there is a dire need for a national agenda and strategic policy for copyright enforcement and interagency cooperation, especially between prosecutors and law enforcement cybercrime experts. The Government of Argentina will also need to take meaningful action to create deterrents for piracy operations and streamline enforcement procedures.

The Milei administration must also work closely with the other branches of government to ensure executive-led anti-piracy initiatives can be implemented through effective legislation and supported by properly resourced courts. For example, Argentina still has not established protections for technological protection measures (TPMs) and rights management information (RMI), which are critical for enabling legitimate online business models and products and which Argentina is obligated to provide as a signatory to the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively the WIPO Internet Treaties). Additionally, the unwarranted exception to the public performance of music in hotels and ballrooms introduced in 2024 by Executive Decree No. 765/24 has not been repealed, despite being in clear violation of the three-step test of the Berne Convention and TRIPS.

While market access obstacles persist, the government this year notably recognized the right of copyright and related rights holders to manage their works individually or through specific agreements, allowed the coexistence of multiple Collective Management Societies ("CMOs"), and reduced some taxes for the video game industry.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Increase political will and resources necessary to combat piracy at the federal level and support enhanced coordination with other IP enforcement entities.
- Provide adequate legal powers and financial resources to the *Dirección Nacional del Derecho de Autor* (Ministry of Justice's Copyright Office, DNDA) that would allow it to undertake routine, *ex officio* actions, such as inspections and raids of physical markets to stop commercial piracy, including ISDs.
- Incentivize the Argentine Customs Regulation and Control Agency (DGA-ARCA) to prioritize copyright enforcement actions and to monitor and perform border operations.

Legal Reforms

- Introduce legislation establishing adequate protections for TPMs and RMI and provide legal remedies against their removal.
- Repeal Decree 765/2024 that expanded exceptions to the public performance right.

[1] For more details on Argentina's Special 301 history, see previous years' reports, at https://iipa.org/reports/reports-by-country/. For the history of Argentina's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

- Repeal provisions empowering *El Fondo Nacional de las Artes* (FNA, National Endowment for the Arts) to charge fees for the "Paying Public Domain."

Market Access

- While Argentina fortunately eliminated quotas for motion pictures and television content in 2024, and it is critical for investment in production and distribution that none be imposed in the future including on current or new distribution platforms.
- Reject customs duties on audiovisual works based on the potential royalty value of the work rather than on the value of the carrier medium, as well as other customs duties and taxes that burden foreign rights holders.
- Amend legislation to adapt the split of performance rights collections of music performers and phonogram producers to the 50-50 international standard, instead of the currently inequitable split of 67% to performers and 33% to producers.

ENFORCEMENT

Piracy in Argentina remains a critical concern fueled by a persistent lack of political will and the resources necessary to combat its rapid expansion across both physical and digital markets. Piracy grew 12% in the last year alone and has doubled in the last five, reflecting a trend of sustained growth. The phenomenon is no longer limited to those without access to legal services, in fact, 88% of consumers of pirated content in Argentina also subscribe to a paid platform. This shows that users do not replace one thing with another, they coexist with both options, especially in the case of live sporting events where piracy rates are soaring. Additionally, piracy options in Argentina are growing increasingly global; many of the most popular piracy sites available in Argentina are also available throughout the greater region and come from internationally organized illegal operations with recognizable piracy brands.

The most prominent form of music piracy in Argentina is stream-ripping sites such as *savefrom.net* which received over 30 million visits from Argentina in the last 12 months (January 2025 – December 2025) according to *Similarweb*. *Y2mate.nu* received over 27 million visits and *mp3juice.blog* over 1.3 million visits in the same time period. In the audiovisual sector, illegal websites remain the primary conduit for the distribution of pirated content, although pirate streaming apps have grown 60% since 2023, especially among younger users across a variety of devices, often from cell phones or smart TVs. They are easy-to-use apps that mimic the experience of legitimate platforms, but with illegal content and often on a subscription basis. Regarding video game piracy, illegal linking sites dedicated to video game piracy remain popular, with monthly audiences increasing approximately 12% each year. These linking sites are dominated by those operated by individuals abroad. Another concern is the illegal sale of video game digital accounts, which have recently migrated from marketplace listings to e-commerce platforms. In 2025, Argentina ranked 23rd in the world for the number of connections by peers participating in the unauthorized file-sharing of ESA member video game titles on public peer-to-peer (P2P) networks. By the same metric, Argentina ranked 9th in the world for unauthorized file-sharing of mobile games, 18th, in the world for console-based games, and 23rd in the world for PC-based games. In fact, the number of illegal websites offering this format of videogame piracy increased 34% last year and 84% are now hosted by e-commerce platforms. While some e-commerce platforms such as *MercadoLibre* and *Shopee* have a low volume of infringing listings related to digital accounts resale, the number of listings promoting the sale of illegal preloaded video game devices remain steady. More generally, there are relatively low levels of compliance by Internet service providers (ISPs) and payment providers used by these illegal video game piracy services, with 45% of all video game piracy sites using *MercadoPago* as their payment provider.

These growing piracy challenges have not only harmed U.S. creative industries, but also have devastated the Argentinian economy, with some estimating the Pay TV and OTT industries lose roughly $480 million annually in Argentina, while the government loses nearly $100 million annually in taxes annually due to piracy. Given these significant piracy challenges in Argentina, IIPA and its members strongly encourage Argentina to take the following priority actions.

- **Increase political will and resources necessary to combat piracy at the federal level and support enhanced coordination with other IP enforcement entities.**

IIPA continues to closely monitor how the Government of Argentina attempts to address the longstanding and growing piracy concerns that severely harm both local and foreign creative industries. There have been some positive developments in the past two years.

- In March 2024, Argentina's *Unidad Fiscal Especializada en Ciberdelincuencia* (the federal prosecutor's special cybercrime unit, UFEIC) and Federal Police accepted four cases related to local commercial websites offering unauthorized reselling of video game digital accounts, with such targets being among the most popular in the country's video game piracy scene. Federal Police concluded the four investigations in June 2024 and referred them to the prosecutor. These cases were later expanded to a wider group of piracy targets and those new investigations concluded in July 2025. Unfortunately, all cases, including the original four, remain pending and are awaiting search warrants and domain seizure court orders to be issued.

- In July 2024, the National Anti-Piracy Roundtable convened for the first time by the Ministry of Security as part of a new Productive Security Program organized by the Ministry of Security. Unfortunately, this initiative has been dormant since the first meeting, with no tangible outcomes or meetings reported since.

- Argentina participated in the seventh and eighth phases of Brazil-led Operation 404, a joint international effort to stop digital piracy in the region.

- On January 8, 2025, the Government of Argentina announced the creation of the Strengthening Cybersecurity and Cybercrime Investigation (ForCIC) program.[2] The program is designed to increase the capacity of prevention, detection, analysis, response and investigation of cyber incidents and cybercrime, and to strengthen investigative activities in specific areas of computer crimes dependent on federal police and security forces, among other goals. Although the scope of the program is not restricted to piracy, IIPA hopes this new ForCIC program is a major step to combating copyright infringement in the digital environment. Relatedly, on June 16, 2025, the Argentinean Ministry of Justice passed decree 383/2025 to improve the Federal Police's scope of cybercrime investigations by enhancing operational protocols and increasing resources.[3]

- On August 21, 2025, a Buenos Aires Province Court successfully executed an arrest warrant for the founder of the piracy website and app *Al Angulo TV*. The site operated at least 14 mirror domains that replicated stolen content and had recently launched an Android app, significantly increasing its reach and viewership, establishing itself as one of the main pirate distribution channels in the country, along with *MagisTV*.

- On May 31, 2025, rights holders launched enforcement efforts on a dynamic blocking order issued in 2023, authorizing ISPs to block in real time new iterations of pirate sites and apps, which – circumventing the initial blocks – provided illegal access to the UEFA Champions League and Argentine Primera Division final matches. This was the first time in Argentina where blocks were applied not only on domain name (DNS) level, a mechanism historically used in similar cases, but also on IP-address level. To ensure the accuracy of the blocks, a specialized forensic analysis was utilized, through which the IP addresses used by criminal organizations were isolated, preventing the operation of legitimate digital services from being affected.

[2] See "The Government created a cybersecurity strengthening program," 24 Hours Worlds, January 8, 2025, available at https://24hoursworlds.com/entertainment/901784/.
[3] Available at https://www.boletinoficial.gob.ar/detalleAviso/primera/326993/20250617#:~:text=Legislaci%C3%B3n%20y%20Avisos%20Oficiales%20Primera%20secci%C3%B3n%20*%20Primera.%20*%20Decretos.

- In November 2025, the Government of Argentina dismantled a criminal network with up to eight million paying users worldwide representing revenues of hundreds of millions of dollars. Following an eight-month long investigation by UFEIC, four raids were conducted on buildings in Vicente López, where the companies investigated were operating (these included: *My Family Cinema* and *TV Express*, two global giants of audiovisual piracy).[4]

These actions are a welcome development and a hopeful signal that the current administration will choose to make real efforts to tackle Argentina's growing piracy epidemic this year. At the same time, it is clear that cases progress too slowly, from presentation to execution, diminishing the impact of these positive developments and posing a strategic challenge to law enforcement authorities to generate real deterrence. The Government of Argentina will need to fully prioritize this issue to make any meaningful impact. The current administration has already shown that when an issue is a political priority, for example, illegal online betting, the government is able to make sweeping reforms. For example, in 2024, as part of a comprehensive strategy to combat a growing trend of illicit online betting by youth, the Government of Argentina created national awareness campaigns, instituted access controls with biometric technological measures, and directed the *Ente Nacional de Comunicaciones* (the National Communications Entity of Argentina, ENACOM) to block illegal betting sites. As of September 2024, ENACOM reported blocking a thousand websites dedicated to illegal online betting.[5] This effective political will and allocation of the necessary resources to successfully implement measures to tackle one form of crime should now be mirrored to combat copyright piracy. In doing so, the current administration will need to make a wide range of immediate and sustainable changes to Argentina's copyright enforcement regime in order to reduce piracy levels, create deterrents for piracy operations and operators, and streamline enforcement procedures. It is also important to note that most of the above successes originated from the executive branch, and not the legislature or the judiciary, which both play key roles in modernizing outdated legal frameworks and adjudicating anti-piracy cases in view of new technological piracy trends. For example, as a legislative initiative, the Government of Argentina could ensure the RICO-like legislation passed this year includes IP enforcement. It will be critical for the administration to work with all branches of government to have a truly effective solution.

To address the longstanding piracy enforcement challenges in Argentina, and to leverage the opportunity presented by some positive steps by the administration, the Government of Argentina should provide the political will and resources necessary to enact a coordinated, long-term anti-piracy agenda at the federal level to address online piracy, including by making the following changes:

Create a specialized IP prosecution office and establish federal jurisdiction over copyright crimes: The Argentine government should enhance inter-agency collaboration by establishing a specialized IP Prosecution Office and granting it federal jurisdiction over copyright crimes. This centralized approach would enable a unified front against the escalating threat of online piracy.

Increase prioritization of and resources for IP cases: Law enforcement authorities should receive the specialized training and high-level political support necessary to treat online IP protection as a cornerstone of the government's strategy to grow Argentina's digital economy. These authorities should also be made aware of the benefits for public security policies resulting from stronger online copyright enforcement. Additionally, law enforcement authorities should take further concrete steps to establish an agenda that reflects short- and long-term goals for tackling illegal sites and services and piracy groups operating in the country. Further, more investment in investigation and prosecution of IP crime is required. Authorities from other branches of federal administration should also receive detailed information and be engaged on the importance of IP protection to

[4] Other smaller piracy sites that were shut down included *Eppi Cinema, Weiv TV, Red Play, Duna TV, Boto TV, Break TV, VTV, Blue TV, Super TV Premium, HOT, ONpix, PLUSTV, Mix, Venga TV, ALA TV, Pulse TV, Football Zone, Nossa TV, MegaTV+, Cineduo, Megamax+, GTV, Nebuplus*, and *Onda TV*. See also https://technext24.com/2025/11/04/my-family-cinema-shuts-down-crackdown/.

[5] See Viktor Kayed, ENACOM Reaches 1000 Blocked Illegal Gambling Websites in Argentina, SBCNews, September 9, 2024, available at https://sbcnews.co.uk/marketing/2024/09/09/enacom-reaches-1000-blocked-illegal-gambling-websites-in-argentina/.

local digital and creative economy, increasing support from multiple areas in the public sector and fostering further cooperation and positive initiatives.

Improve federal and state coordination: There is general inaction and lack of coordination between federal and state jurisdictions when handling online infringement investigations and cases. For example, when an online IP crime is reported, both the Federal Police and a state prosecutor might independently proceed in processing the case without communicating or sharing data. The Federal Police view copyright infringement as a federal crime, while the state prosecutor views it as a local offense. These jurisdictional conflicts remain a significant barrier to initiating a successful copyright enforcement case as well as to develop advanced stages of cases that requires resources coordination Better coordination is also needed between special cybercrime prosecutors and its peers (federal level) when it comes to execute search warrants in different jurisdictions across the country, as cases remain on standby due to lack of coordination and prioritization by local authorities.

Impose deterrent sentences: There are few, if any, instances where sentences are consistently applied at a level that would deter piracy operators in any meaningful way from targeting Argentina and its consumers.

Target commercial-scale piracy operations: Capitalizing on its action against multiple instances of the illegal IPTV service *MagisTV*, the Government of Argentina should prioritize actions against commercial-scale piracy operations by continuing to conduct full-scale raids against piracy websites and apps, stopping the importation of circumvention devices, and ISDs into the country, and taking action against unlicensed retransmission and theft of pay-TV signals. Additionally, cybercrime entities and ENACOM should proactively monitor and perform online operations against high-profile sites and commercial activities occurring in online marketplaces and e-shops. However, based on feedback from the criminal enforcement authorities, it is understood they view any infringing site that makes money through advertising as not making direct profits from copyright infringement, and therefore, safe from criminal prosecution. This narrow interpretation of the law is not compatible with the TRIPS Agreement obligation that parties ensure that criminal enforcement measures are available, at a minimum, against commercial-scale copyright infringement.

Promote public-private partnerships: Law enforcement and administrative authorities are not promoting actions by the private sector, nor are they taking initiative to tackle copyright piracy by securing the assistance of domain name registrars. IIPA urges Argentina's authorities to partner with rights holders to use industry expertise to combat piracy. In positive developments, the video game industry continues to increase its cooperation with *MercadoLibre's* regional office, based in Buenos Aires, as a strong partner through which unauthorized digital goods and other infringing video game items are removed from listings, as well as to combat commercial game piracy in the entire region. The Entertainment Software Association (ESA) reports that from 2022 to 2023, *MercadoLibre* successfully processed approximately 5,300 takedown requests, representing a threefold increase over the previous year. Furthermore, in 2024, the number of listings offering UDGs and accounts decreased on *MercadoLibre*, due to *MercadoLibre* updating its Terms of Use to prohibit such listings. Additionally, ESA reports a takedown rate of over 98% on *MercadoLibre* and that *MercadoLibre* is proactively filtering and analyzing newly listed products for automated removal if they are found to be infringing. Building on the successful, collaborative model established by ESA, Argentina should create forums to promote cooperation within the private sector. For example, the Government of Argentina should host private sector discussions on potential cross-industry cooperation to more effectively combat online piracy.

Leverage Argentina's cybercrime initiatives: Local cybercrime authorities, from police and prosecutors' offices, should recognize IP crimes as part of a broad cybersecurity landscape and place them on their operational agenda. Additionally, the new Federal Police Cybercrime unit should be encouraged to address digital piracy cases and support coordinated efforts with cybercrime prosecutors' unit. Another suggestion is for Cybercrime authorities to lead roundtables initiatives with stakeholders that could improve ISPs and

intermediaries' cooperation to tackle local piracy groups, including by supporting investigations and actions taken by rights owners and authorities on such ISPs and online platforms.

Improve civil injunctive relief: Obtaining civil injunctive relief against piracy sites remains challenging due to protracted legal procedures, the often-limited nature and scope of the injunctions, and the vast number of sites that need to be blocked to generate impact in the pirate ecosystem. Nevertheless, recent judicial activity is encouraging, as civil courts have issued and updated several injunctive relief decisions. For example, in November 2022, the National Court of Original Jurisdiction in Civil Matters issued a decision ordering ISPs to effectively block access to the stream-ripping site *Y2mate.com*. This was the first time ISPs in Argentina had been ordered to block a stream-ripping website. Prior to this, ISPs were ordered to block *The Pirate Bay* by the National Court of First Instance in Civil Matters No. 64 (Case 67,921/13). Despite the success of the rare blocking actions against *The Pirate Bay* and *Y2mate.com*, it should be stressed that, due to the time required to prepare the evidence and information gathering for the action to move forward, as well as the jurisdictional disputes that arise in ordinary civil and federal procedures, significant improvements are needed to allow for large-scale actions that could meaningfully impact the digital piracy ecosystem. In 2024 and 2025, the Federal Civil and Commercial Court issued dynamic blocking injunctions against several well-known streaming sites. However, despite those positive developments, significant improvements are required to address subsisting challenges. Unpredictable and inconsistent evidentiary standards have placed a disproportionate burden on rights holders. Persistent disputes over jurisdiction continue to cause judicial delays, while the uncertainty surrounding ENACOM's competencies and obligations undermines the effective and timely enforcement of court orders. Targeted reforms are therefore necessary to streamline both judicial proceedings and the implementation of decisions.

Provide opportunities for administrative enforcement: Administrative injunctive relief against piracy sites remains unavailable because there is no legal basis for such procedures. Rights holders currently must rely on civil injunctive relief mechanisms (with the limitations addressed above) or on criminal injunctive relief mechanisms, often linked to enforcement proceedings against the illegal service operator.

- **Provide adequate legal powers and financial resources to DNDA that would allow it to undertake routine, *ex officio* actions, such as inspections and raids of physical markets to stop commercial piracy, including ISDs.**

DNDA is underfunded. The Government of Argentina should strengthen the Office's ability to respond to commercial piracy by assigning it adequate legal powers and financial resources. Moreover, the Government of Argentina should undertake routine, *ex officio* actions, such as inspections and raids of physical markets to stop commercial piracy. There is also a need to establish an administrative procedure before a competent regulatory authority (i.e., DNDA).

- **Incentivize DGA-ARCA to prioritize copyright enforcement actions and to monitor and perform border operations.**

Another potential strategy in the fight against piracy in Argentina is to increase involvement from and coordination with DGA-ARCA. The Government of Argentina should actively involve DGA-ARCA in copyright enforcement actions and engage customs authorities to monitor and perform border operations against counterfeit, high-value products, such as circumvention devices and modified game consoles, and ISDs entering the country via airports and land borders.

LEGAL REFORMS

- **Introduce legislation establishing adequate protections for TPMs and RMI and provide legal remedies against their removal.**

Argentina continues to lack protections for TPMs and RMI, which are critical for enabling legitimate online business models and products. In addition to protections, Argentina should also enact legislation that provides civil and criminal sanctions for all activities relating to the manufacturing of, or trafficking in, circumvention devices or technologies that circumvent TPMs. The lack of these legal tools creates an obstacle to enforcement against circumventions of protections for copyright works and means that Argentina is not meeting its international obligations as a signatory to the WIPO Internet Treaties. For example, the absence of adequate protections for TPMs in Argentine legislation raises significant concerns regarding the protection of online content, including digital account resale, modified game consoles, and cracked game titles for download, or the ability to prevent the unauthorized copying of music by stream-ripping services.

- **Repeal Decree 765/2024 that expanded exceptions to the public performance right.**

On August 27, 2024, the Government of Argentina issued Decree 765/2024 (Decree 756), which problematically expanded exceptions to the public performance right. Article 1 of Decree 765 amended Article 33 of Decree No. 41,223/34 of 1934 to state that there is "no public representation or performance when it takes place in a private setting, whether permanent or temporary."[6] The previous narrower provision in the 1934 Decree limited this exception to "one that takes place in any place other than a private home and, even within one, when the performance or representation is projected or broadcast abroad." Article 1 of Decree 765 also broadens the definition of a public performance as "a musical or cinematographic work, records, sound films, radiotelephone transmissions and their retransmission or broadcasting by loudspeakers… which is carried out by performers or singers, as well as that which is carried out by mechanical, electronic or digital means, including the Internet."[7]

Rights holders are genuinely concerned that this broader exception, a clear violation of the three-step test, could be seen to permit the unauthorized transmissions of copyrighted content in hotel rooms, private event spaces, convention centers, and the like. In these cases, these institutions that have lawfully licensed this content for years in Argentina may now believe they are exempt from performance licenses and payments. This decree should be repealed immediately because the exception conflicts with a normal exploitation of musical works and sound recordings, and potentially with a larger segment of copyrighted works given the now broader definition of types of public performances.

More recently, stakeholder groups in Argentina met several times with government representatives, including the Minister of Deregulation responsible for issuing the order, to express their concerns about the detrimental impact of Decree 765 on performance rights' collections from hotels, ballrooms and rented parties (which accounts for more than 30% of total collections in the country). Rights holders found that government representatives would not support any amendment or repeal of Decree 765. In light of this situation, rights holders filed a constitutional challenge against the order on December 3, 2024, seeking injunctive relief and a declaratory judgment for violation of a constitutional right. This lawsuit was filed jointly by the record producers' local association (CAPIF) and the local CMO representing music performers (AADI). Copyright holders (including composers and publishers) filed a similar lawsuit, represented by SADAIC. The potential outcome of these cases is uncertain but there is no doubt that Decree 765 is causing significant damage to all copyright holders in the music sector in Argentina and is a very negative precedent that has already been held up as an example in other markets in Latin America. Given the importance of public performance collections in Argentina, the estimated economic impact to neighboring rights holders (performers and producers) could be as high as 13.8% of total income.

[6] See The Official Gazette of Argentina, Intellectual Property, Decree 765/2024, August 27, 2024, available at https://www.boletinoficial.gob.ar/detalleAviso/primera/312933/20240828.
[7] See id.

In some positive news, on February 26, 2025, the Government of Argentina passed Decree 138/2025 that recognized the right of copyright and related rights holders to manage their works individually or through specific agreements and allowed the coexistence of multiple CMOs. This reform applies to CMOs generally, including for example to DAC (audiovisual director CMO) and SAGAI (audiovisual performer CMO) but does not apply to the authors' CMO (ARGENTORES), which is excepted entirely, or to the CMO for music authors and composers (SADAIC).

- **Repeal provisions empowering FNA to charge fees for the "Paying Public Domain."**

Argentina's FNA is an autonomous body within the Ministry of Culture, which has been empowered to collect fees for copyright works that have entered the public domain. According to Law No. #1,224 and Resolution #15,850/77, FNA's main source of funding is the Paying Public Domain ("DPP"). The DPP is a fee (not a tax) that must be paid in Argentina for the use of a work authored by a national or foreign creator who died more than 70 years ago (the copyright term in Argentina is the life of the author plus 70 years). In 2022, Argentina adopted Resolution #662/2022, extending FNA's authority to charge fees against DPP rights used in the digital environment. Since the enactment of Resolution #662/2022, the video game industry reports receiving invoices from the FNA for using adaptations of stories from the public domain, including centuries-old mythologies, in video games. This highly unusual practice, rather than furthering the arts, discourages creative expression by introducing unwarranted uncertainty and financial and administrative burdens for the creative sector. The recent enforcement of the PDD reflects the funding pressures facing FNA; indeed, the legislature recently proposed to close the agency due to budgetary constraints. If Argentina is to continue FNA's mission to encourage the creative arts, it should do so without burdening the creative community it seeks to support.

MARKET ACCESS

- **While Argentina fortunately eliminated quotas for motion pictures and television content in 2024, and it is critical for investment in production and distribution that none be imposed in the future including on current or new distribution platforms.**

Since 2004, the Government of Argentina, in particular the *Instituto Nacional de Cine y Artes Audiovisuales* (National Institute of Cinema and Audiovisual Arts, INCAA) and ENACOM, have imposed burdensome quotas for motion pictures and television content that distorted the market, discriminated against U.S. audiovisual content, and likely have resulted in increased piracy because Argentine consumers were unable to lawfully view sought-after U.S. content. INCAA and ENACOM also faced pressure to extend these content quotas to streaming services. In a recent positive development, the new administration enacted Decree 662/2024 (Decree 662) on July 23, 2024, which effectively eliminated the screen quotas originally codified in the Regulation of the National Cinematographic Activity Promotion Law No. 17,741 (2001) and its amendments.[8] Although this was a very welcome development. However, Article 9 of Decree 662 still allows the President of INCAA to establish future screen quotas. IIPA strongly urges NCAA to refrain from imposing new quotas or from further efforts to expand potential quotas to streaming services. Additionally, while quotas do not seem to be a priority for the current administration, quotas continue to be sought by the other political parties and promoted by the local audiovisual sector.

- **Reject customs duties on audiovisual works based on the potential royalty value of the work rather than on the value of the carrier medium, as well as other customs duties and taxes that burden foreign rights holders.**

Argentina maintains one of the highest tax burdens on digital services in the region. International companies face almost two dozen taxes and fees at the national, provincial, and municipal levels, with a tax burden exceeding 40%, creating a compelling market for pirate operations, which gain a competitive advantage by evading these fiscal obligations. Argentina assesses customs duties on audiovisual works based on the potential royalty value of the work

[8] See The Official National Gazette of Argentina, Promotion of National Cinematographic Activity, Decree 662/2024, July 23, 2024, available at https://www.argentina.gob.ar/normativa/nacional/decreto-662-2024-401988.

rather than on the value of the carrier medium. This runs counter to international best practice and is a form of double taxation, as royalties are subject to withholding, income, value-added, and remittance taxes.

Moreover, the law also imposed a 21% Value Added Tax (VAT) on OTT services as well as on a range of services provided by companies in the "collaborative economy." Then, in December 2019, the Fernandez Administration imposed a 30% Social Solidarity and Productive Reactivation Tax (PAIS Tax) over OTT services, including video game, music, and movie services. In a positive development, the PAIS tax expired on December 31, 2024. Additionally, on September 19, 2020, Argentina's Central Bank imposed a 35% fee on foreign credit card charges, which has a negative impact on Internet and streaming services. These laws contradict international norms and should be amended or repealed. In some positive news, in April 2025, ARCA eliminated the 30% import tax it had applied to video game digital purchases and reduced the import tax of video game consoles from 35% to 20%. According to the government, these measures were designed to reduce the purchase price for consumers of video game products and tackle illegal market associated with tax evasion and smuggling of products.

- **Amend legislation to adapt the split of performance rights collections of music performers and phonogram producers to the 50-50 international standard, instead of the currently inequitable split of 67% to performers and 33% to producers.**

Argentina's current law, approved in 1974, establishes that collections on behalf of music performers and phonogram producers shall be distributed 67% to performers and 33% to producers. This unfair distribution rule, imposed by law, goes against international practice and basic fairness. IIPA urges Argentina to consider legislation that establishes a more balanced distribution of 50% to performers and 50% to producers. This unfair situation can be changed only by legislation. As of October 2023, this disproportionate split in the distribution of revenue from performance rights remains the same.

BELARUS

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Belarus remain on the Watch List in 2026.[1]

Executive Summary: After years of working to improve its laws on intellectual property (IP) protection and enforcement, Belarus took a significant step back in 2022 with the passage of Law No. 241-3 legalizing piracy against foreign states "committing unfriendly actions." This law, now extended through 2026, is a flagrant violation of Belarus's international treaty obligations and a direct affront to the American copyright industries. Making matters worse, the Government of Belarus is blatantly and financially benefiting from this government-sponsored copyright infringement. IIPA urges Belarus to rescind this law and to comply with its international obligations, including with respect to copyright and related rights.

PRIORITY ACTIONS REQUESTED IN 2026

Legal Reforms
- Repeal Law No. 241-3, which legalizes unlicensed use of many copyrighted works.
- Repeal Law No. 243-3, which imposes a requirement that certain rights of performers and phonogram producers, including exclusive rights, be collectively managed by a state-owned collective management organization (CMO).

LEGAL REFORMS

- **Repeal Law No. 241-3, which legalizes unlicensed use of many copyrighted works**

Upon the passage in 2022 of Law No. 241-3, Belarus legalized the unauthorized use of copyrighted works of all kinds, including computer programs, broadcasts of a broadcasting organization, audiovisual works, and musical works. At the time, the Government of Belarus stated that the temporary law was set to expire on December 31, 2024. However, the law was officially extended in 2024 and is presently set to expire December 31, 2026. The law allows the importation of goods with copyrighted content, referred to as "parallel imports," into the territory of the Republic of Belarus and allows the circulation of those goods without rights holder consent if (i) the rights holder or CMO is from a country that was included in a government list of foreign states "committing unfriendly actions" and (ii) if such goods were included in the lists of goods that are essential for the domestic market as approved by state bodies authorized by the Council of Ministers. When such goods are designated as essential for the domestic market, they are removed from the customs register; thus, the Government of Belarus ceases border enforcement against those infringing goods. Because of this law, theatrical piracy has become a consistent issue with cinemas in Belarus openly screening unlicensed titles without repercussions.

The law further directed Belarus's National Center of Intellectual Property (NCIP) to collect royalties on this unlicensed use of copyrighted works on behalf of the individuals and entities from "unfriendly" states, with a right for NCIP to apply a 20% admin fee and to retain this remuneration for three years on behalf of the rights holder or CMO. If the rights holder or CMO does not request the royalties during this period, the monies will be transferred to Belarus's

[1] For more details on Belarus's Special 301 history, see previous years' reports at https://www.iipa.org/reports/reports-by-country/. For the history of Belarus's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

general budget within three months. The Government of Belarus is blatantly and financially benefiting from government-sponsored copyright infringement.

Belarus is a member of several international IP treaties, including the Berne Convention and the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty (collectively, the WIPO Internet Treaties). Each of these treaties requires Belarus to provide for the protection of the works under attack in Law No. 241-3, and the enforcement of the rights required by these treaties. Moreover, the law violates the obligation to grant national treatment to works protected under the Berne Convention. IIPA urges Belarus to repeal this law and to comply with its international obligations, including with respect to copyright and related rights.

- **Repeal Law No. 243-3, which imposed a requirement that certain rights of performers and phonogram producers, including exclusive rights, be collectively managed by a state-owned collective management organization (CMO).**

Law No. 243-3, adopted in January 2023, introduced further problematic amendments to the Belarusian Copyright Law, making certain performers' and phonogram producers' rights subject to compulsory collective management by a state-owned CMO. The new CMO accreditation rules introduced by the same law require that only one CMO, which must be state-owned, is allowed to operate as such. This framework severely undermines the ability of rights holders to exercise their rights and ultimately to monetize the use of their content.

BRAZIL

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Brazil remain on the Watch List in 2026.[1]

Executive Summary: Brazil has continued to enhance its enforcement efforts against a wide variety of piracy operators, and in some cases exemplified best practices to its Latin American neighbors. However, the Government of Brazil's withdrawal of commitments to ratify and implement the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively, the WIPO Internet Treaties), along with proposals that interfere with Brazilian creative content markets, existing and proposed burdensome taxes, rampant levels piracy across creative sectors, and delays implementing critical online anti-piracy tools unfortunately reduce the visibility of some of last year's successes.

IIPA continues to commend Brazil's enforcement actions against online piracy over the past few years, including the latest phase of Operation 404 in November 2025. However, most anti-piracy actions prosecuted by Brazilian federal authorities are concentrated during the phases of Operation 404, and recent personnel changes raise questions about Brazil's commitment to provide the necessary political support, required human resources, and budget to ensure the continuity of Operation 404. Moreover, after six years of successful Operation 404 campaigns, the Government of Brazil should now implement more consistent and continuous anti-piracy operations throughout the year. Enforcement agencies, including during Operation 404 phases, should also target piracy operations that offer hacking tools, circumvention devices, and modification (mod) chip installation services, and that develop tools that specifically support video game piracy and circumvention of technological protection measures (TPMs). The Government of Brazil should create an Operation 404 Department or Section inside the Executive Branch, securing the future of this good initiative. The creation of a stable structure will also reduce the lapses between different waves of the operation and with more personnel, training activities will increase for the benefit of different states in Brazil.

Additionally, while São Paulo State Public Prosecutor's Office cybercrime unit, *CyberGaeco*, continues to support the creative industries by successfully targeting TPM circumvention devices and the National Telecommunications Agency (ANATEL) again increased efforts to block pirate pay-TV channels and seize piracy devices (PDs) this year, unfortunately, the Brazilian Film Agency (ANCINE) continues to delay, now for roughly two years, the implementation of its legally codified administrative site-blocking measures. Additional political support and increased human and financial resources are needed across Brazil's criminal, civil, and administrative IP enforcement agencies at all levels. Further, more efforts are needed to improve public-private and private-private partnerships that are necessary to tackle Brazil's piracy challenges.

Brazil's failure to ratify and implement the WIPO Internet Treaties is one of the primary concerns for rights holders in all of Latin America where Brazil is the largest market in the region for all creative industries. Furthermore, IIPA remains extremely concerned about Brazil's 2024 proposed amendments to the Copyright Act (4868/2024) supported by the Ministry of Culture that would create a new additional remuneration right in addition to the existing exclusive right, and problematic definitions of communication to the public and public performance. It is therefore essential for Brazil to reassess its latest copyright amendment proposals and instead ratify and fully implement the WIPO Internet Treaties.

Regarding market access barriers, unfortunately, taxes on video game consoles and accessories remain excessively high relative to other major markets and IIPA encourages Brazil to reduce the burden on this sector of the

[1] For more details on Brazil's Special 301 history, see previous years' reports at https://iipa.org/reports/reports-by-country/. For the history of Brazil's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

economy as the country completes its current reform effort. IIPA also continues to be concerned about potential new taxes and regulation for video-on-demand (VOD) services, such as permitting accounting sharing, as well as digital services taxes (DSTs). Moreover, it is important that Brazil does not implement network fees.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Support the Ministry of Justice and Public Security's (MJSP) coordination with the Department of Intelligence and Integrated Operations (DIOPI) to establish a dedicated structure and internal regulations for Operation 404, setting the basis for a permanent, continuous and effective program with training, research and enforcement components integrated into one single Department or Section in the Ministry of Justice and Public Safety.
- Ensure that ANCINE implements Article 3 of Federal Law No. 14,815/2024 and provides administrative enforcement against the illegal transmission of audiovisual content.
- Ensure that ANATEL continues deploying administrative blocking for piracy in general and on pay-TV channels and preventing the importation and distribution of PDs.
- Encourage state courts nationwide to assign specialized courts or judges to uniformly handle IP cases and implement a long-term national program to train judges, prosecutors, and police officers.
- Ensure the *Conselho Nacional de Combate à Pirataria* (National Council to Combat Piracy, CNCP) and the Interministerial Group on Intellectual Property (GIPI) continue to have strong political support and greater human and financial resources to engage in cross-industry efforts against copyright infringement and online piracy.
- Improve border controls against the importation of counterfeit video game hardware, PDs, modified consoles, and circumvention devices.

Legal Reforms

- Ratify and fully implement the WIPO Internet Treaties.
- Abandon proposals to introduce an additional remuneration right for holders of copyright and related rights and unclear definitions for the scope of communication to the public and public performance.
- Ensure legislative proposals related to artificial intelligence (AI) meet the standards related to intellectual property (IP) protection set forth by the G7 Hiroshima AI Process.
- Follow through with revisions to the Customs Law to clarify that the retention of counterfeit or any other illegal products by customs authorities does not require a court order.
- Uphold legacy publishing agreements.

Market Access

- Foster industry growth by reducing high tariffs and taxes placed on video game products.
- Mitigate imposition of the Condecine tax and refrain from developing excessively burdensome VOD or digital platforms regulations.
- Reform the collective management organization (CMO) system to guarantee efficiency, transparency, and oversight; and reaffirm that rights holders can license music directly.
- Refrain from establishing a digital services tax.
- Refrain from implementing network fees.
- Remove local content and screen quotas for audiovisual works.

ENFORCEMENT

Piracy in Brazil remans an issue. At a December 2024 anti-piracy program hosted by the Brazil National Institute of Industrial Property (INPI), INPI President Júlio César Moreira shared the Government of Brazil lost over

US$80 billion in revenue in 2024 due to piracy.[2] Stream-ripping sites remain popular in Brazil including *y2meta.is* and *mp3converter.fr* both of which received the highest level of traffic from Brazil over the last 12 months according to *SimilarWeb.* A further popular example includes *y2down.cc*. Equally popular and harmful to rights owners are stream-ripping mobile apps.

Audiovisual piracy in Brazil has continued to evolve from pirate streaming sites to large-scale IPTV/TV-box ecosystems, apps, and aggregated streaming portals, many of which stream live pay-tv and VOD content. Enforcement operations have targeted IPTV, apps, and domains, and authorities report blocking hundreds of applications in successive waves, but some pirate services are increasingly distributed via mobile apps and abroad-hosted domains, complicating enforcement. Online piracy (VOD and pay-TV) available through devices, Internet applications, and sites is also a major cause for concern. Reports show that 36.8% of Brazilian households with broadband access consume pirated materials online.[3]

Digital piracy remains the dominant format for the unauthorized access of video game products in Brazil. The most relevant video game piracy format is the resale of unauthorized digital accounts. In terms of audience and content availability, the two most prevalent formats for video game piracy continue to be linking sites, with approximately 20% decrease on the overall visits, to local sites, accumulated up to September 2025 in Brazil. At the same time however, there was an increase in accessing foreign illegal linking sites from Brazil, registering over 71 million accumulated visits in 2025 for the top 13 piracy sites. Commercial illegal websites for digital video game accounts registered a 9% increase in monthly visits this year compared to the previous period and the number of active players (on websites) in active piracy ecosystems increased by 50% compared to the previous year. While the BitTorrent content audience share for illegal game titles remained steady at 15%, there is an increasing audience for other unauthorized digital goods sites such as the so-called cheats and coins, with more than 188 million monthly visits accumulated in 2025 from January to September, representing a 300% surge compared to two years earlier (2023). Additionally, there are at least seven main platforms providing infrastructure to the ecosystem of illegal digital accounts websites in Brazil: *LojaIntegrada*, *LojaVirtual*, *NuvemShop*, *Shopify*, *Yampi*, *Tray*, and *Wbuy*. There is also an increasing problem related to retro and preloaded game consoles, affordable options among customers offering legacy game titles preloaded to generic hardware devices. Thousands of titles per device/console are made available, mostly via illegal shops and outlet booths in popular markets and neighborhoods, most recently rights holders are seeing a growing presence of these illegal products in online marketplaces. Platforms like *Shopee*, *AliExpress*, *Temu*, *Ebay*, and *Amazon* are extremely popular for preloaded devices offered to Brazilian users.[4]

Some factors that make tackling piracy in Brazil especially challenging include: (i) the availability of inexpensive piracy hardware and ready-made piracy apps; (ii) that many infringing platforms host infrastructure outside Brazil, adding complexity to takedown/blocking efforts; (iii) large-scale IPTV operations can generate significant revenue for Brazilian organized crime syndicates; (iv) a lack of consumer awareness about the dangers of accessing pirated content paired with high user demand for U.S. creative content; and (v) the low levels of compliance by e-commerce platforms on Know Your Business Customer (KYBC) policies, making these platforms enablers for professional commercial piracy actors.

While these are significant piracy challenges, rights holders find the overall piracy enforcement situation in Brazil is improving considering the positive level of support received from law enforcement agencies to tackle online piracy. This is reflected by a growing number of cases, using a variety of anti-piracy strategies, against Brazil's growing ecosystems of piracy operators and services. In an additional positive sign last year, rights holders reported more complex piracy cases involving organized crime activities that were successfully brought to law enforcement

[2] See https://www.gov.br/inpi/pt-br/central-de-conteudo/noticias/inpi-sedia-oficina-regional-sobre-delitos-contra-a-propriedade-intelectual.
[3] See https://telesintese.com.br/wp-content/uploads/2024/12/Informe-de-Alianza.pdf.
[4] In terms of visibility and market share Shopee has impressive one billion monthly visits in Brazil while Temu counts for another 830 million, followed by Amazon with over 200 million – all these platforms have resilient and prolific local user profiles commercializing these illegal devices.

authorities.[5] In particular, some rights holders reported especially positive engagements with the Ministry of Justice and Public Security's cybercrime unit CIBERLAB, the Public Prosecutor's Office of the State of Sao Paulo cybercrime unit *CyberGaeco*,[6] the special cybercrime police unit of Brasilia Civil Police, CORF, and cybercrime police from the states of Santa Catarina and Parana.

Given these significant piracy challenges in Brazil, IIPA and its members strongly encourage Brazil to take the priority actions identified below.

- **Support MJSP's coordination with DIOPI to establish a dedicated structure and internal regulations for Operation 404, setting the basis for a permanent, continuous, and effective program with training, research and enforcement components integrated into one single Department or Section in the Ministry of Justice and Public Safety.**

While the overall levels of piracy in Brazil remain high by global standards, enforcement efforts are having a notably positive impact, especially Operation 404, as executed by MJSP's cybercrime unit CIBERLAB in coordination with DIOPI. Operation 404's eighth phase took place in November 2025 and included coordination with Argentina, Paraguay, Peru, and for the first time Ecuador, which resulted in blocking or suspending 535 websites and illegal streaming applications, removing thousands of pirated items from online repositories and social networks, executing 44 search and seizure warrants, and making seven arrests. Operation 404's seven previous phases, starting in November 2019, took down 2,040 pirate websites and 1,377 illicit streaming apps, removed more than 400 social media profiles, and resulted in the arrest of 55 people.[7] These targets have included commercial digital piracy sites, download sites dedicated to video game piracy, applications with pirated audiovisual content, games, music, and sports events, MP3 download and stream-ripping sites, and more. IIPA commends the Government of Brazil for growing Operation 404 into one of the world's leading online anti-piracy criminal enforcement campaigns.

After six years of successful Operation 404 campaigns, the Government of Brazil should now have the confidence and expertise to implement more consistent and continuous anti-piracy operations throughout the year. Additionally, Brazilian enforcement agencies, including during Operation 404 phases, should also target piracy operations that offer hacking tools, circumvention devices, and mod installation services, and that develop video game emulators and other tools that specifically support video game piracy and circumvention of TPMs. The Government of Brazil should also not overlook the significant work being conducted by *CyberGaeco*. The success of *CyberGaeco*, which included the prosecution of more than 35 illegal game sites in 2024 alone, should be supported and encouraged to be replicated in different states by other special cybercrime units.

- **Ensure that ANCINE implements Article 3 of Law No. 14,815/2024 and provides administrative enforcement against the illegal transmission of audiovisual content.**

On January 16, 2024, Brazil enacted Law No. 14,815/2024, Article 3, that empowers ANCINE to "determine the suspension and cessation of unauthorized use of Brazilian or foreign protected works" by "prevent[ing] their issuance, diffusion, transmission, retransmission, reproduction, access, distribution, storage, hosting, exhibition, availability, and any other means that imply copyright infringement." This law was a welcome development as a potentially powerful anti-piracy tool that rights holders could rely on outside of Operation 404 campaigns to block illicit audiovisual content transmitted through websites, streaming devices, and apps. In addition, Article 3 empowers ANCINE to not only enforce copyrights related to the theatrical industry by blocking pirate streaming sites, but also against illicit camcording at theaters themselves. Unfortunately, although some system trials have been deployed in

[5] For the video game industry, around 75% of all cases presented are related to commercial websites for digital account resale, while 14% are linking sites dedicated to videogame illegal distribution and the other 1% are cases related to other unauthorized digital goods such as cheats and hacks.
[6] In 2025, CyberGaeco was responsible for multiple criminal prosecution cases against site operators of digital account resale and for the first site blocking action against foreign illegal game linking sites.
[7] More information on year-by-year Operation 404 campaigns can be found here: https://www.gov.br/mj/pt-br/assuntos/noticias/operacao-internacional-contra-pirataria-tira-do-ar-675-sites-e-14-aplicativos-de-streaming.

2025, ANCINE has yet to issue implementing regulations and this critical tool remains on the sidelines of the fight against piracy.

ANCINE's lack of engagement harms the theatrical exhibition sector reducing theatrical audiences and harming the value-chain of theatrical movie releases. IIPA strongly encourages ANCINE to fully implement Law No. 14,815/2024, Article 3 and make certain Brazil provides a mechanism that ensures Internet service providers (ISPs) can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities. In fact, while rights holders and ISPs generally work in a collaborative manner, ANCINE's failure to implement its administrative site-blocking system limits this partnership from being fully effective. More so, there is a technical cooperation agreement between ANCINE and ANATEL formalizing coordination to detect and request blocking of infringing sites/apps and to coordinate with ISPs. However, while rights holders have supported ANATEL's blocking orders, yet again, ANCINE's failure to implement its administrative site-blocking system undermines this technical cooperation agreement. IIPA strongly encourages ANCINE to immediately complete the implementation of its administrative site-blocking system.

- **Ensure that ANATEL continues deploying administrative blocking for piracy in general and on pay-TV channels, preventing the importation and distribution of PDs.**

Audiovisual content piracy continues to impact local and foreign rights holders in Brazil and represents a complex threat to be addressed by enforcement authorities and legislators within the country. The strong approach adopted by the telecommunications regulator ANATEL in 2023 regarding the seizure of devices delivering pirated pay-TV channels was a positive development. For example, ANATEL reported seizing more than 1.5 million IPTV boxes in the first half of 2024, with most arriving via the Port of Barcarena in the state of Pará, and others entering through Argentina, Paraguay, and Uruguay.[8] ANATEL has also launched its own antipiracy lab, which supports the Agency's blocking measures against non-authorized pay-TV channel transmissions. ANATEL reported permanently blocking 623 IP addresses and roughly ten URLs and is monitoring another 9,280 IP addresses and 1,514 URLs.[9] IIPA is pleased that ANATEL has sustained its initiatives in 2025 to inspect and seize PDs (also known as illicit streaming devices or ISDs) throughout Brazil. For example, in July, ANATEL and the Federal Police dismantled a million-dollar "TV Box" and "Gatonet" piracy scheme under Operation PRAEDO. Among the high-impact precautionary measures ordered by the court was the blocking of up to BRL 33 million in assets, the seizure of vehicles and real estate properties, and the blocking of websites used for selling illegal devices. IIPA encourages the Government of Brazil to continue supporting ANATEL's efforts on these matters with the appropriate financial and human resources.

- **Encourage state courts nationwide to assign specialized courts or judges to uniformly handle IP cases and implement a long-term national program to train judges, prosecutors, and police officers.**

As more cases are reaching Brazilian courts, it is especially essential to improvement of the judicial system to tackle Brazil's extensive piracy concerns. Unfortunately, Brazil's multi-level judicial system and case-by-case court injunctions can create uneven or slow outcomes different judges may rule in distinct ways. Brazil's judicial system continues to lack an adequate understanding of IP matters and judges. Court assistants do not coordinate across the country and lack up to date information on the latest IP and copyright matters as well as on technological trends affecting the creative industry. This results in inconsistent prioritization of IP cases, limited capacity to manage complex piracy cases, unharmonized procedures, and non-deterrent remedies across the nation. For example, the video game industry reports that seeking and obtaining support from Brazilian authorities varies state by state, especially relating to complex claims regarding TPM circumvention. To more effectively harmonize the handling of IP cases to address Brazil's growing piracy challenges, Brazil must take the following actions:

[8] Mariana Toledo, "To strengthen the fight against piracy, Anatel wants to automate operations," Tele Time, August 20, 2024, available at https://teletime.com.br/20/08/2024/para-reforcar-combate-a-pirataria-anatel-quer-automatizar-operacoes/.
[9] See *Id*.

- Commit sufficient resources and political will to assign well-trained tribunals throughout the country by training its judges, prosecutors, and police in best practices to effectively address the country's rampant piracy problem, as well as on technical training on modern and often transnational online piracy operations, TPMs, and anti-circumvention technologies, and on public policy training on the impact of copyrights and piracy to Brazil's economy and society, including related to consumer protection;
- encourage state courts to assign specialized courts or judges to oversee IP cases;
- enhance collaboration between cybercrime and IP specialized police units and prosecutors;
- amplify the already implemented framework in use with *CyberGaeco* and other prosecutors that are part of other cybercrime units in different states;
- provide more support to the *Conselho Nacional de Justiça* (National Council of Justice, CNJ) and other state magistrate academies;
- provide deterrent penalties against pirates, especially for repeat infringers;
- ensure the Brazilian Financial Intelligence Unit (COAF) investigates suspicious financial transactions resulting from piracy commercialization and reports its intelligence to competent enforcement authorities tasked with initiating actions against money laundering and organized crime; and
- support the work of the Association at the Parliamentary Front in Defense of Intellectual Property and Anti-Piracy, launched on April 30, 2024, for advancing improvements in IP legislation and efforts to enhance how IP cases are decided across Brazil.

In positive news, judicial actions against music piracy continue to improve. On August 10, 2021, the Tribunal of Justice of the State of São Paulo issued a permanent blocking order against 14 stream-ripping sites in a criminal case initiated by the industry's anti-piracy body, *APDIF DO BRASIL* (*APDIF*). The decision was the first of its kind in Brazil against music piracy services and confirms the legal power of Brazilian courts to order permanent injunctions in cases against foreign sites with a significant audience in Brazil. The decision is part of the campaign developed by *APDIF* and *CyberGaeco*. Following this decision, a series of further successful blocking applications were filed by *APDIF* and *CyberGaeco* in 2022, 2023, and 2024 and consequently over 300 stream-ripping sites have been blocked in Brazil. Furthermore, in December 2023, ISPs were ordered for the first time to block access to the cyberlockers *Dbree.org* (and related mirror site *Dbree.me*) following an application by *APDIF* and *CyberGaeco*. These outcomes against piracy sites hosted outside of Brazil are especially important and should be consistently replicated across Brazil as cross-border piracy operations are a growing regional concern, especially piracy operators that host infringing infrastructure abroad. These types of piracy operations require both local action and coordination with foreign law enforcement.

- **Ensure CNCP and GIPI continue to have strong political support and greater human and financial resources to engage in cross-industry efforts against copyright infringement and online piracy.**

Even with the enforcement progress made in recent years, especially through Operation 404, Brazil still lacks specific norms and regulations for enforcing copyright online as well as sufficient resources and staff to support the enforcement actions needed to effectively address widescale content piracy in the region.

In June 2020, the Brazilian government launched a consultation with private sector institutions and rights holder organizations to design a National Strategy on Intellectual Property (ENPI). Part of this work included empowering CNCP, within the MJPS, to promote public-private and private-private enforcement partnerships. Audiovisual industry stakeholders, including the Motion Picture Association (MPA) and the Brazilian pay-TV Association (ABTA), video game industries, including the Entertainment Software Association (ESA), and the music industries, including the International Federation of the Phonogram Industry (IFPI)'s national group Pro-Música Brazil, play an active role in CNCP, which is overseen by the Ministry of Economy's GIPI. These initiatives are designed to engage all rights holders and other players in the Internet ecosystem (including ISPs, hosting providers, domain name registrars, search engines, advertising networks, payment providers, etc.) to develop better standards and effective

voluntary agreements to fight online piracy, including against repeat infringers. It should be noted, however, that though these initiatives are designed to engage all rights holders, CNCP partnerships have, in fact, yet to reach all rights holders. The CNCP is under National Secretariat of Consumer (SENACON) of the Ministry of Justice and Public Security, remains a key platform to promote public-private partnerships aiming to improve enforcement initiatives and it needs appropriate human resources and funding to develop projects under its Strategic Plan. Unfortunately, ENPI still needs more resources to reflect a growing policy environment for IP (and copyright) protection and enforcement online and assistance mapping and connecting economic development with copyright protection initiatives across the country. There should also be better coordination between consumer protection, data protection and IP protection across federal government agencies and authorities to enhance online safety.

The success of these public-private and private-private IP enforcement partnerships has been mixed. For example, collaboration between the Entertainment Software Association (ESA) and *Mercado Libre* in Brazil remains strong with a takedown rate above 98% and effective preventive measures applied combined with KYC efficient policies to assist in the identification of bad actors. CNCP also forwarded lists with hundreds of pirate sites to WIPO ALERT.[10]

On the other hand, e-commerce platforms such as *LojaIntegrada* have decreased their KYBC efficiency and the takedown rate remains below 25%. Platforms need to improve their KYBC policies and actions to avoid high volumes of illegal activities related to video game and other types of piracy. Additionally, some platforms still need to understand how commercial-level video game digital piracy occurs and include digital accounts resale as a direct and explicit infringement for further proactive copyright protection measures. The resale of digital accounts is an increasingly lucrative illicit business for piracy operators and platforms (and users-customers) thus there is resistance from some platforms to banning these commercial activities, including Chinese-backed platforms such as Shopee, which are actively lobbying the Government of Brazil to avoid this responsibility. Deficiencies and challenges identified for copyright and IP protection on e-commerce platforms also affect consumers in other areas and should be addressed by law enforcement and consumer protection authorities, including the CNCP. This lack of compliance by platforms also affects local businesses' competitiveness online. The CNCP needs more support to enforce its attribution on this field of facilitating cooperation among digital platforms and intermediaries. The engagement of other government agents such as the ANPD (the national data protection agency), and consumer protection agencies may enhance digital platforms' compliance and generate positive impact for the creative sector.

IIPA encourages MJPS to increase CNCP's human resources and funding necessary to support and grow these important public-private and private-private IP enforcement partnerships to combat the growing number of online enterprises dedicated to copyright infringement in or targeting Brazil.

- **Improve border controls against the importation of counterfeit video game hardware, PDs, modified consoles, and circumvention devices.**

Brazil needs to improve border controls to stop the influx of counterfeit video game hardware, PDs, modified consoles, circumvention devices, and ISDs, often manufactured in and exported from China. In 2023, ANATEL seized over 1.4 million ISDs, and it is important that these efforts continue.[11] However, despite evidence that mod chips, circumvention devices, and mod installation services exist in Brazil, and more than ten industry training sessions for customs authorities in 2024, the video game industry reports a lack of raids or customs seizures related to modified consoles or involving mod chips or circumvention devices. Authorities currently focus efforts on simpler targets, such as preloaded game consoles or counterfeit merchandise. One video game console maker reported four customs seizures in 2024, with all seizures involving consoles preloaded with unauthorized video game software. Moreover, the Government of Brazil should encourage regional Federal Revenue enforcement units (DIREPs) to maintain anti-counterfeiting raid actions in the so-called secondary zones (in the local market). Increasing collaboration between

[10] WIPO ALERT is a secure, online platform to which authorized bodies in WIPO member states can upload details of websites or apps which have been determined to infringe copyright according to national rules.
[11] See https://www.tecmundo.com.br/mercado/267348-anatel-apreendeu-1-4-milhao-tv-boxes-piratas-2023.htm

Brazil's Foreign Trade Integrated System (SISCOMEX) and ANATEL, would additionally allow SISCOMEX to prevent even the export of PDs and ISDs while they are still at their exit ports abroad.

LEGAL REFORMS

- **Ratify and fully implement the WIPO Internet Treaties.**

Brazil is the largest market in the region for all creative industries, but it has yet to ratify and fully implement the WIPO Internet Treaties. In 2019, the Government of Brazil announced it would accede to the WIPO Internet Treaties and on July 20, 2022, a bill was submitted to Congress to ratify the WPPT (but not WCT). Unfortunately, not only has no subsequent action been taken since to accede to these treaties, but the Federal Administration decided to withdraw the WPPT's ratification process before the Brazilian Congress. Instead, Brazil's last attempt to amend its Copyright Act, Bill 2370/2019, which proposed several problematic amendments, remains under consideration six years after introduction, and has yet to be to be published in its final text; furthermore, rights holders continue to be limited in their ability to fully engage in public discussions on the measure.

As the 30th anniversary of these critical copyright treaties approaches, it is essential for Brazil to ratify and fully implement the WIPO Internet Treaties to foster a vibrant legitimate market for Brazilian and foreign creative content. IIPA urges the Government of Brazil to consult with rights holders on any proposed copyright reform measures and ensure that it does not over-regulate or create broad exceptions and limitations to copyright that weaken the economic, legal, and practical foundations that make creative industries sustainable. IIPA makes the following recommendations for the potential new law:

- codify the exclusive right of making available for both sound recording rights holders and audiovisual works; or in the alternative, ensure that interactive uses of sound recordings fall under Article 93(II) of the existing law rather than under the public performance right;
- amend Articles 98 and 99 to enable rights holders to: (1) determine whether to license their rights individually or collectively, which should be a voluntary decision; and (2) if they so choose, become direct members of the *Escritório Central de Arrecadação e Distribuição* (Central Bureau for Collection and Distribution, ECAD), a private umbrella CMO, and enjoy fair and balanced representation on its governing bodies;[12]
- clarify that the making available right, covering rights in all types of interactive streaming, are excluded from ECAD's default mandate and mandatory collective rights management;[13]
- amend Article 103 to expressly allow rights holders to choose the method of calculation of damages and include damage/losses suffered, an account of the infringer's profits, and a reasonable royalty as methods of the calculation of damages;
- ensure that any amendment to the definition of communication to the public is aligned with the WPPT;

[12] Brazilian authorities should also seize this opportunity to urge *Escritório Central de Arrecadação e Distribuição (*Central Bureau for Collection and Distribution, ECAD) to amend its fixed split of the revenue collected from the single tariff to the considerable disadvantage of producers. For example, music producers receive only 13.8% of total distributions despite their significant investments. Article 99(1) of the Copyright Law (introduced in law in 2013), which provides for a "one rights holder one vote" rule within ECAD, should also be amended. This is not in line with international best practices and does not ensure that all rights holders whose rights are managed by ECAD are guaranteed fair and balanced representation in ECAD's governing bodies.

[13] In 2017, the Superior Tribunal Court (STJ) issued a decision in the *ECAD v Oi FM* case that held interactive and non-interactive streaming (including simulcasts) are separate acts, each requiring the separate consent of the rights holder. In this regard, the decision is correct as it confirms that online simulcasting is a separate act of exploitation from the terrestrial broadcast, and as such requires a separate license. However, the decision was problematic in that the Court did not make any distinction between interactive and non-interactive streaming (including simulcasts), and held that both involve the public performance right, which falls under ECAD's rights management mandate. The decision undermines the music industry's practice (which is in accordance with the international treaties on the subject matter), and the accepted interpretation of existing law: that interactive streaming is deemed to involve acts which fall within the producers' exclusive distribution right, and interactive streaming services are licensed directly by record companies. Indeed, if interactive uses of sound recordings are deemed to fall under the public performance right (as opposed to the right of distribution, enshrined in Articles 93(II) and (V) of the Law, which has been the practice for many years), the licensing of such uses would fall under the default statutory mandate granted to ECAD (in accordance with Article 98 of the Copyright Law). In today's industry, streaming services are at the core of the business of the recording companies. Although rights holders can opt-out of the default mandate granted to ECAD, collective management interference in a core area of the music business is unjustified and a substantial limitation to the ability of record companies to conduct their operations in a free market environment.

- amend Article 105 to confirm: (1) injunctions, including catalogue-wide injunctions where applicable, are available against all types of copyright infringement, circumvention of TPMs, and dealing in circumvention devices, circumvention software and/or components including installation and modification; and (2) injunction recipients bear the burden of ascertaining what they must do to avoid infringement;
- amend Article 107 to encompass all forms of access and copy control technologies as well as dealing in circumvention devices and to include deterrent sanctions and penalties for the violations of TPMs;
- codify intermediary liability for inducing or encouraging infringement under certain circumstances, including advertisements placed on pirate sites;
- criminalize signal theft in the pay-TV sector and non-authorized VOD sector;
- ensure that any exceptions and limitations comply with the three-step test; and
- ensure the availability of meaningful compensation is commensurate with the harm suffered by rights holders and at a level that will deter future infringements.

IIPA strongly urges the Government of Brazil to focus on the above needed amendments to strengthen protection and enforcement for rights holders and to ratify and fully implement the WIPO Internet Treaties. This is especially important as negotiations on the Mercosur-EU Free Trade Agreement recently concluded on December 6th, 2024, which includes an IP chapter potentially including several of the recommendations noted above.

- **Abandon proposals to introduce an additional remuneration right for holders of copyright and related rights and unclear definitions for the scope of communication to the public and public performance.**

The Congress of Brazil has been debating Bill 4968/24 which would amend their Copyright Act to expand the definition of communication to the public to include interactive uses of works, fixed performances, and sound recordings. The bill has several problematic proposals including: (i) an obligation to pay additional remuneration to authors, phonogram producers, local audiovisual producers and to audiovisual and musical performers, in addition to the exclusive right that performers already enjoy; (ii) the right for digital service providers to deduct 100% of payments made to ECAD from companies' distributions; and (iii) the prohibition on modifying remuneration or payment terms and conditions through contractual agreements. Bill 4968/2024 also includes a problematic definition of communication to the public that departs from WPPT. The Bill is facing significant opposition, including within the Brazilian Congress and local and foreign music industries, and it should be rejected. Brazil should refrain from pursuing similar legislation.

Relatedly, even as there is limited political support in Brazil for an additional remuneration right, it is concerning that Brazil, as part of the Group of Latin American and Caribbean Countries (GRULAC), at WIPO has been quite supportive of similar additional remuneration right initiatives at the WIPO Standing Committee for Copyright and Related Rights (SCCR). Instead, positions taken by Brazil's delegation at WIPO should match its positions in Brasilia; the Government of Brazil should reject these initiatives and should instead support an affirmative agenda at WIPO SCCR.

- **Ensure legislative proposals related to artificial intelligence (AI) meet the standards related to IP protection set forth by the G7 Hiroshima AI Process.**

On several occasions throughout 2024 and 2025, the Government of Brazil discussed regulating AI. For example, the Brazilian Congress is currently discussing roughly 60 bills intending to regulate AI, some of which are related to copyright. The main bill under discussion is Senate Bill 2338/2023, which passed at the Upper House at the end of 2024 and aims to create a General AI Framework. Among other provisions, it includes a transparency obligation for AI developers that use copyright protected works and other subject-matter for AI training purposes, a copyright exception for text and data mining to the benefit of certain public institutions and libraries with an option for rights holder to opt out, a legal access requirement for training data, and that use cannot compete with the normal exploitation of protected works or content. The bill also contains an unclear, unnecessary, and potentially problematic provisions on remuneration and "reciprocal protection." The AI Bill has now been sent to the Special Committee on AI of the Lower

House of Congress where rights holders gave evidence during a hearing on September 2, 2025. The timeline for passing the Bill remains uncertain due to the priorities of the Senate. As Brazil looks to possibly regulate AI, IIPA strongly encourages the Government of Brazil to look towards certain provisions of the G7 Hiroshima AI Process, which set forth important "rules of the road" related to IP protection for the development of AI systems.

For example, the International Code of Conduct for Organizations Developing Advanced AI Systems includes the following: "Organizations are encouraged to implement appropriate safeguards, to respect rights related to privacy and intellectual property, including copyright-protected content."[14] The International Guiding Principles for Organizations Developing Advanced AI Systems includes the following principle: "Implement appropriate data input measures and protections for personal data and intellectual property." [15] In the June 17, 2025, G7 Leaders' Statement on AI for Prosperity, the G7 Leaders indicated they would "leverage the outcomes of the Hiroshima AI Process (HAIP) to foster trust." [16] The Leaders further committed to "[p]romote economic prosperity by supporting SMEs to adopt and develop AI that respects personal data and intellectual property rights, and strengthen their readiness, efficiency, productivity and competitiveness" and stated, "We recognize the need to respect intellectual property rights in enabling these efforts."[17] Brazil should also provide meaningful stakeholder engagement and due process regarding this type of work, including by affording adequate opportunity to review and comment on legislative and regulatory proposals governing copyright and AI.

- **Follow through with revisions to the Customs Law to clarify that the retention of counterfeit or any other illegal products by customs authorities does not require a court order.**

The Government of Brazil should revise the Customs Law to clarify that customs authorities do not need a court order to be confirmed to retain counterfeit or other illegal products that they have seized.

- **Uphold legacy publishing agreements.**

There is currently litigation before the Supreme Court, *Roberto Carlos and other vs Fermata Publishing* concerning the scope of publishing agreements to cover technologies unknown at the time the contracts were assigned, including regarding modern streaming technologies. Plaintiffs argue that "old" contracts were never intended to regulate streaming uses because this technology was nonexistent at the time parties entered into the agreements. Plaintiffs are also asking the Supreme Court to void previous rulings from lower courts and rule that such contracts do not include technologies and uses unknown by the parties. The outcome of this case may be significant because the decision on the merits may be applicable to recording contracts [in the US?].

MARKET ACCESS

- **Foster industry growth by reducing high tariffs and taxes placed on video game products.**

Brazil's high tariffs and taxes on video game products and entertainment software are a long-standing concern and remain so moving into 2025. In August 2022, the president of Brazil at the time reversed reductions of industrial tax (IPI) that had been applied earlier in the year for over 100 products, including video game consoles, whose rates have now returned to the burdensome level of 20%. As of July 2022, under the authority of the Foreign Trade Chamber

[14] See Hiroshima Process International Code of Conduct for Organizations Developing Advanced AI Systems, p. 8, available at https://www.mofa.go.jp/files/100573473.pdf.

[15] See Hiroshima Process International Guiding Principles for Organizations Developing Advanced AI System, p. 5, available at https://www.mofa.go.jp/files/100573471.pdf.

[16] See G7 Leaders' Statement on AI for Prosperity, June 17, 2025, available at https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf.

[17] See G7 Leaders' Statement on AI for Prosperity, June 17, 2025, available at https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf.

(CAMEX) of the Economy Ministry, import taxes (II) for consoles that do not have embedded screens as well as peripherals and accessories remain at 12%.

The combination of IPI and II taxes targeting the video game console ecosystem continues to act as an incentive for the proliferation of infringing games in Brazil, which ranks third in the world for the number of connections by peers participating in the unauthorized file-sharing of ESA member console-based video game titles on public peer-to-peer (P2P) networks. These barriers also inhibit the growth of a legitimate video game industry in Brazil, including the growth of small local businesses offering legitimate imported game accessory products.

Under a 2013 interpretation of the law that considered customized software a service, tariffs and taxes began to be calculated based on the imputed "copyright value" of a video game title itself (i.e., the distribution and marketing fees paid to the copyright holder), rather than on the much lower value of the import medium, which continued to be applied to off-the-shelf, physical software. However, the taxation of off-the-shelf software, such as video games, is widespread, including the IPI, II, federal social contributions (PIS and COFINS), and the municipal services tax (ISS). The onerous tax burden on such software therefore disadvantages the legitimate market (since illegal physical copies or digital counterfeit versions are not subject to these fees). IIPA urges the reconsideration of this problematic interpretation from 2013.

With broad tax reform underway, the video game industry hopes legislative efforts will soon result in an overall simplification of the tax regime, ending its cumulative character, and providing for an overall rate reduction for video game products that face an unjustifiably high tax burden given the unnecessarily adverse effect on consumers. In the meantime, executive action could quickly and easily resolve the burden of Brazil's current IPI and II taxes on the video game sector.

- **Mitigate imposition of the Condecine tax and refrain from developing excessively burdensome VOD or digital platforms regulations.**

Brazil currently applies a Condecine tax on a per-title basis to films, pay-TV, and "other segments." This tax does not apply to VOD services. However, there are several bills pending in the Brazilian Congress that would extend the Condecine tax to VOD services, including with respect to profit remittance, as well as impose other obligations on VOD providers, such as catalogue quotas, and prominence for local works. These bills, most notably #8889/2017 and #2331/2022, could undermine the viability of providers, chill investment, and reduce consumer choice. While we recognize that measures to promote domestic audiovisual works are a legitimate cultural policy objective, their design should accommodate and encourage diverse business models and should allow for sufficient flexibility, enabling producers and VOD providers to structure investments based on audience interest, economic viability, and the creative potential of each project.

Additionally, Brazil has recently taken the lead in regulating the online protection of children and adolescents through the enactment of Federal Law # 15211 of 2025 (stemming from Senate Bill # 2628/2022), also known as the "ECA Digital." While this initiative represents a commendable step toward strengthening child protection in the digital environment, VOD providers remain concerned about its implementation and forthcoming secondary regulations. It is essential that the regulatory process duly recognizes that VoD services operate under editorial control and present comparatively lower risks to minors' safety.

Finally, since the end of 2022, ANCINE's board has been publicly positioning itself in favor of greater regulation for the VOD segment and included in its Strategic Agenda the publishing of new regulatory instruments that would require market players to provide the Agency with more information about their businesses. The Agency intends to require extensive information on the segment, including, for example, on the number of platforms' subscribers, users, and transactions, on the platforms' direct investments in works, and on exclusive licensing agreements. So far, no new regulations have been issued, but it is possible that they will be issued in the short or medium term. IIPA urges the Government of Brazil to refrain from developing excessively burdensome VOD or digital platforms regulations, which

would discourage the entry of new competitors in the Brazilian market, negatively impacting consumer choice. If such regulations are to be implemented, it is essential that they respect contractual and economic freedom and trade secrets.

- **Reform the CMO system to guarantee efficiency, transparency, and oversight; and reaffirm that rights holders can license music directly.**

The Government of Brazil should reaffirm that CMOs can assert rights to collect royalties for acts of communication to the public only in cases where authors and performers in audiovisual works have specifically mandated the CMOs do so, and only where the relevant rights have not already been assigned to producers of audiovisual works. Additionally, Brazil should remove the by-default, one-stop-shop collective management system for broadcasting and public performance, which is managed by ECAD, and in any case, ECAD should be subject to good governance rules, in particular to guarantee fair and balanced representation in ECAD's governing bodies of all rights holders whose rights are managed by ECAD. In that sense, the "one rights holder one vote" rule of Article 99(1) should be deleted. Finally, ECAD's policies and strategies towards music DSPs (attempting to impose additional payments for neighboring rights on interactive uses of phonograms without a mandate or clear legal basis) have been a source of uncertainty and abusive behavior for years. These practices should be stopped.

- **Refrain from establishing a digital services tax.**

Foreign-based companies operating in Brazil face a complex tax landscape, arguably more burdensome and costly than in any other territory where they operate. These measures include (a) Brazil's Withholding Tax (WHT) on Services, (b) Contribution for Intervention in the Economic Domain (CIDE) on remittances, (c) a recent increase in the Tax on Financial Operations (IOF), and (d) the possibility of a Digital Services Tax. While these legislative measures do not explicitly name U.S. companies, their structure, scope, and practical effect are such that digital service providers – most of which are U.S.-based – bear a disproportionate share of the financial burden resulting from the proposed taxes and contributions.

Unfortunately, Brazil's legislature is currently considering multiple bills that would impose new taxes on digital services and foreign companies, including Bills #2358/2020, #131/2020, #218/2020, #2421/2023, #1068/2025, #157/2025, and #1087/2025. These proposals create social contributions and targeted levies, such as the CIDE, which is not a general tax, but a fiscal instrument typically used to finance sectoral programs or policy initiatives in areas such as technology, fuel pricing, or audiovisual development. Several of these proposals disregard the principles under Brazil's ongoing tax reform and diverge from the OECD's international tax policy framework. They also often fail to consider the distinct operational characteristics of different digital services; particularly, CIDE on remittances merits heightened attention. As the pending judicial dispute has been resolved unfavorably to taxpayers (Supreme Court Appeal # 928943), remittances abroad, which are already subject to existing taxes and the potential CONDECINE-VOD levy, might also incur CIDE at a 10% rate. This substantially increases the effective cost of cross-border transactions.

Additionally, Brazil's WHT regime imposes tax on outbound payments for services (even when performed entirely outside Brazil) in a manner inconsistent with OECD standards, which generally require a sufficient nexus (e.g., a permanent establishment) for taxation at source. Other bills under discussion, such as # 1087/2025, are further aimed at increasing the tax burden already being paid by foreign companies, which introduces a 10% withholding tax on dividends distributed to non-resident beneficiaries, including corporate shareholders headquartered abroad. In parallel, the government has also advanced measures such as Executive Order #1,303/2025, which raises taxation on interest on equity (JCP) from 15% to 20%, a form of capital remuneration treated similarly to dividends. Similarly, increases to the IOF pose an additional burden on foreign investors, running counter to efforts to promote capital mobility, lower the cost of doing business, and maintain regulatory predictability.

- **Refrain from implementing network fees.**

In 2024, ANATEL released a second round of calls for contributions that discussed, among other issues, the possibility of creating network fees, to be paid by application providers to connection providers, to fund telecommunications infrastructure. More recently, Bill 2,804/2024 was introduced to require online service providers (OSPs) to make payment agreements with ISPs when they are deemed responsible for over 3% of networks' bandwidth. Moreover, OSPs whose yearly gross revenues surpass US$10 million would also have to contribute to the Fund for the Universalization of Telecommunication Services. On the other hand, Bill 469/2024 was introduced at the Lower House to prohibit charging any network fees within Brazil. This Bill has staunch support from value-added service (VAS) providers operating in Brazil, including relevant members from the Open Internet Alliance ("AIA"). If network fees are implemented, they would have a detrimental effect on digital platforms activities, not only from a financial standpoint, but also because such fees are harmful to competition, network neutrality, and ultimately, consumers' rights.

There is also an active debate in Brazil over network usage fees, with ANATEL, various telecom companies, and the Ministry of Communications pushing for their implementation. In 2023, ANATEL launched a public consultation that included a discussion on network usage fees to fund telecom infrastructure, with a follow-up consultation in 2024. Since then, ANATEL has reportedly drafted a proposal ruling that online service providers (OSPs - characterized as "large network users", most of them U.S. streaming, cloud or tech companies) would be subject to telecoms regulations - in contradiction with Brazil law and practices to date - including dispute resolution mechanisms for interconnection. Large telecom operators have explicitly framed this measure as a way to extract payments from U.S. technology and content providers. This proposal would result in a proliferation of disputes against OSPs that deliver the majority of internet content, with U.S. providers being the primary targets. By multiplying disputes against U.S. content providers, and building on the precedent set by these disputes, large Brazilian telcos will be able to establish de facto network fees. The introduction of dispute resolution mechanisms for IP interconnection – and the resulting fees paid by U.S. OSPs to Brazilian telcos – would undermine the foundations of the internet, which has thrived because networks freely connect with each other, with providers paying for their own infrastructure.

Finally, Bill #2804/2024 aims to oblige OSPs to pay ISPs when they are responsible for over 3% of a network's bandwidth and force OSPs with yearly gross revenues over US$10 million to contribute to FUST (a telco fund). A different bill in the Lower House (469/2024) would prohibit network usage fees and has already been approved by two of the House's Committees. MPA supports Bill #469/2024 and opposes the adoption of such fees in Bill #2804/2024, which would severely impair competition in the Brazilian market (especially considering that ISPs frequently also offer audiovisual content), harm consumers, and negatively impact net neutrality.

- **Remove local content and screen quotas for audiovisual works.**

Law #12.485/2011 imposed local content quotas for pay-TV, requiring every qualified channel (those airing films, series, and documentaries) to air at least three and a half hours per week of Brazilian programming during primetime. It also required that half of the content originate from independent local producers and that one-third of all qualified channels included in any pay-TV package must be Brazilian. Implementing regulations limit eligibility for these quotas to works in which local producers are the majority IP rights owners, even where such works are co-productions, and regardless of the amount invested by non-Brazilian parties. These quotas were recently renewed through 2038.

Theatrical quotas were recently renewed through 2033. The obligations include exhibiting a minimum percentage of Brazilian works, proportional to the number of screens at the theater complex, and a minimum number of different works simultaneously, also proportional to the number of screens. Moreover, theater complexes with between three and five screens cannot exhibit the same work in over 66% of the screenings of a day, while those with six or more screens cannot exhibit the same work in over 50% of the screenings of a day, preventing large theatrical releases from playing continually. These local content and screen quotas, which limit consumer choice and push consumers toward illegitimate content sources, should be removed.

CANADA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Canada remain on the Watch List in 2026.[1]

Executive Summary: Canada's copyright ecosystem continues to be a challenging one due to new laws that removed copyright protections for technological protection measures (TPMs) and laws that created new market access barriers (such as the discriminatory Online Streaming Act). Simultaneously, the Government of Canada fails to address longstanding piracy challenges, copyright legislative deficiencies, and other burdensome market access barriers.

There continues to be serious concerns in Canada regarding piracy, including: piracy operators that offer stream ripping, video-on-demand (VOD), and download offerings; subscription piracy services (infringing paid Internet protocol television (IPTV) and VOD services) and the ever-increasing Canadian re-sellers of these services; streaming sites and other online sources for unauthorized movies and TV shows; piracy devices (PDs also known as illicit streaming devices, ISDs) and apps, readily available both online and in the retail market, that suppress demand for legitimate digital streaming and VOD services; and the sale of devices, software, and services for circumventing access controls on video game consoles. While Canada has made some progress in shedding its reputation as a haven for online piracy, too many Canadian Internet companies still allow their services to be abused by piracy operators, highlighting the fact that inter-industry cooperation must be a priority. All levels of the Government of Canada must allocate sufficient resources and make it a strategic priority to enforce its USs, especially online.

The mandated parliamentary review of Canada's Copyright Act that was initiated in 2017 should have been a vehicle for addressing many of these problems. Prior IIPA submissions have detailed the many urgent problems, including the overbroad fair-dealing exception for education, lack of effective remedies and legal incentives to combat growing online piracy, an unjustified radio royalty exemption, a wholly ineffective "notice-and-notice" system, and a globally anomalous exception for user-generated content (UGC). In addition, Canada should remedy its deficient online copyright liability regime, which lags behind global norms. Unfortunately, the shortcomings in Canada's current copyright regime not only remain unaddressed, but the passage of Bill C-244 further weakens the system by allowing broad circumvention of TPMs. This is especially concerning for creative industries that rely on TPMs to protect the investment in producing copyrighted works and rights holders' exclusive rights to license these rights, including controlling access to and the copying and distributing of their works and recordings, and to license the full range of online digital services and content distribution models.

Finally, significant market access barriers continue to impede U.S. creative industries in Canada. IIPA urges the U.S. government to remain extensively engaged with Canada on this and other important intellectual property (IP) issues in 2026 (e.g. market access issues), such as ensuring Canada repeals the Online Streaming Act which mandates that certain foreign streaming services pay an initial base contribution of 5% of their gross Canadian broadcasting revenues to certain government-approved funds which directly subsidize their Canadian production competitors and cross-subsidize their Canadian competitors in broadcasting; who also operate streaming services. In addition, Canada's broadcast regulator, the Canadian Radio-Television and Telecommunications Commission (CRTC), indicated it is considering imposing additional funding and expenditure requirements of between 5% to 30% of gross revenues for foreign streaming services, which could cost U.S. streaming services well over $9 billion (CAD) annually. Further, in November 2025, the CRTC imposed rigid rules around the citizenship of key creative roles and mandated that at least 20 percent of the intellectual property of a "Canadian Program"[2] must be owned by a Canadian

[1] For more details on Canada's Special 301 history, see previous years' reports, at https://www.iipa.org/reports/special-301-reports/. For the history of Canada's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

[2] CRTC, Broadcasting Regulatory Policy CRTC 2025-299 (18 November 2025), Broadcasting Regulatory Policy CRTC 2025-299 | CRTC.

entity. In parallel, the Quebec government also enacted Bill 109, which conflicts with and is in addition to the existing obligations set by the federal government under the Online Streaming Act and seeks to favor certain content and impose unequal obligations on streaming services.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Prioritize enforcement against online piracy and other forms of copyright infringement.
- Provide the Royal Canadian Mounted Police (RCMP), Crown Prosecutors, and local law enforcement with the resources and training required to implement IP enforcement priorities.

Legal Reforms

- Swiftly enact legislative recommendations IIPA has noted in several previous submissions to counter piracy.
- Address the crisis in the educational publishing market by clarifying that the fair-dealing exception for "education" does not apply to educational institutions when the work is commercially available and amend the Copyright Act to confirm that tariffs approved by the Copyright Board are mandatory in nature.
- Harmonize remedies for collective management organizations (CMOs) under the Copyright Act.
- Ensure that recorded music producers and performers are fully compensated for all forms of radio broadcasting of their recordings, including by eliminating the radio royalty exemption.
- Eliminate, or at least clarify, the UGC exception, in accordance with parliamentary recommendations and Canada's international obligations.
- Repeal Bill C-244, which allows broad circumvention of TPMs.
- Provide full rights for communication to the public and public performance of sound recordings.

Market Access

- Ease long-standing market access barriers for U.S. creative industries, in accordance with Canada's United States-Mexico-Canada Agreement (USMCA) commitments.
- Repeal the Online Streaming Act and the CRTC's implementation of it to ensure Canada's compliance with the USMCA.

ENFORCEMENT

The digital marketplace for copyrighted content in Canada continues to face challenges in realizing its full potential due to competition from illicit online sources. Stream-ripping services remain the leading form of music piracy in Canada. Stream ripping enables users of licensed streaming services, like *YouTube*, to convert streams into unauthorized audio downloads that can be stored and replayed at will, with no royalty payment to rights holders.[3] Stream-ripping services, such as through websites like *y2mate.nu*, *ezconv.com*, and *yt1s.com.coor* and unlicensed mobile apps, undermine the legitimate markets both for streaming and licensed music downloads. Additionally, music piracy is also enabled by BitTorrent sites such as *ThePirateBay* and *1337x*, as well as French-language BitTorrent sites such as *YggTorrent*.

As with music piracy, online movie and television piracy remains a formidable challenge in Canada, inflicting major financial harm. NERA Economic Consulting and the Global Innovation Policy Center (GIPC) estimate the commercial value of pirated digital film content at US$285.7 billion and the commercial value of pirated digital television content globally in 2017 at US$280.5 billion. The displacement of legitimate economic activity by piracy has a negative impact on economic growth.[4] Research by Carnegie Mellon University found that if pre-release piracy could be eliminated from the theatrical window, U.S. and Canadian box office revenue would increase by 14-15% (equivalent to

[3] The music industry reports that some 93% of Canadians who visited YouTube used the site to access music in 2021.

approximately US$1.5 billion per year).[5] According to the Government of Canada's own study published in May 2018, more than one-quarter (26%) of content consumers reported having "consumed" (downloaded or streamed or accessed) illegal online content in the previous three-month period. Movies (36%) and TV shows (34%) were among the forms of content most likely to be illegally "consumed."[6] Canadians made 2.6 billion visits to piracy sites in 2018, and the nature of this piracy continues to evolve.[7] In 2020, 76% of Canadians' visits to sites used for online piracy were to non-peer-to-peer (P2P) sites, such as streaming sites and cyberlocker (host) sites, up from 39% in 2015.[8] Mimicking the look and feel of legitimate streaming services, infringing streaming websites continue to overtake P2P sites as a highly popular destination for Canadians seeking premium content in both English and French.

The film and television industry in Canada continues to battle an influx of operators, sellers, and resellers of infringing paid subscription IPTV/VOD services. Canadian businesses are actively involved in the theft of on-demand streams and telecommunication signals for the purposes of: (1) making unauthorized streaming of live television and motion pictures programming available to their own for-profit IPTV service or for sale as a "source" for other infringing IPTV services; and (2) for release on the broader Internet, including, but not limited to cyberlockers, social/UGC sites, peer-to-peer sites, and other pirate sites. Many of these piracy operators act as resellers of — often multiple — illegal IPTV services that sell directly to consumers. These illegal services in Canada have generated millions of dollars in revenue, often laundering the money through seemingly legitimate businesses set up solely for this purpose. The lucrative financial return of an infringing business model encourages a large ecosystem of players, including the operator of the service itself, individuals supplying the infringing content, resellers of the service, payment processors, advertisers, and networks that facilitate electronic transfers. Additionally, law enforcement or border officials continue to fail to take action against the sale of pre-loaded set-top boxes that are also not in compliance with electrical safety standards. Recidivists often have no other comparable source of lucrative income.

The circumvention of TPMs and other means of stealing legitimate signals for the purposes of: (i) making available unauthorized streaming of live television and motion pictures on their own for-profit subscription IPTV service, or (ii) selling the content to other infringing subscription IPTV services available inside and outside of Canada is damaging and pervasive. Mimicking the look and feel of legitimate streaming services, infringing streaming websites continue to overtake P2P sites as a highly popular destination for Canadians seeking premium content in both English and French. In fact, since 2015, Canadian visits to streaming sites used for online piracy increased from 39% to 77% whereas Canadian visits to P2P sites used for online piracy decreased from 51% to 16%.[9]

Compared to 2024, Canada has risen in the global ranks for online piracy of video game files. In 2025, Canada ranked 15th in the world for the number of connections by peers participating in the unauthorized file-sharing of Entertainment Software Association (ESA) member video game titles on public peer-to-peer (P2P) networks. By the same metric, Canada ranked 5th in the world for unauthorized file-sharing of console-based games – up from 8th in the world in 2024, a change that coincides with an increased availability of modded consoles from video game device repair shops. Video game publishers report that Canada has experienced a spike in the past year in total users and download attempts for unauthorized proprietary video game titles, as well as in the appearance of circumvention devices, counterfeit peripherals, and unauthorized preloaded consoles on ecommerce platforms, since the country's new TPM circumvention legislation. Console makers conducted enforcement actions on hundreds of infringing listings via online marketplaces, ranging from preloaded game consoles, modded Nintendo Switch consoles, and counterfeit game accessories.

Given these significant piracy challenges in Canada, IIPA and its members strongly encourage Canada to take the following priority actions.

[9] What Do We Know About: Movie & TV Piracy Trends in Canada," Motion Picture Association – Canada.

- **Prioritize enforcement against online piracy and other forms of copyright infringement.**

There has been some recent positive engagement by local law enforcement regarding cases involving online piracy in Canada. For example, in the recent Federal Court decision in *Bell Media Inc. Macciacchera (c.o.b. Smoothstreams.tv)*, 2025 FC 1378, two defendants who operated an illegal IPTV service were incarcerated after being found in contempt of court for disobeying an Anton Piller order. Additionally, on July 9, 2024, the Federal Court in *Rogers Media Inc. v. John Doe 1* (2024) issued a "wide" injunction to prevent the unauthorized online streaming of live games produced/broadcast by multiple sports leagues to be captured simultaneously. The decision was based on the decisions of the Federal Court of Appeal (FCA) in *Teksavvy Solutions Inc. v. Bell Media Inc.* ("*GoldTV*") and of the *Federal Court in Rogers Media Inc. v. John Doe 1* (2022), the latter of which granted a dynamic site-blocking order for the "live" blocking of NHL games ("*NHL Case*"). Further, on January 22, 2025, the Federal Court in *Bell Media Inc. v. John Doe 1* (*Soap2day*) issued a site-blocking order requiring Internet service providers (ISPs) to prevent access to websites and Internet services associated with the operation of *Soap2Day* platforms, including a mechanism to encompass additional *Soap2Day* platforms (copycat sites) that appear, or increase in popularity, following deactivation of existing platforms.

IIPA welcomes these results, but unfortunately, the consistent absence of any criminal enforcement in Canada against even the most blatant types of online theft completes the picture of a system that is still not up to the challenge. It is more important than ever for each level of government in Canada to initiate and adequately fund a coordinated law enforcement effort against these many forms of copyright piracy, including with specialized training regarding subscription piracy services, PDs, and devices and software that enable circumvention of TPMs, particularly following the Heritage Report's recommendation, discussed in more detail below, to increase enforcement efforts.[10] IIPA encourages RCMP, as a member of the U.S. National Intellectual Property Rights Coordination Center (IPR Center), to work collaboratively with U.S. enforcement officials on online piracy cases. Since the availability of piracy services (and of PDs or circumvention tools) will not be reduced without criminal prosecutions against traffickers and the imposition of deterrent sentences (particularly jail time), Crown Counsel must take on and fully prosecute more copyright infringement and TPM circumvention cases and should be provided with the training and other support that is needed.

- **Provide the RCMP, Crown Prosecutors, and local law enforcement with the resources and training required to implement IP enforcement priorities.**

While IIPA has seen positive engagement by law enforcement in recent years, within Canada's main federal law enforcement agency, the RCMP, IP crimes are neither a strategic nor an operational priority. Instead, the RCMP often transfers its IP cases to municipal police forces, which, like the RCMP, often lack the human and financial resources, as well as the strategic mandate, to thoroughly investigate IP crimes or prepare the cases for prosecution. Thus, while local police agencies have generally responded well to anti-piracy training programs offered by industry, they are simply unable to effectively deal with organized copyright piracy, and thus, increasingly fail to pursue even well-documented referrals from industry stakeholders. The non-statutory barriers to effective enforcement, as identified in parliamentary reports going back more than a decade, remain basically unchanged because Canadian law enforcement remains under-resourced, and too few agencies consider IP enforcement a priority. Given the widespread availability of hundreds of commercial, subscription-based piracy services, additional resources are needed to address this growing problem.[11] Furthermore, while there were some recent positive developments in cooperation between the

[10] See Julie Dabrusen, Chair, Standing Committee on Canadian Heritage, *Shifting Paradigms: Report of the Standing Committee on Canadian Heritage* (Heritage Report), 42nd Parliament, 1st Session, May 2019, Recommendation 6, p. 19, available at https://www.ourcommons.ca/Content/Committee/421/CHPC/Reports/RP10481650/chpcrp19/chpcrp19-e.pdf?mc_cid=d88779154e&mc_eid=0183856a67.

[11] Standing Committee on Public Safety and National Security, *Counterfeit Goods in Canada – A Threat to Public Safety*, May 2007, available at https://www.ourcommons.ca/Content/Committee/391/SECU/Reports/RP2985081/securp10/securp10-e.pdf (raised similar concerns about law enforcement priorities and funding). See also, Standing Committee on Industry, Science and Technology, *Counterfeiting and Piracy Are Theft*, June 2007, available at https://www.ourcommons.ca/Content/Committee/391/INDU/Reports/RP3060548/391_INDU_Rpt08/391_INDU_Rpt08-e.pdf (called for a higher priority for enforcement at the retail level).

Canadian Competition Bureau and RCMP to identify piracy targets, the longstanding legislative deficiencies described below render these collaborations ineffective and require improvement.

Similar problems arise with Canadian prosecutors and courts. Historically, Crown Prosecutors decline to seek the breadth of remedies for IP crimes. This often arises from knowledge gaps concerning the prosecution of IP crimes, which is amplified when dealing with emerging piracy models, such as infringing IPTV or VOD services. While there have been some recent prosecutions, ongoing education of Crown Prosecutors is key to ensuring Canada stays ahead of emerging piracy business models. In addition, Canadian customs procedures place a legal compliance burden on rights holders (who must file a claim and track down importers of counterfeit goods and seek undertakings and/or consent for destruction of goods) rather than on importers. The Canadian government should reform these procedures to place the burden on the importer, as is the case in the United States. Further, rights holders report negligible customs seizure actions involving counterfeit video game products in 2025. While the Canada Border Services Agency (CBSA) was helpful in sharing information and working with rights holders, more priority and focus needs to be placed on IP infringement, including increasing screening and detainment of infringing goods.

LEGAL REFORMS

- **Swiftly enact legislative recommendations IIPA has noted in several previous submissions to counter piracy.**

In December 2017, Canada's Parliament launched the inaugural five-year copyright law review mandated by the 2012 Copyright Modernization Act (CMA).[12] The review provided an invaluable opportunity for Canada to assess whether the Copyright Act has kept pace with rapid technological and market changes and to upgrade, improve, or correct the Copyright Act where it falls short in today's digital environment, including correcting deficiencies in the CMA. The inaugural review concluded with the May 2019 release of the Heritage Committee Report called "Shifting Paradigms" (Heritage Report) and the June 2019 Industry Committee Report (Industry Report).

The Heritage Report recognized the negative impact the 2012 amendments have had on the publishing industry due to the introduction of an undefined "education" as fair-dealing exception, as well as the "disparity between the value of creative content enjoyed by consumers and the revenues that are received by artists and creative industries" (known as the "value gap").[13] The Heritage Report made several positive recommendations which have yet to be adopted to address these concerns and significant shortcomings of Canada's legal framework. IIPA supports the Heritage Report[14] recommendations that the Government of Canada:

- clarify that fair dealing does not apply to educational institutions when the work is commercially available;
- increase efforts to combat piracy and enforce copyright;
- "review the safe harbor exceptions and laws to ensure that ISPs are accountable for their role in the distribution of infringing content;"
- harmonize remedies for collecting societies under the Copyright Act;
- narrow the radio royalty exemption so that it applies only to "independent and/or community-based radio stations;"
- increase support for creators and creative industries in adapting to new digital markets;
- create educational materials to raise awareness of copyright provisions and artist remuneration for consumers;
- review and clarify or remove exceptions contained in the Copyright Act, ensuring that any exception respects Section 9 of the Berne Convention for the Protection of Literary and Artistic Works;

[12] The Copyright Modernization Act (CMA), adopted in 2012, was fully brought into force in January 2015. Section 92 of the Copyright Act mandated that a parliamentary review of Canadian copyright law begin in 2017.
[13] See Heritage Report, p. 6.
[14] See Heritage Report, List of Recommendations, pp. 1-3.

- ensure that the Copyright Board reviews tariffs for online music services to ensure that royalty payments provide fair compensation for artists; and
- meet international treaty obligations (including the Berne Convention for the Protection of Literary and Artistic Works, the Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS), and WIPO Copyright Treaty (WCT)).

The Industry Report also included some notable recommendations.[15] Unfortunately, in preparing its report, the Industry Committee did not consult the Heritage Committee, which was tasked with examining the specific issue of artist and creative sector remuneration. This lack of consultation created inconsistencies with the Industry Committee's analysis, resulting in certain recommendations (often on those overlapping issues) that lack an evidentiary basis. IIPA urges the Government of Canada to swiftly enact the recommendations IIPA has noted in several submissions and adopt needed reforms that have been delayed for too long, including to:

- strengthen legal incentives for hosting providers, payment processors, advertising networks, domain registries, registrars, and other intermediaries, which fail to stand by their terms of service and acceptable usage policies clearly outlining an intolerance for copyright infringing activities to cooperate with copyright owners, in accordance with international best practices, to deter piracy from taking place via their services;
- ensure that ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities (as reflected below in the recent positive case law in this area);
- reform the currently inadequate and globally anomalous "notice-and-notice" regime, under which an ISP's failure to forward notices from rights holders is without significant consequence, in favor of a more effective mechanism;
- clarify that safe harbors should apply only to passive and neutral intermediaries that do not contribute to infringing activities;
- enact measures where marketplaces should be required and all relevant intermediaries encouraged to institute a "know your business customer" (KYBC) policy to ensure they keep up-to-date and accurate information about their customers and to allow rights holders to obtain accurate information to protect their rights against direct infringers;
- amend Section 27(2.3) of the Copyright Act to also apply to those who provide offline piracy services for the purpose of enabling copyright infringement, such as those who traffic in PDs and ISDs pre-loaded with software applications or the enabling software tools themselves;
- avoid introducing inappropriate licensing tools, such as compulsory licensing and extended collective licensing (ECL).

Moreover, the lack of adequate tools in the Copyright Act concerning Canadian intermediaries continues to hamper enforcement against rogue sites or services in Canada. The law's conditioning of liability for hosting infringing material on obtaining a judgment against an end user is unworkable in practice, particularly regarding valuable, time-sensitive pre-release content, and creates a disincentive for hosting providers to cooperate or take effective action, even where they know or ought to know content is infringing.

The lack of incentives has a real-world impact. For example, the International Federation of the Phonographic Industry (IFPI) reports that *Tucows*, a Canadian based domain registrar, provided either incomplete or inaccurate information when rights holders sought customer details to enable action to be taken against infringing site operators.

In positive news, as noted above, Canadian case law continues to underscore the ability of rights holders to obtain site-blocking orders on the basis of the courts' equitable jurisdiction to grant injunctive relief.

[15] See Industry Report, pp. 3-10.

However, taken as a whole, the deficiencies noted above significantly disadvantage creators and creative industries continuing to send the wrong signals to consumers about whether infringing activities are tolerated. The Government of Canada should adopt the above recommendations to make its current regime more effective and provide meaningful incentives to stimulate inter-industry cooperation against online piracy.

- **Address the over decade-long crisis in the educational publishing market by clarifying that the fair-dealing exception for "education" does not apply to educational institutions when the work is commercially available.**

The bulk of the 2012 CMA consisted of several new or significantly expanded exceptions to copyright protection. None has had a more concrete and negative impact than the addition of "education," undefined and unlimited in application, to the list of purposes (such as research and private study) that qualify for the fair-dealing exception. Previous IIPA submissions have extensively analyzed how this exception led to the current over decade long crisis in the educational publishing sector, hurting not only U.S. authors and publishers, but devastating Canadian publishers and authors in the educational sector.[16]

The Government of Canada is fully aware of the dire state of its educational publishing market. Even the flawed Industry Report noted above acknowledged a problem with the current state of affairs, although it stopped short of recommending an adequate solution and instead took a wait-and-see approach.[17] The Government of Canada's Budget 2022 underlined the government's commitment to ensuring that the Copyright Act "protects all creators and copyright holders," and noted that "the government will work to ensure a sustainable educational publishing industry, including fair remuneration for creators and copyright holders, as well as a modern and innovative marketplace that can efficiently serve copyright users."[18] Yet, rights holders appear to be waiting in vain for any meaningful change.[19]

Canadian federal authorities and the country's Parliament should act with speed to redress this crisis by implementing the corrective measures recommended in the Heritage Report,[20] including clarifying the scope of the fair-dealing exception for education. Furthermore, to prevent educational institutions from circumventing the tariff system, the Copyright Act should be amended to confirm that a tariff approved by the Copyright Board is mandatory in nature, and its enforceability is not dependent upon a person's assent to, or agreement with, its terms. The goal must be an appropriate balance under which educational publishers and authors are once again compensated for their works, thus ensuring a viable domestic marketplace for commercially published educational materials.

- **Harmonize remedies for CMOs under the Copyright Act.**

Amendments to the Copyright Board took effect in April 2019.[21] The amendments introduced statutory rate-setting criteria that require the Board to consider, among other things, the willing buyer/willing seller principle in determining the royalty rates. While the Board may consider "any other criterion that the Board considers appropriate,"

[16] Stephens, Hugh, "Copyright and Education in Canada: Have We Learned Nothing in the Past Two Centuries? (From the "Encouragement of Learning" to the "Great Education Free Ride"), Hugh Stephens Blog, July 17, 2024, available at https://hughstephensblog.net/2024/07/17/copyright-and-education-in-canada-have-we-learned-nothing-in-the-past-two-centuries-from-the-encouragement-of-learning-to-the-great-education-free-ride/.

[17] Dan Ruimy, Chair, Standing Committee on Industry, Science and Technology, *Statutory Review of the Copyright Act: Report of the Standing Committee on Industry, Science and Technology* (Industry Report), 42nd Parliament, 1st Session, June 2019, Recommendation 16, p. 65, available at https://www.ourcommons.ca/Content/Committee/421/INDU/Reports/RP10537003/indurp16/indurp16-e.pdf.

[18] Government of Canada, 2023 Budget, available at https://budget.canada.ca/2023/report-rapport/toc-tdm-en.html.

[19] Id. at 7.

[20] See Heritage Report, Recommendation 18, p. 43.

[21] These reforms included: an overhaul of the legislative framework governing tariff-setting proceedings before the Copyright Board, which should improve the timeliness, clarity, and efficacy of the proceedings; substantial revisions to the timelines for proposing and objecting to the tariffs, which allow tariffs to be filed earlier and remain effective longer, should help to avoid the extreme delays that have made economic forecasting nearly impossible for stakeholders (both users and rights holders), and have made it very difficult for collective management organizations (CMOs) to collect and distribute license fees by forcing them to apply tariffs retrospectively; and streamlined procedures and formalized case management to allow the Board to operate more efficiently, and to focus its resources on contested tariffs in cases in which negotiated agreements are not possible. The government has also implemented regulations requiring the Copyright Board to issue its decisions within 12 months following the close of hearings, which is a positive development.

if implemented properly, the new criteria should be a welcome improvement.[22] However, it remains very important to ensure that the Board actually applies and does not override the willing buyer/willing seller criterion, and that it is not displaced by other amorphous and undefined criteria, such as the "public interest." In practice, this allows the Board to consistently override marketplace rates that the willing buyer/willing seller principle would dictate and tariffs for use of music, or applications to settle disputes over rates, are routinely set at sub-market and sub-global standard rates. The "public interest" criterion – which the Industry Report notes could cause unpredictable results prompting costly, lengthy appeals and significant effects or other tariffs – is unclear and does not have a basis in economics.[23]

The amendments also broaden enforcement prohibitions to cover users who have offered to pay proposed tariffs in addition to users who have paid or offered to pay tariffs that have been approved. It is critical that, in implementation, this broadened enforcement prohibition does not delay or undermine CMOs' ability to collect royalties from active users. Unfortunately, the July 2021 Supreme Court of Canada decision upheld the April 2020 decision by the Federal Court of Appeals (FCA) in *York University v. Access Copyright* that the Copyright Board approved tariff issued by Access Copyright is not mandatory and, therefore, not enforceable against York University or other non-licensees.[24] This presents a significant obstacle to a well-functioning market for the collective management of rights. To operate in that market, CMOs require the ability to enforce the rights they represent, in accordance with their mandates from rights holders.

- **Ensure that recorded music producers and performers are fully compensated for all forms of radio broadcasting of their recordings, including by elimination of the radio royalty exemption.**

A key concern for the music industry is the statutory exemption from protection of recorded music used by commercial radio stations in Canada. The Copyright Board concluded that there is no economic rationale for this provision, which it called a "thinly veiled subsidy" to "large, profitable broadcasters." This royalty exemption applies only to sound recordings; musical works are fully protected. Furthermore, this exemption discriminates against other Canadian businesses that publicly perform or communicate recorded music (such as online music services, satellite radio, restaurants, or background music suppliers), none of which are subject to such an exemption from paying royalties to sound recording producers and performers. This exemption deprives performers and record labels of approximately CAD$14 million annually in rightfully earned royalties. Since 1997, when the radio royalty exemption was enacted, record labels have been deprived of over CAD$215 million that they would have received in the absence of the exemption. Further, the Canadian system does not guarantee the "equitable" remuneration that Canada is obligated to provide under Article 15 of the WIPO Performances and Phonograms Treaty (WPPT) and that Canada committed to provide under the USMCA. Unfortunately, the 2020 USMCA implementation legislation did not address this problem. Both the Heritage Report[25] and the Industry Report[26] called for narrowing this exemption so that it does not apply to most commercial radio stations. IIPA urges the Government of Canada to eliminate the radio royalty exemption.

- **Eliminate or at least clarify the UGC exception, in accordance with parliamentary recommendations and Canada's international obligations.**

The copyright exception for "non-commercial user-generated content" merits close scrutiny. This provision allows any published work to be used to create a new work, and the new work to be freely used or disseminated, including through an intermediary (commercial or otherwise), so long as the use or authorization for dissemination (though not necessarily the dissemination itself) is "solely for non-commercial purposes" and does not have a "substantial adverse effect" on the market for the underlying work. The provision could substantially undermine

[22] Under the old framework, the Board's assertion of unlimited discretion to set tariff rates leads to results that are not only unpredictable, but often wildly out of step with the evidence presented at hearings, including rates agreed to in freely negotiated agreements and in comparable markets.
[23] See, Industry Report, Recommendation 11, pp. 45-46.
[24] York v. Access Copyright, 2020 FCA 77.
[25] See Heritage Report, Recommendation 10, p. 26.
[26] See Industry Report, Recommendation 31, p. 109.

exclusive rights that Canada is obligated to provide under international agreements and treaties, including the TRIPS Agreement, the Berne Convention, WCT and WPPT (collectively known as the WIPO Internet Treaties), and its breadth raises serious questions of compliance with the three-step test for permissible limitations and exceptions. Although the exception has no precedent in global norms, it has spawned would-be imitators. This underscores the importance of removing, or at least clarifying, the UGC exception, in accordance with recommendations in the Heritage Report.[27]

- **Repeal Bill C-244, which allows broad circumvention of TPMs.**

On November 7, 2024, Canada passed Bill C-244 which allows broad circumvention of TPMs. Specifically, Bill C-244 amended the Copyright Act to allow the circumvention of a TPM in a computer program if the circumvention is solely for the purpose of the diagnosis, maintenance, or repair of a product in which the program is embedded. The video game industry is especially concerned about the passage of this bill as copyright owners (or their licensees) rely heavily on TPMs to control access to and control the copying of their works and recordings, which are key to enabling a full range of online digital services and content distribution models. In particular, the circumvention of crucial TPMs that protect video game consoles presents unique security and piracy risks to the video game ecosystem, which has an estimated market value in Canada of US$3.9 billion. Already, repair shops like *picorepair.ca*, *itking.ca*, and *motherboardrepair.ca* offer mod services for video game consoles, while many offer services through social media or online marketplaces, like *Kijiji*. Without proper limitations, which Canada is obligated to provide as a party both to the WCT and to the USMCA, the exception opens the door to abuse and copyright infringement. IIPA strongly urges the Government of Canada to repeal these laws, or at the very least, implement them narrowly to prevent abuses that could undermine digital platforms and services. Any such implementation should be narrowly tailored for specific, necessary purposes that do not open a back door to infringing devices or services that could undermine legitimate digital services and devices.

- **Provide full rights for communication to the public and public performance of sound recordings.**

The Copyright Act should be amended to provide full rights for communication to the public of sound recordings, including the retransmission of sound recordings. Although Article 15 of the WPPT is clear that the right to remuneration for public performances encompasses both direct and indirect uses of phonograms, the Canadian Copyright Act (s.72.1) prohibits rights holders from directly licensing "indirect" uses, where commercial businesses like shops or bars play music as part of their business operations or for ambiance, but the music comes from the radio rather than from a CD player or a background music provider service (for example). By prohibiting rights holders from directly licensing the users who actually use and benefit from their music, this provision effectively undervalues the right. Canada should amend the Copyright Act to ensure that the right allows the direct licensing of such uses in accordance with Article 15 of the WPPT.

MARKET ACCESS

- **Ease long-standing market access barriers for U.S. creative industries, in accordance with USMCA commitments.**

Significant market access issues continue to impede participation by U.S. creative industries in the Canadian market. Unfortunately, Canada has not made progress on certain long-standing market access issues as part of its USMCA implementation efforts, and as noted below, is considering additional measures that would discriminate against foreign online digital service providers. In accordance with its market access commitments under the USMCA, such as the national treatment for investors, digital products and services and performance requirements, Canada should

[27] See Heritage Report, Recommendation 12, p. 30.

change course and eliminate the following measures that restrict access by U.S. film and TV producers to Canada's market.[28]

Television Content Quotas: The CRTC imposes two types of quotas that determine both the minimum Canadian programming expenditure (CPE) and the minimum amount of Canadian programming that licensed Canadian television broadcasters must carry (Exhibition Quota). Such quotas are discriminatory and artificially inflate the amount expended on, or the time allocated to, Canadian programming.

First, large English-language private broadcaster groups have a CPE obligation equal to 30% of the group's previous year's gross revenues from their conventional services and discretionary services (specialty and pay-TV) combined, but there is some flexibility as to allocation among the services within the group. CPE obligations have also been assigned to operators of independent television stations and independent discretionary services that have over 200,000 subscribers upon renewal of their licenses and are based on historical levels of actual expenditures on Canadian programming. Second, per the Exhibition Quota, private conventional broadcasters must exhibit not less than 50% Canadian programming from 6 p.m. to midnight. Private English-language discretionary services (specialty and pay-TV) must exhibit not less than 35% Canadian programming overall.

Non-Canadian Signal and Service Restrictions: Canadian broadcasting distribution undertakings (BDUs), such as cable, IPTV, and direct-to-home satellite, must offer more Canadian than non-Canadian services. These protectionist measures inhibit the export of U.S. media and entertainment services.

First, BDUs must offer a "skinny basic" tier for not more than $25 per month that may include one set of "U.S. 4+1" (ABC, CBS, FOX, NBC, and PBS) from the same time zone as the BDU's headend, where available, if not, from another time zone. BDUs may also offer an alternative basic tier that includes the same set of U.S. 4+1 signals. A BDU may offer a second set of U.S. 4+1 signals to its subscribers only if it receives authorization by the CRTC pursuant to a condition of license. Unless otherwise authorized by conditions of license, the second set of U.S. 4+1 signals may be offered only to cable or satellite subscribers who also receive at least one signal of each large multi-station Canadian broadcasting group originating from the same time zone as the second set of U.S. signals.

Second, except as permitted in a BDU's license from the CRTC, all other non-Canadian signals and services may be carried only on a discretionary basis and must be selected from the list of non-Canadian programming services authorized for distribution (the Authorized List) approved by the CRTC and updated periodically. A service will not be added to the Authorized List if a competitive Canadian pay or specialty service (other than a national news service) has been licensed. Further, a service may be removed from the Authorized List if it changes formats and thereby becomes competitive with a Canadian pay or specialty service, if it solicits advertising in Canada, or if it does not conduct its negotiations and enter into agreements with BDUs in a manner that is "consistent with the intent and spirit of the Wholesale Code." A principal purpose of the Wholesale Code is to prohibit contractual terms that discourage or penalize the offering of services on a stand-alone basis.

Broadcasting Investment Limitations: The Broadcasting Act provides that "the Canadian broadcasting system shall be effectively owned and controlled by Canadians." Pursuant to a 1997 Order in Council, all broadcasting licensees, which are both programming undertakings (conventional, pay and specialty television) and distribution undertakings (cable and IPTV operators and satellite television distributors), must meet certain tests of Canadian ownership and control: (1) a licensee's CEO must be Canadian; (2) at least 80% of a licensee's Directors must be Canadian; and, (3) at least 80% of the licensee's voting shares and votes must be beneficially owned and controlled by Canadians. If the licensee is a subsidiary corporation, its parent must be Canadian and at least two-thirds of the voting shares and votes of the parent must be beneficially owned and controlled by Canadians. The parent corporation or its directors cannot exercise control or influence over the programming decisions of its licensee subsidiary where

[28] IIPA expects that if Canada resorts to the "cultural carve out" under Article 32.6 to avoid implementing any of its obligations under the USMCA, USTR will use the robust retaliation provision under that provision to ensure that Canada meets its commitments.

Canadians own and control less than 80% of the voting shares and votes, the CEO of the parent company is non-Canadian, or less than 80% of the directors of the parent corporation are Canadian. In such circumstances, the CRTC requires that an "independent programming committee" be put in place to make all programming decisions pertaining to the licensee, with non-Canadian shareholders prohibited from representation on such independent programming committee. No other developed market in the world maintains such discriminatory foreign investment limitations.

Québec Restrictions: The Québec Cinema Act severely restricts the ability of non-Québec-based theatrical film distributors to do business directly in Québec. Since 1986, some MPA member companies have been permitted to apply for a Special License for any film produced in English that meets the less restrictive requirements set out in an Agreement between the MPA and the Québec Minister of Culture and Communications. The Agreement was revisited in 2022 and was extended for seven years, expiring in 2029.

More recently, Quebec's Minister of Culture and Communications introduced and ultimately passed Bill 109, an Act to affirm the cultural sovereignty of Quebec and to enact an Act respecting the discoverability of French-language cultural content in the digital environment[29] The Bill: (1) provides that the Quebec government may, by regulation, define obligations applicable to online platforms (including the online streaming services operated by MPA members), including establishing the quantity and proportion of French-language cultural content; and (2) creates a new quasi-constitutional right to discoverability that provides for a private right of action against online platforms. In addition, on October 9, 2025, Quebec's Minister of Justice introduced Bill 1, Québec Constitution Act, 2025[30], which enacts a provincial/sub-national constitution in Quebec aimed at enshrining Quebec's Charter of Human Rights and Freedoms, including to insulate Bill 109 from constitutional challenges through a specific provision that states that a founding principle for the "National State of Québec" is the protecting and ensuring "the cultural sovereignty of Quebec" and that the Quebec government "has the right and the capacity to act so as to preserve and promote the French language and Québec culture, including in the digital environment" (Article 25). This both conflicts with and is in addition to the existing obligations set by the federal government under the Online Streaming Act. At a minimum, Bill 1 and 109, would violate USMCA's non-discrimination of digital products rule (Article 19.4) and it is a prohibited performance requirement (Article 14.10.1 (b)).

Online Harmful Content: From April to June 2022, an expert advisory group on online safety held eight sessions to advise on developing a legislative and regulatory framework to address harmful online content. The government then held 19 roundtables from July to November 2022 and released a summary report in January 2023. While the government has discussed this potential legislation for some time, the policy has proven difficult because of its relationship to public protection, censorship, freedom of speech, and misinformation, with parties holding conflicting positions on many of those topics. IIPA urges the U.S. government to continue to monitor the Canadian government's work and any effects it may have on the broader online ecosystem.

- **Repeal the Online Streaming Act and the CRTC's implementation of it to ensure Canada's compliance with the USMCA.**

The Online Streaming Act received Royal Assent on April 27, 2023. As a result, the CRTC now has the explicit power to regulate foreign streaming services, obligating U.S. streaming services to finance their Canadian competitors and the Canadian broadcasting system more broadly. The Online Streaming Act violates Canada's obligations under the USMCA, which prohibit the discriminatory treatment of U.S. digital products (Article 19.4), prohibit requiring foreign firms to purchase local content (Article 14.10.1(b)), and require equal treatment of foreign and domestic investors (Article 14.4). Given this discriminatory impact and incompatibility with the USMCA, the Online Streaming Act should be repealed.

[29] Bill 109, *An Act to affirm the cultural sovereignty of Québec and to enact an Act respecting the discoverability of French-language cultural content in the digital environment*, 2nd Sess, 43rd Leg, Quebec, 2025,
[30] Bill 1, *Québec Constitution Act, 2025*, 2nd Sess, 43rd Leg., Quebec, 2025, https://www.assnat.qc.ca/Media/Process.aspx?MediaId=ANQ.Vigie.Bll.DocumentGenerique_213841en&process=Default&token=ZyMoxNwUn8ikQ+TRKYwPCjWrKwg+vIv9rjij7p3xLGTZDmLVSmJLoqe/vG7/YWzz.

As part of its regulatory plan to implement the Online Streaming Act, the CRTC issued a decision in June 2024 requiring that foreign streaming services with over $25 million in annual Canadian gross broadcasting revenues (including foreign streaming services with less than $25 million in annual Canadian gross broadcasting revenues but that are part of a broadcasting ownership group that reaches the $25 million threshold in the aggregate) to pay 5% of those revenues to certain government-approved funds that benefit Canadian production companies, broadcasters, and the major Canadian streaming services they operate.[31] To participate in the Canadian market, U.S. streaming services must now directly subsidize their Canadian production competitors and cross-subsidize their Canadian competitors in broadcasting; who also operate streaming services. This initial payment was due by August 31, 2025. The MPA and other U.S. stakeholders are appealing various aspects of this decision. The CRTC has estimated that this initial base contribution will provide $200 million per year in new funding to Canadian competitors.[32]

The initial base contribution is indeed just the 'initial' aspect of the full obligations. The CRTC completed hearings on other aspects of the Online Streaming Act in June 2025 to determine the totality of obligations it will impose on U.S. streaming services and how the initial base contribution requirements will be subsumed. The CRTC indicated that they are considering imposing additional funding and expenditure requirements between 5% to 30% of gross revenues for foreign streaming services.[33] Estimates are that, if the CRTC builds on the 5% initial contribution and adds additional funding obligations at up to 30%, this could cost U.S. streaming services well over $9 billion CAD annually.[34]

In addition to these mandatory spending requirements, the CRTC is considering rules on prominence and how the expenditure requirement will apply based on a narrow definition of what constitutes a "Canadian Program."[35] These rules could include a mandate that a program's IP must be owned by a Canadian entity, stripping ownership from U.S. companies; rigid rules around the citizenship of the main creative roles in the production of film, television, and streaming content; and prominence requirements that will compel U.S. companies to give special visibility or placement to Canadian works. Such heavy-handed intervention by government into creative decision making is out of step with global practices and penalizes U.S. businesses. Essentially, under the regulatory obligations, the Canadian government will dictate to U.S. companies what is produced, under which deal terms, and how it is presented on screens, while giving preferential treatment and access to Canadian content versus American content. The CRTC also established obligations for foreign streaming services to publicly disclose sensitive confidential financial information, a ruling which has been appealed by several streaming services.

COMPLIANCE WITH EXISTING OBLIGATIONS TO THE UNITED STATES

Canada's international agreements with the United States most relevant to copyright obligations include TRIPS and the USMCA.[36] As noted above, some aspects of Canada's current copyright regime may raise significant issues of compliance with these agreements (for example, whether Canada's copyright and TPM exceptions, as applied, comply with the well-established "three-step test"),[37] and Canada's Online Streaming Act and other market access restrictions are inconsistent with the country's commitments under the USMCA.

[31] CRTC, Broadcasting Regulatory Policy CRTC 2024-121 (4 June 2024), https://crtc.gc.ca/eng/archive/2024/2024-121.htm.
[32] Ibid.
[33] CRTC, Staff Letter, Reference 1011-NOC2024-0288 (29 May 2025), question 20, https://crtc.gc.ca/eng/archive/2025/lb250529.htm.
[34] CCIA, "Cost of Canada's Online Streaming Act" (September 2025), https://ccianet.org/wp-content/uploads/2025/09/Cost-of-Canadas-Online-Streaming-Act.pdf.
[35] CRTC, Broadcasting Notice of Consultation CRTC 2024-288 (15 November 2024), https://crtc.gc.ca/eng/archive/2024/2024-288.htm.
[36] United States-Mexico-Canada Free Trade Agreement, available at https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between.
[37] See TRIPS Article 13 and USMCA Article 20.64.

COLOMBIA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Colombia remain on the Watch List in 2026.[1]

Executive Summary: With the continuous growth of Colombia's creative economy, including its emerging role as an audiovisual production and digital content hub for Latin America, the Colombian government must direct more resources towards enforcing intellectual property rights (IPR). Unfortunately, Colombia's existing enforcement framework is not up to the challenge of the country's current online piracy problems. The lack of coordination and expertise among the country's judicial and law enforcement personnel is a major obstacle for the protection of copyrighted works in Colombia. IIPA commends recent police raids and judicial decisions in Colombia against illegal streaming services like *MagisTV* and encourages Colombia's government to take similar actions against other piracy services. Colombia must also bring its regime for the protection of technological protection measures (TPMs) into compliance with the provisions of the U.S.-Colombia Trade Promotion Agreement (TPA) and reconsider amendments to its copyright law that curtail the freedom of contract between foreign rights holders and local parties. In a positive development, IIPA commends the Communications Regulation Commission's (CRC) finding in its over-the-top (OTT) Services Study that there are no technical grounds to justify charging platforms for network usage fees to use the Internet.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Devote essential law enforcement and specialized prosecutorial resources to combatting online and physical piracy, with coordinated operations and actions to adequately protect intellectual property (IP).
- Ensure Internet service providers (ISPs) are incentivized to cooperate with rights holders to address online piracy.
- Encourage the Colombian Copyright Office (DNDA) to take effective action against notorious piracy and stream-ripping sites and conduct preventative national-level training.
- Implement more specialized training programs for judicial and law enforcement personnel on copyright protection and enforcement.

Legal Reforms

- Cease any progress of the General Culture Law in its current form.
- Repeal Articles 3 and 183 of the Colombian Copyright Law.
- Draft legislation that allows rights holders to file actions against unidentified infringers.
- Clarify that TPM circumvention is not permissible for any exception or limitation under the copyright law.
- Reconsider profit requirements for retransmission, annual revisions of exceptions and limitations, and statutory damages through public hearings in the Colombian Congress.
- Ensure legislative proposals related to artificial intelligence (AI) meet the standards set forth by the G7 Hiroshima AI Process.
- Encourage the adoption of recent bill, PL 448/2025 C, to combat digital piracy in audiovisual content.

ENFORCEMENT

[1] For more details on Colombia's Special 301 history, see previous years' reports, at https://iipa.org/reports/reports-by-country/. For the history of Colombia's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

- **Devote essential law enforcement and specialized prosecutorial resources to combatting online and physical piracy, with coordinated operations and actions to adequately protect IP.**

To date, Colombia's law enforcement authorities have neither developed methods to stop the widespread availability of infringing content to Colombian Internet users nor ensured across the board compliance with existing copyright laws and regulations. Despite the availability of rights and remedies in the law, enforcement levels remain low, demonstrating a tolerance for the continued operation of an illegal online market. For example, in 2025, Colombia ranked 35th in the world for the number of connections by peers participating in the unauthorized file-sharing of Entertainment Software Association (ESA) member video game titles on public peer-to-peer (P2P) networks. Colombia further experiences some of the highest levels of mobile-based piracy in the region, ranking 7th in the world for the unauthorized file-sharing of mobile games. By the same metrics, Colombia ranks 28th in the world for console-based piracy. Further, among other Latin American countries, Colombia is a major player on the piracy scene and ranks in the top five for piracy affecting ESA member companies.

The inefficiencies in Colombia's enforcement of copyright are due to the low prioritization of IP cases and the lack of coordination between criminal, civil, and administrative enforcement authorities. For example, the special cybercrime unit, *Dirección de Investigación Criminal e Interpol* (Department of Criminal Investigations and Interpol, DIJIN), focuses its enforcement actions primarily on narrow areas such as online fraud (ransomware and phishing) without pursuing broader protections for the digital economy that include IPR cases. To enhance coordination, the police and its dedicated cybercrime department, *Centro Cibernetico Virtual* (CAI Virtual),[2] should have a specific channel to assist rights holders or businesses affected by cybercrimes and to coordinate efforts. The DIJIN and CAI Virtual must have an appropriate structure and skill set to handle such cases and achieve a deterrent impact in the illegal online ecosystem. It is thus essential to allocate resources to both law enforcement and specialized prosecutorial training.

The DNDA is the department that is most competent in copyright-related issues, but it operates under the jurisdiction of the Ministry of the Interior, which deprioritizes DNDA's mission more than if DNDA were situated under another Cabinet position. Many proposals to move the DNDA's functions under the jurisdiction of the Ministry of Commerce, Industry, and Tourism (as is the case in other countries in the region) have failed, which is yet another example of the lack of political will to address the concerns of the creative industries. Additionally, the judicial panel inside DNDA has very limited resources, causing serious delays. IIPA urges the Colombian government to increase DNDA's capacity through its implementation of The National IP Policy, which recommends improving the organization of government authorities to combat digital piracy and enforce Colombia's IP laws.[3] Colombian authorities should also consider joining the regional antipiracy efforts of Operation 404, an effective model of stakeholder collaboration.

Notwithstanding the concerns identified above, the IIPA commends Colombia for two positive developments this year.

1. Two related cases against the illegal streaming service, *MagisTV*, constitute the first effective criminal enforcement precedents against large scale digital piracy in Colombia.
    a. In February, the Municipal Court of Bogota issued the first dynamic criminal blocking order in Colombia via "restoration of rights" in a criminal case against the operators of *MagisTV*.
    b. In May, the Fourth Criminal Court of Pasto convicted, sentenced, and financially penalized two Colombian nationals who facilitated the distribution of the *MagisTV* app. This case, which was referred to Colombian Prosecutors by the Alliance for Creativity and Entertainment (ACE), recognized the scale of economic harm to audiovisual producers and the social impact of piracy networks.

[2] See *Centro Cibernético Policial,* available at https://caivirtual.policia.gov.co (in Spanish).
[3] CONPES 4062 outlines Colombia's National IP Policy detailing strategic objectives to consolidate the management of intellectual property in the country as a mechanism to generate innovation, creation, knowledge transfer and increase productivity. Implementation, however, remains limited.

2. In *SAYCO v. DirectTV*, a Colombian court found the defendant guilty of public communication and retransmission of musical works without a license and issued one of the largest copyright infringement awards ever in Colombia.

IIPA hopes these successes will pave the way for similar future actions despite Colombia's current lack of prosecutorial resources and training.

- **Ensure ISPs are incentivized to cooperate with rights holders to address online piracy.**

Online piracy has grown significantly in Colombia since the COVID-19 pandemic. Unfortunately, the country lacks sufficient liability provisions to ensure ISPs are incentivized to cooperate with rights holders to address online piracy. Colombia also lacks specific regulations requiring ISPs to disable access to infringing content. Furthermore, remedies for online copyright infringement are inadequate and unclear, which is why many rights holders do not pursue cases or actions against infringing sites. In 2025, fewer than ten effective blocking or removal orders were recorded.

While many ISPs in Colombia are willing to cooperate with rights holders to combat online piracy, such cooperation is limited as there is no cross-industry memorandum of understanding (MOU) or government pressure on ISPs to improve cooperation. This allows for some ISPs to invoke net neutrality provisions to limit required cooperation. Further lack of infrastructure and funding to monitor compliance with blocking orders limits enforcement. This allows illegal streaming and Internet protocol television (IPTV) services to proliferate with minimal deterrence. One reason ISPs may be hesitant to move forward with an MOU is because the government is considering implementing a notice and take down procedure and creating safe harbor provisions. Thus, ISPs may believe an MOU is not necessary to protect their interests. IIPA however recommends that Colombia – rather than introducing safe harbors – ensure there is a clear legal basis for the liability of active online services and greater responsibilities on intermediaries to act against infringing content.

If, however, proposals are put forward to introduce safe harbor provisions, these proposals should include the following:

1. Mechanisms that ensure that ISPs can impose effective relief to remove infringing content, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities.
2. Adequate incentives for ISPs to cooperate with rights holders to combat piracy.
3. Ensuring safe harbors are available only to passive and neutral intermediaries that do not contribute to infringing activities.
4. Measures demonstrated effective in preventing or restraining infringement.
5. Requiring marketplaces and other online platforms, and encouraging 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.

To date, Colombia has not launched a national strategy to facilitate ISP cooperation with rights holders. IIPA urges Colombia to hold public-private round tables with all stakeholders, including ISPs, to promote cross-industry cooperation to tackle online piracy based on industry best practices, facilitate a cross-industry agreement, and foster commitment to the legal framework. Colombia should also issue regulatory guidance clarifying that compliance with IP enforcement orders does not violate net-neutrality principles under Law 1341 of 2009.

On a positive note, IIPA specifically commends Amazon and Mercado Libre for their cooperation in minimizing the advertisement and sale of counterfeited goods through their networks in the Colombian marketplace. Though there remains significant room to improve for both platforms, this effort is a welcome first step. Given the growing shift towards piracy-related advertising and sales via social media instead of through online marketplaces, social media platforms should be encouraged to follow suit.

- **Encourage the DNDA to take effective action against notorious piracy and stream-ripping sites and conduct preventative national-level training.**

In 2022, *ProMúsica Colombia* filed a pilot case requesting a blocking order against popular stream-ripping site *Y2Mate.com*. DNDA dismissed the case based on legal technicalities and failed to pursue any additional actions or initiatives to combat Colombia's digital piracy problem. Despite DNDA's legal authority to order injunctions in cases against digital pirates, such powers are rarely exercised. To date, Colombia has not resolved any case of significance to the protection of the legitimate online music market. As a result, Colombia has some of the highest traffic to stream-ripping sites throughout the Latin American region. For example, in the second quarter of 2025, *SimilarWeb* recorded 3.1 million monthly visits to *savefrom.net*, 2.4 million monthly visits to *y2mate.nu*, and 1.2 million monthly visits to *notube.im* from Colombian users. Colombia should also take action against widely used unlicensed mobile apps, such as *SnapTube*, which allows unlimited downloads from video streaming sites. DNDA should implement an effective campaign against digital piracy, including issuing blocking orders against major stream-ripping services and piracy streaming sites in response to rights holders' applications, specifically targeting the Colombian marketplace. This type of recourse via administrative enforcement mechanisms is fully consistent with Article 16.11.14 of the TPA, which requires Colombia to ensure any civil remedy ordered as a result of administrative procedures on the merits of an IP case conform to "principles equivalent in substance to those set out in this Chapter."[4]

Since 2020, the DNDA has issued orders to block infringing websites, mainly for the illegal broadcast of pay-tv signals. For example, in March 2021, the DNDA ordered ISPs to block the Internet signal from IPTV Colombia Premium, which illegally broadcast pay-tv signals.[5] Such order was renewed in 2023. However, the Ministry of Internal Affairs recently appointed a new Copyright Director General, Edwin Robles, and there is concern that he may not follow through on this important step. IIPA urges the Colombian administration to ensure that the National Development Plan includes a powerful component to engage authorities to protect IP more actively in the digital environment, including a leadership role for the DNDA to coordinate the protection of the creative sector ecosystem.

A solid blueprint for these efforts is contained in an inactive anti-piracy program drafted and signed by various Colombian authorities in 1999. The program's objectives (a nationwide anti-piracy campaign, training of law enforcement officials and judges, raising public awareness, etc.) should be revisited to advance IP enforcement in Colombia. In these efforts, the administration should encourage national level training programs, highlighting DNDA's jurisdictional powers.

- **Implement more specialized training programs for judicial and law enforcement personnel on copyright protection and enforcement.**

The proposed National Intellectual Property Policy (introduced in 2023) identified the lack of knowledge and training in IPR among its judicial and law enforcement personnel as one obstacle for effective copyright enforcement.[6] It is essential for Colombia to implement comprehensive IP enforcement training for all relevant judicial and law enforcement personnel at the local and regional levels, as well as training for customs officials to identify and seize illegal streaming devices (ISDs). These programs should be held in various cities throughout Colombia to empower officials across the country, especially those in regions where piracy is deeply entrenched. Developing specialized training programs could also help drive law enforcement interest in copyright-related matters, which is an ongoing

[4] One "principle equivalent in substance" being strong protection and enforcement of IP rights. See e.g. U.S.-Colombia Trade Promotion Agreement (TPA), Article 16.1(7) (permitting parties to implement in its domestic law more extensive protection and enforcement of IP rights than is required under this chapter).
[5] Juan Francisco Campuzano Velez, *Asuntos: Legales, Se impuso primera medida cautelar contra piratería online en la historia de Colombia*, March 9, 2021, available at: https://www.asuntoslegales.com.co/actualidad/se-impuso-primera-medida-cautelar-contra-pirateria-online-en-la-historia-de-colombia-3136271 (in Spanish).
[6] The entertainment software industry, in connection with the Interamerican Association of Intellectual Property (ASIPI), held separate educational sessions in recent years on leveraging law enforcement and specialized prosecutorial resources to more effectively combat online and physical piracy.

concern. The video game industry has struggled to get any criminal actions off the ground due to piracy lacking priority and many procedural delays.

In 2024, the United States Patent and Trademark Office's (USPTO) IP attaché in Lima, Peru organized a conference series to judges and law enforcement officials across the Andean community, including Colombia, to educate them on enforcement and protection measures. In 2025, a handful of training programs were organized by Colombia for judicial and law personnel. Colombia additionally engaged in technical cooperation with the World Intellectual Property Organization (WIPO) and USPTO. Further consistent engagement along these lines is encouraged.

LEGAL REFORMS

- **Cease any progress of the General Culture Law in its current form**.

The Colombian government has undertaken a bill referred to as the "General Culture Law," that included a provision that would introduce a remuneration right for performers for the making available of their performances to be paid by digital service providers (DSPs), in addition to performers' existing exclusive making available right. A proposal of this nature would stunt growth of the music industry in the Colombian market and distort existing contractual agreements, including for audiovisual streaming platforms. A recent version of bill deleted the remuneration right, which is, in principle, a positive development. However, the new version provides powers for the Executive to issue a "Performers Statute." The wide scope of content that the Statute may include raises concern and uncertainty. Since the General Culture Law remains in the legislative process, we request the deletion of the provision regarding the issuance of the "Performers' Statute" by the Executive.

- **Repeal Articles 3(d) and 183 of the Colombian Copyright Law.**

Article 3(d)

In August 2021, the Constitutional Court agreed to hear a case filed by *ProMúsica Colombia* (on behalf of the recording industry) that challenged the constitutionality of Article 3(d) of the Copyright Law.[7] This provision mandates that authors receive at least 60% of remunerations collected from performance rights, *de facto* limiting remunerations to 40% for owners of neighboring rights in the communication to the public of works and phonograms. The lawsuit received many supportive submissions, including from the International Federation of the Phonographic Industry (IFPI), performers organizations, and the Attorney General, all of whom generally agree that the provision is not found in any other copyright law in the region and is clearly discriminatory against artists, performers, and phonogram producers without justification.

On March 16, 2022, the Supreme Court dismissed *ProMúsica Colombia*'s Article 3(d) challenge on the basis that the 60-40 rule was justified by the "essential" nature of the creative works. While the Court clarified that Article 3(d) applies only by default when parties do not already have an agreement in place, the 60-40 rule remains a legal barrier to the growth and development of the rights of performers and producers in Colombia. It is inconsistent with Colombia's obligation under the TPA to ensure no hierarchy is established between the rights of authors, on the one hand, and the rights of performers and producers, on the other.[8] Sound recordings and musical works are separate subject matters protected under separate legal treaties (WIPO Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT) respectively). Thus, Colombia should amend Article 3(d) of the Copyright Law to eliminate the 60% remuneration floor for authors.

[7] See Article 3(d) of Law 23 of 1982, available at https://www.wipo.int/wipolex/en/text/584747 (in Spanish).
[8] U.S.-Colombia Trade Promotion Agreement (TPA), Article 16.7(1), available at https://ustr.gov/sites/default/files/col-ipr.pdf.

This rule amounts to a limitation of producers' and performers' public performance right that does not meet obligations of the longstanding three-step test, incorporated in Article 16.7.8 of the TPA, governing the scope of exceptions and limitations to copyright protection. The 40% limitation on producers' and performers' remuneration rights is inconsistent with the three-step test because it conflicts with the normal exploitation of a phonogram or performance and unreasonably prejudices the legitimate interest of rights holders.

Article 183

Article 183 of the Copyright Law is highly problematic because it provides a set of limitations to contractual assignments of copyright and neighboring rights, which may have a negative impact on the ability of phonogram producers to manage their business and produce new local talent. While a constitutional challenge filed against Article 183 was dismissed by the Supreme Court on formal grounds, further actions against the provision are being considered.

While it is not uncommon that copyright frameworks regulate the transfer of rights of authors and/or performers, a restriction of this nature is unheard of. For example, the European Union's (EU) Digital Single Market (DSM) Directive harmonized provisions on exploitation of contracts of authors and performers. However, a restriction on transfer rights of future forms of exploitation was not included. This limitation should be repealed because it is out of step with Article 16.7.3(a) of the TPA, which clearly establishes that, "… for copyright and related rights, any person acquiring or holding any economic right in a work, performance, or phonogram… may freely and separately transfer that right by contract."[9]

- **Draft legislation that allows rights holders to file actions against unidentified infringers.**

Currently, Colombia requires IPR holders to identify an infringer by name and domicile to successfully petition the courts in cases of copyright infringement. This undermines effective enforcement in the digital age as pirates can easily obfuscate their identities. Colombia should amend Article 82(2) of the General Procedural Code to allow rights holders to bring actions against anonymous or unidentifiable sources of infringement via special procedural mechanisms in line with due process. Allowing the order of investigations and precautionary measures against anonymous online infringers will help to improve Colombia's legitimate digital marketplace. In a positive development, a Colombian criminal judge recently issued a dynamic blocking order against an unidentified infringer. This should be repeated against other piracy services.

- **Clarify that TPM circumvention is not permissible for any exception or limitation under the Copyright Law.**

The video game industry faces significant problems with modified consoles being sold in Colombia that are preloaded with scores of pirated games. The sellers of these devices warn buyers against connecting to the Internet to avoid detection of unauthorized software. Circumvention devices and modification services are also widely available in Colombia, through online and physical marketplaces, as well as social media platforms. Current law does not adequately criminalize the sale or use of console modification tools, leaving a legal loophole that is often exploited. The scale and visibility of these devices and online piracy reflect a high level of tolerance and a low risk of enforcement in Colombia. Stringent civil and criminal TPM laws are vital to efficient protection against acts of infringement committed by modifying devices to operate infringing games. To fully comply with the TPA some of the amendments to Colombia's Copyright Law need clarification and reconsideration. IIPA urges the Government of Colombia to clarify that: (1) the new permanent exemptions to TPMs are subject to review, requiring proponents to offer substantial evidence of actual or likely adverse impact on non-infringing uses;[10] and (2) a TPM may not be circumvented to exercise any copyright exception or limitation.[11]

[9] See *id.*
[10] See TPA Article 16.7(4)(f).
[11] See TPA Article 16.7(4)(d), which establishes that circumvention of TPMs "is a separate civil or criminal offense, independent of any infringement that might occur under the Party's law on copyright and related rights."

Additionally, stronger civil and criminal penalties for TPMs violations are needed that take into consideration the prevalence of repeat offenders. Only an adequate structure for escalating these offenders will improve the deterrent effect and help curb the culture of piracy tolerance that undermines legal protections and enforcement efforts.

- **Reconsider profit requirements for retransmission, annual revisions of exceptions and limitations, and statutory damages through public hearings in the Colombian Congress.**

IIPA continues to urge Colombia to reconsider: (1) the profit requirement for the crime of retransmission or reception of illegally decrypted satellite signals; and (2) the annual revision of copyright exceptions and limitations via public hearings in the Colombian Congress, because this revision creates uncertainty for both enforcement and private investment.[12]

IIPA recognizes the Colombian Ministry of Interior's 2025 draft decree creating the possibility of statutory damages in civil proceedings such as copyright infringement to comply with the TPA. Under this draft, rights holders could choose between actual and statutory damages based on monthly minimum wage calculations. However, as of October, the draft has yet to be formally enacted.

- **Ensure legislative proposals related to AI meet the standards set forth by the G7 Hiroshima AI Process.**

In September 2024, the government announced the filing of an AI bill intended to consolidate all existing legislative texts. This new bill (CR- 154-24) would seem to mirror the system adopted by the EU regarding a graduated level of risk with no specific frame for copyright and no text-and-data mining (TDM) exception. However, on October 22, Senators Julio Elías Vidal and Pedro Florez Porras, submitted to Congress another AI Bill (identified as 294-2024) that would introduce a TDM exception for the use of works and sound recordings by AI and impose mandatory collective management for all uses on AI and for all exclusive rights of authors, performers and producers**.** In July 2025, both bills were tabled at the Colombian Senate but the Senate did not discuss the bills nor vote on them. Thereafter, additional AI bills have been introduced, including by the Ministry of Science, Technology, and Innovation, and the Ministry of Information and Communications Technology, but none have received a vote. As Colombia looks to possibly regulate AI, IIPA strongly encourages the Government of Colombia to look towards the G7 Hiroshima AI Process, which has set forth important rules of the road for the development of AI systems.

Examples of important principles set forth by the G7 Hiroshima AI Process include, the International Code of Conduct for Organizations Developing Advanced AI Systems including the following: "Organizations are encouraged to implement appropriate safeguards, to respect rights related to privacy and intellectual property, including copyright-protected content."[13] The International Guiding Principles for Organizations Developing Advanced AI Systems includes the following principle: "Implement appropriate data input measures and protections for personal data and intellectual property."[14] In the June 17, 2025, G7 Leaders' Statement on AI for Prosperity, the G7 Leaders indicated they would "leverage the outcomes of the Hiroshima AI Process (HAIP) to foster trust."[15] The Leaders further committed to "[p]romote economic prosperity by supporting SMEs to adopt and develop AI that respects personal data and intellectual property rights, and strengthen their readiness, efficiency, productivity and competitiveness" and stated, "We recognize the need to respect intellectual property rights in enabling these efforts."[16].

[12] The Colombian Copyright Office (DNDA) is again this year considering holding a public hearing to determine whether more exceptions and limitations should be added to the law.

[13] See Hiroshima Process International Code of Conduct for Organizations Developing Advanced AI Systems, p. 8, available at https://www.mofa.go.jp/files/100573473.pdf.

[14] See Hiroshima Process International Guiding Principles for Organizations Developing Advanced AI System, p. 5, available at https://www.mofa.go.jp/files/100573471.pdf.

[15] See G7 Leaders' Statement on AI for Prosperity, June 17, 2025, available at https://g7.canada.ca/assets/ea689367/Attachments/NewItems/pdf/g7-summit-statements/ai-en.pdf.

[16] Id.

- **Encourage adoption of the recent bill, PL 448/2025, to combat digital piracy in audiovisual content.**

Introduced in October 2025, PL 448/2025 C ("bill") primarily targets the unauthorized retransmission of audiovisual works, including live sports events, and illegal dissemination of movies, series, music, TV programs, and other protected content. To facilitate enforcement, the bill proposes the creation of the National Directory of Audiovisual Content Holders, under the Ministry of Information Technologies and Communications (MinTIC). The Directory would allow authorities to track the ownership of rights to audiovisual content and broadcasts and thus, enable the issuance of measures such as precautionary measures, suspensions, signal blockages, and restrictions on websites and streaming services hosting illegal content. The bill further includes real-time monitoring provisions and establishes a framework for cooperation between authorities and digital intermediaries to prevent the mass distribution of pirated content. IIPA urges Colombian policymakers to embrace these concepts in the fight against digital piracy and adopt this bill.

MOROCCO

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Morocco be placed on the Watch List in 2026.[1]

Executive Summary: Piracy levels in Morocco remain persistently high across most creative industries. The proliferation of illegal Internet Protocol TV (IPTV) and streaming services, many of which originate from or are facilitated through Morocco, continues to cause substantial harm to rights holders and presents a persistent challenge. These services target both domestic and foreign consumers, underscoring the cross-border nature of the piracy problem and its broader trade and commercial implications for Morocco's international partnerships. Morocco's piracy problem uniquely extends to the rampant availability of physical pirated products in markets such as *Derb Ghallef* in Casablanca. Enforcement against copyright piracy in both digital and physical forms remains limited, constrained by weak implementation mechanisms, procedural delays, and the absence of specialized digital enforcement tools. The existing customs recordation system remains inadequate to empower authorities to address digital piracy in a timely and effective manner. Though positive dialogue between rights holders and key authorities has increased governmental willingness to engage on and awareness of the impact of digital piracy, authorities have yet to consistently act on the matter despite possessing the necessary legal authority and tools to do so. This inconsistent intervention, combined with low public awareness of copyright and its economic importance, has allowed digital piracy to persist across the market. Education of the public on the harms of infringement and the rights of copyright holders could significantly decrease the piracy rate. IIPA urges Morocco to strengthen enforcement efforts, further engage in public and institutional education on copyright, and revise its legal framework to support more effective and timely action against digital piracy.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Establish clear procedures for the investigation, prosecution, and adjudication of online/digital piracy cases.
- Strengthen the public and institutional awareness of the economic and cultural harm caused by copyright piracy, specifically in the digital environment.

Legal Reforms

- Modify the current customs recordation system to allow rights holders longer than ten working days to initiate legal proceedings.
- Encourage adoption of a legal framework to enable swift administrative and judicial actions against illegal IPTV and streaming services.
- Make amendments to Moroccan law that clarify the Bureau Marocain des Droits d'Auteur et Droits Voisins's (BMDAV's) powers to preserve and strengthen rights holders' autonomy in the management of their rights.
- Make amendments to Moroccan law to ensure the rights of broadcasting and communication to the public of performers and phonogram producers are scoped as exclusive rights.
- Affirmatively declare that copyright protection extends to foreign works and rights holders, and is not limited to Moroccan citizens and residents.

ENFORCEMENT

[1] For more details on Morocco's Special 301 history, see previous years' reports, at https://iipa.org/reports/reports-by-country/. For the history of Morocco's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

Morocco has an extremely high rate of piracy for films, television, and music. Between November 2024 and October 2025 Morocco was ranked 7th for the most visits to piracy sites across Africa, according to MUSO. During the same period, piracy sites saw over 63.9 million visits. In 2024 alone, Morocco registered more than 950 million visits to infringing streaming, hosting, and Peer-to-Peer (P2P) sites. Stream-ripping sites are the most popular piracy choice in the country, with more than 29.9 million visits made across several stream-ripping sites including the two most prominent, *savefrom.net* and *notube.lol*. BitTorrent sites also remain a key piracy issue in Morocco with over 7.8 million visits according to MUSO. Popular BitTorrent sites include *1337x.to* and *yts.mx*.

Social acceptance of the purchase and sale of pirated content contributes greatly to the spread of infringing activity. For example, in June 2023, cafés and restaurants were charged for licenses to utilize copyrighted works in their businesses (e.g., playing music in a café). The owners of these establishments filed a complaint with the Court of First Instance in Rabat against the BMDAV, a federally-created collective management organization (CMO) with financial autonomy, alleging that it was acting without a basis in law.[2] These business owners claimed that the radio stations or television stations performing the works to the public were the only entities responsible for licensing the material. This dispute illustrates both the need for clearer public communication regarding rights and obligations as well as the central role the BMDAV plays in Morocco's copyright ecosystem.

The current level of achievable enforcement in Morocco remains inadequate to meaningfully reduce digital piracy dominated by illegal streaming and IPTV services. Many rampant illegal IPTV services operating in and through Morocco have continued to evolve and professionalize, with some offering business cards, installation assistance, and ongoing customer support to project an appearance of legitimacy. Though certain IPTV services are linked to networks outside of Morocco, , substantial elements of the infrastructure, subscriber management, and distribution activity are operated out of and/or by Moroccan nationals who target both domestic and international audiences. Annual subscriptions to these illegal services remain inexpensive, typically between 150 and 500 dirhams (approximately US$50 - $150), which fuels widespread adoption. Further, access to these services has become easier and more flexible. In addition to simple browser-based interfaces, consumers can use dedicated IPTV applications, mobile and smart-TV apps, Android APKs, and common IPTV player software, all of which do not require specialized hardware beyond a connected device. This multi-platform accessibility significantly lowers barriers to entry for users and reduces operational risk for sellers, enabling the IPTV ecosystem to expand rapidly.

A flea market in Casablanca, *Derb Ghallef souk*, is a hub for physical pirated content with over 1,500 storefronts.[3] Infringing copies of copyrighted works are sold within this market for redistribution nationally. Consumers are attracted to pirated copies of works because of a lack of awareness of the law and the cheap cost of infringing works in these marketplaces. Due to the size and the longevity of markets like *Derb Ghallef* (which has existed since the beginning of the 1900s),[4] the availability of physical pirated goods is rampant in the large cities of Morocco. This extra layer of availability for pirated content, not present in many other countries today, further highlights the scale of this issue in Morocco.

- **Establish clear procedures for the investigation, prosecution, and adjudication of online/digital piracy cases.**

Progression of Filings

[2] See Bladi.net, *Morocco Café Owners Challenge Music and TV Royalty Fees in Court*, June 21, 2023, available at https://en.bladi.net/morocco-cafe-owners-challenge-music-and-royalty-fees-court,102701.html#:~:text=In%20a%20tug%2Dof%2Dwar%20with%20the%20Moroccan%20Copyright,are%20summoned%20by%20the%20BMDA%20to%20pay/.

[3] See Aziza Belouas, La Vie Eco, In *Derb Ghallef*, activity is not about to resume, shopkeepers are worried, October 5, 2020, available at https://www.lavieeco.com/influences/societe/a-derb-ghallef-lactivite-nest-pas-pres-de-reprendre-les-commercants-sinquietent/.

[4]. See Stay Here, Discovering the Derb Ghallef Market: A Journey to the Heart of Casablanca (June 7, 2024), available at https://stayhere.ma/en/blog-en/2024/06/07/discovering-the-derb-ghallef/.

Enforcement actions rarely progress beyond preliminary stages due to structural and procedural limitations. Nonetheless, Morocco remains a strategic jurisdiction for testing copyright enforcement in North Africa. In the past few years, the Motion Picture Association (MPA) initiated several test filings via the Judicial Police. Since 2022, many of the cases filed by rights holders have not advanced beyond this investigation phase with the Judicial Police, highlighting the need for clearer procedures and stronger prosecutorial engagement. These types of formal filings are separate from any parallel attempts by rights holders to resolve matters amicably, which operators often circumvent by shutting down the visible front end of their services and reappearing under new domains. Until recently, no digital piracy case had progressed in Morocco. The *Beinmatch* streaming case in the city of Nador represents the initial First Instance Judgment and criminal conviction, demonstrating that meaningful progress is possible when a case is prioritized and moves beyond the investigative stage. In other jurisdictions, however, cases continue to advance slowly, partially because some prosecutors do not yet view digital piracy as a priority. While no additional case outcomes were issued in 2025, the test filings have helped identify procedural gaps and reinforce the need for consistent prosecution pathways so that cases can advance beyond the investigation phase and lead to meaningful judicial outcomes.

While ongoing follow-up continues, IIPA encourages Moroccan officials to clarify streamlined procedures for digital piracy cases. Continued training, capacity building, and sustained engagement with authorities will be essential to improving outcomes. Morocco would benefit from adoption of international procedural best practices for enabling the rapid dismantling of digital crimes through swift orders to block infringing domains or apps, directions to telecom operators to disable access, expedited freezing of bank assets, and quick preservation of digital evidence. For instance, courts in countries such as France, the Netherlands, and more recently, Egypt have used these tools effectively to shut down major pirate operations. Similar mechanisms would significantly strengthen Morocco's capacity to address digital piracy and remain aligned with international enforcement standards.

Expert Appointment Process

Under Article 65.2 of Morocco's Copyright Law, copyright infringement may be subject to proceedings ordered by the Public Prosecutor's Office without a complaint from a private party or rights holder.[5] Although not technically mandatory in the aforementioned setting, an expert report is crucial to initiate any civil action where technical details are paramount. For example, a report from an independently appointed expert can fill the court's knowledge gaps surrounding technical similarity between the copyrighted work and the infringing work, the operation of IPTV or streaming platforms, or the nature of digital evidence.

Even when available experts lack in-depth knowledge of digital piracy, their reports remain critical to guide investigations and legal proceedings effectively in all settings. Currently, the timeline for expert appointments is technically subject to a deadline of ten days to one month, but these deadlines are rarely met due to a limited pool of available experts. Rights holders can request the appointment of an expert through the national court, but this process can take two to three months. Some experts decline appointments, citing insufficient technical knowledge of digital piracy, which delays investigations and/or legal proceedings and allows infringing activities to persist unabated.

In some cases, alternative evidence—such as bailiff reports and investigation minutes—can provide a sufficient basis for the Judicial Police to open a criminal investigation independently of expert reports. However, if the Prosecutor takes the case to court, the court may still order an expert report if deemed necessary. To enhance the effectiveness of copyright enforcement in Morocco, it is imperative to address the existing bottlenecks in the expert appointment process. This can be achieved by expanding the pool of knowledgeable experts, improving their technical training in digital piracy, and strengthening bailiff training as they play a key role in documenting online infringement. In parallel, expediting the expert appointment process via targeted legal and procedural reforms would help ensure that cases progress and long periods during which infringing activities continue unchecked are reduced.

[5] See Law No, 2-00 on Copyright and Related Rights, WIPO LEX, available at https://www.wipo.int/wipolex/en/text/567196 (2000).

- **Strengthen the public and institutional awareness of the economic and cultural harm caused by copyright piracy, specifically in the digital environment.**

The lack of understanding of basic copyright principles across consumers, private stakeholders, federal officials, local law enforcement, and judges creates significant resistance to comply with copyright laws. To address this general lack of understanding, it is critical to raise awareness of the actual costs of copyright infringement across these groups. Recent and planned capacity building initiatives, many of them involving the BMDAV as a key partner, are steps in the right direction, but more is needed.

General Public & Private Stakeholders: Many Moroccans are unaware that consuming pirated content is illegal or do not see the direct connection between piracy and the harm it causes to the local creative economy. A targeted campaign to educate consumers on the legal, ethical, and financial consequences of piracy could make a significant difference. For example, public service announcements on popular social media platforms, in schools, and in public spaces could explain the legal risks involved and promote affordable legal alternatives for accessing content. Additionally, partnerships with local celebrities or artists could add a personal touch, emphasizing the real-world impact piracy has on their work. Highlighting the consequences of piracy in a national conversation and offering practical solutions would begin to reduce the prevalence of copyright infringement and foster a more supportive environment for the creative industries in Morocco. Similarly, steps to educate local citizens on the illegality and risks of illegal IPTV services could greatly reduce the pervasiveness of these illegal streams. This lack of awareness, the ease with which Moroccans can subscribe to illegal IPTV services, the low cost of these illegal services, and the professionalism of the sellers all contribute to rampant infringement. Though awareness is slowly improving among the public, steady follow-up will be necessary to see concrete action in the coming period.

Among private stakeholders in Morocco, similar productive educational efforts are needed. Focused programs like those conducted by the Court of Algiers in February 2023 to educate copyright industry members on the protection of intellectual property (IP) for the Internet provide a useful model. Comparable initiatives in Morocco, carried out in cooperation with the BMDAV and industry groups, would help to ensure the private sector is not inadvertently contributing to the piracy ecosystem.

Federal Enforcement Officials: A key challenge is the technical knowledge necessary, but often lacking, in federal law enforcement to collect and interpret digital evidence. This gap can cause significant delays in cases involving IPTV and illegal streaming services, allowing operators to continue and suspects to evade capture. To prevent such delays and ensure more effective responses, Morocco should introduce specialized training programs in collaboration with international experts like INTERPOL. These programs would educate law enforcement officers on tracing illegal streams, detecting pirated content, and identifying the financial networks behind these operations. Further, regular training sessions of federal enforcement officials tailored to the unique challenges posed by illegal IPTV operations and other digital piracy services can provide officials with the knowledge and tools necessary to identify, investigate, and prosecute infringers. Overall, improving the education of Moroccan federal enforcement officials should result in faster and better results for the progression of cases.

Local Law Enforcement & Judges: Similarly, training local law enforcement and judges on digital piracy is a critical step in curbing the spread of illegal content in Morocco. As digital piracy evolves with technology, so must the knowledge and skills of those responsible for enforcing the law. Many law enforcement officers and judges may not be fully aware of the complexities involved in modern digital piracy cases, including how illicit streaming services operate, how content is distributed, and the methods used to conceal these activities. This lack of expertise often hampers effective enforcement and prosecution, leading to reluctance to apply criminal sanctions.

Judges and local law enforcement would also benefit from targeted training. Providing the judiciary with a deeper understanding of global piracy trends, relevant legal frameworks, and effective enforcement strategies would enable them to make more informed rulings. Equipping both law enforcement and the judiciary with these essential skills would not only improve Morocco's ability to investigate and prosecute digital piracy but would also serve as a significant deterrent to such crimes. In February of 2023, the U.S. Patent and Trademark Office organized a workshop in Casablanca to educate local prosecutors and judges on digital copyright infringement, illegal services, and methods of identification of the anonymous operators of these illegal entities. Additional productive educational efforts should follow throughout the country.

In a positive development, the Alliance for Creativity and Entertainment in collaboration with the French National Institute of Industrial Property (INPI), INTERPOL and the BMDAV organized a one-day seminar in December 2025, dedicated to training stakeholders and authorities on digital piracy, investigative techniques, and practical enforcement tools. This initiative convened key national and regional actors to strengthen coordination, enhance technical capabilities, and promote a unified approach to combatting online copyright crime in Morocco. Seminars such as these can serve as a template for replication moving forward.

LEGAL REFORMS

- **Modify the current customs recordation system to allow rights holders longer than ten working days to initiate legal proceedings.**

Under Morocco's current customs recordation system, rights holders or their representatives may file requests with the Central Administration of Customs to seize or suspend pirated goods at the ports of entry in Morocco.[6] The BMDAV may also file these requests in the case of copyrighted goods. Once customs has detained goods as requested, the rights holder has just ten days from the date of notification to request a formal order for a seizure to continue until a bailiff can visit the port to inspect the goods. If this order is not filed, the goods are released after the ten-day period. Ten days is far too short as rights holders need additional time to investigate these issues and prepare before initiating proceedings. Additional time is even more critical for foreign rights holders or those who are not physically located in Morocco, for whom this narrow time frame is especially restrictive. IIPA urges Morocco to update the customs recordation system to increase the time for rights holders to initiate legal proceedings.

- **Encourage adoption of a legal framework to enable swift administrative and judicial actions against illegal IPTV and streaming services.**

The BMDAV cannot initiate action against known infringers or investigate complaints lodged by rights holders. Law No. 25-19 on the Moroccan Copyright and Neighboring Rights Office has clarified the status of the BMDAV as a legal entity under public law with financial autonomy to investigate reports of infringement.[7] Morocco should adopt a new legislative or regulatory framework that clearly sets out the BMDAV's mandate in the digital environment, providing for swift administrative and judicial remedies against illegal IPTV and streaming. Such a framework should ensure that, when rights holders lodge complaints, the BMDAV and other competent authorities are required to initiate enforcement or affirmatively decline actions requested. This kind of transparent, structured process would strengthen accountability and support a more consistent enforcement environment that reinforces the BMDAV's central role as Morocco's Copyright Office.

- **Make amendments to Moroccan law that clarify the BMDAV's powers to preserve and strengthen rights holders' autonomy in the management of their rights.**

[6] See Law No. 17-97 on the Protection of Industrial Property, Article 176.4.
[7] See Law No. 25-19 on the Moroccan Copyright and Neighbouring Rights Office, WIPO LEX, available at https://www.wipo.int/wipolex/en/legislation/details/21930 (2022).

The current collective rights management system and enforcement mechanisms in Morocco grant the BMDAV a legal monopoly for the management and enforcement of all forms of copyright exploitation.

Rights holders have historically been uncertain about the specific enforcement role the BMDAV plays in digital piracy matters, as the practical procedures for submitting complaints or coordinating investigations through the Office have not been clearly defined. As a result, rights holders have traditionally filed complaints directly with the Judicial Police, the Public Prosecutor, or other competent authorities. Nonetheless, the overall number of complaints related to copyright infringement remains high. However, the absence of clear operational guidance on how the BMDAV can support or initiate enforcement actions, particularly in online cases, has limited the ability of rights holders to use the BMDAV as a centralized point of coordination. The piracy problem in Morocco will continue to escalate without meaningful action to remedy the structural, legal, and institutional concerns noted in this submission.

In a positive development, over the past year, rights holders have initiated a constructive dialogue with the BMDAV and enforcement authorities, highlighted by a joint seminar in December 2025 on digital piracy which opened the door to stronger cooperation and training. To build on this progress, Morocco should clarify the BMDAV's operational role and establish predictable procedures for submitting and processing complaints, helping to translate this emerging engagement into more consistent and effective enforcement outcomes, and to allow rights holders autonomy in exploiting their rights and choosing collective management methods.

Article 4 of Law 25-19 requires rights holders to become members of the BMDAV, a state-run CMO. BMDAV provides all collective rights management services per Law 25-19, which precludes rights holders from establishing their own CMOs.[8] The provisions in Law 25-19 ultimately restrict rights holders from deciding whether to manage their rights individually or collectively.

The effects of the requirement for rights holders to join the BMDAV CMO are not limited to Morocco. This is because the newly adopted Article 49.1 of the Copyright Law could be interpreted to extend the scope of the BMDAV licenses, including licenses covering related rights, outside of Morocco. Further, the powers of the BMDAV extend to enforcement of copyright and related rights, thus running the risk of depriving copyright owners of legal standing if interpreted as their licensing power was. IIPA urges the Moroccan government to eliminate the requirement for rights holders to receive collective management of their rights under the BMDAV and further ensure licenses do not extend outside of the country. Morocco should introduce a system that (i) allows rights holders to decide which rights they want to manage individually and which ones they want to entrust the management of to a CMO; (ii) allows rights holders to create and control their CMOs; and (iii) grants rights holders freedom to enforce their rights directly or through a third party of their choice.

- **Make amendments to Moroccan law to ensure the rights of broadcasting and communication to the public of performers and phonogram producers are scoped as exclusive rights.**

Morocco should provide sound recording producers with exclusive rights, rather than mere remuneration rights, for broadcasting and communication to the public. Exclusive rights enable record companies to negotiate commercial terms for the public performance and broadcast of sound recordings.[9]

Article 59.6 of the Copyright Law contains a distribution key, which unfairly prejudices phonogram producers for collections of the private copying levy. Phonogram producers are allocated only 10% of these collections, versus

[8] See Law No. 25-19 *Relative au Bureau Marocain des Droits D'Auteur et Droits Voisins*, WIPO LEX, available in French at https://www.wipo.int/wipolex/en/text/587394 (2022).
[9] See id.

35% for authors and performers respectively.[10] This distribution key is arbitrary and does not accurately reflect the economic value of the rights at issue. Given that the BMDAV manages exclusive rights, there is concern that this distribution key may be the basis of distributions of monies collected from other exploitations. Article 59.6 should be reevaluated and if necessary revised to ensure an economically proportionate and fair distribution to rights holders.

- **Affirmatively declare that copyright protection extends to foreign works and rights holders, and is not limited to Moroccan citizens and residents.**

Article 67 of Morocco's Copyright Law establishes the scope of copyright protection that could potentially prejudice foreign work and rights holders. Phonograms specifically are limited to (i) those, the producer of which is a national of Morocco, (ii) those, the first fixation of which took place in Morocco, and (iii) those produced for the first time in Morocco.[11] Article 68 of Morocco's Copyright Law gives international treaties (such as the WIPO Performances and Phonograms Treaty) to which Morocco is party precedence over the national law in the case of a conflict. To eliminate all doubt, Article 67 should affirmatively declare that foreign nationals of nations that are parties to treaties to which Morocco is also party are entitled to the same scope of copyright protection under Morocco's Copyright Law as Moroccan nationals.

[10] See Law No. 79-12 Complétant la loi no. 2-00 Relative aux Droits D'Auteur et Droits Voisin, WIPO LEX, available in French at https://www.wipo.int/wipolex/en/text/570011 (2014).
[11] See Law No. 2-00 on Copyright and Related Rights, WIPO LEX, available at https://www.wipo.int/wipolex/en/text/567196 (2000).

NIGERIA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Nigeria be placed on the Watch List in 2026.[1]

Executive Summary: As Sub-Saharan Africa's largest economy, Nigeria is an important market for the copyright industries, which have made significant investments in the creation and distribution of creative content in the country. Nigeria is also home to "Nollywood," one of the largest movie industries globally. The substantial increase in the accessibility of high-speed Internet and mobile devices in Nigeria has created opportunities for the creative industries; but unfortunately, online piracy is a pervasive problem for U.S. rights holders as well as Nigerian creators due to inadequate enforcement. Websites that make movies and music available illegally continue to ravage the country's creative sector, undermining revenues from legitimate channels, including streaming platforms and movie theaters, for disseminating licensed content. To address its online piracy problem, Nigeria enacted the Copyright Act, 2022 (Act No. 8 of 2022) in March 2023 that includes several positive aspects, including a clearer making available right, an administrative website blocking procedure with the Nigerian Copyright Commission (NCC), and improvements to Nigeria's enforcement framework. However, with certain exceptions, rights holders have not seen significant enforcement using these new tools.

Copyright protection in Nigeria is also undercut by certain problematic provisions—including a vague extended collective licensing regime that does not yet have sufficient safeguards to ensure that it does not prejudice certain rights holders, an unclear open-ended fair dealing exception, and an overbroad compulsory licensing regime—which should be urgently revised not only to foster investment in Nigeria, but also to bring Nigeria's legal framework in line with international copyright norms and best practices. In addition, Nigeria's enforcement authorities, particularly NCC, should maximize the new enforcement provisions in the Copyright Act and take more enforcement actions, including to disable access to primarily infringing websites, and the Nigerian government should increase public awareness about the harms caused by piracy. Finally, the Government of Nigeria should reform the collective management framework in Nigeria to ensure a clear, fair, market-based, and transparent system, including by engaging with sound recording producers to allow for the existence of a collective management organization (CMO) that represents local and foreign producers effectively and meets international best practices. The lack of a clear framework for collective licensing, and the subsequent absence of effective and transparent CMOs, have been a serious problem for all rights holders, including sound recording producers.

PRIORITY ACTIONS REQUESTED IN 2026

Legal Reforms

- Make additional legal reforms, including revising the new Copyright Act to address several critical concerns (e.g., withdraw the overbroad compulsory licensing scheme, provide adequate and essential safeguards for the overbroad extended collective licensing provision, narrow overbroad and unclear exceptions to copyright protection, ensure exclusive rights of distribution and broadcast, and extend term of copyright protection for works and sound recordings in line with the international standard of 70 years) and ensuring Nigeria fully implements the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively, the WIPO Internet Treaties) and meets its international obligations and evolving global norms.

Enforcement

[1] For more details on Nigeria's Special 301 history, see previous years' reports, at https://iipa.org/reports/reports-by-country/. For the history of Nigeria's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

- Maximize the provisions in the new Copyright Act to improve enforcement, including resourcing and training NCC staff and law enforcement to use their powers more effectively, and increasing enforcement actions against online piracy services that are harming the creative industries.
- Raise awareness among Internet service providers (ISPs) around effective policies to address piracy, and increase public awareness regarding the illegality of and harm caused by piracy.
- Reform the collective management framework in Nigeria to ensure a clear, fair, market-based, and transparent system, including by engaging with sound recording producers to allow for the existence of a CMO that represents local and foreign producers effectively, has the relevant expertise and technical capability to perform collective management functions, is owned or controlled by member rights holders, is a non-profit organization, and meets international best practices.

LEGAL REFORMS

- **Make additional legal reforms, including revising the new Copyright Act to address several critical concerns (e.g., withdraw the overbroad compulsory licensing scheme, provide adequate and essential safeguards for overbroad extended collective licensing provision, narrow overbroad and unclear exceptions to copyright protection, ensure exclusive rights of distribution and broadcast, extend term of copyright protection for works and sound recordings in line with the international standard of 70 years) and ensuring Nigeria fully implements the WIPO Internet Treaties and meets its international obligations and evolving global norms.**

In March 2023, the President of Nigeria assented to the new Nigerian Copyright Bill, 2022 (Copyright Act), resulting in the enactment of the Nigeria Copyright Act, 2022 (Act No. 8 of 2022). The Nigeria Copyright Act, 2022 includes several important reforms, including: an exclusive right of making available; improvements to the enforcement framework, including procedures for blocking websites on a no-fault basis and criminal penalties for online infringements; improved protections for technological protection measures (TPMs); and obligations for ISPs to ensure their networks do not facilitate piracy, including to "expeditiously" take down infringing content, institute a repeat infringer policy, and ensure infringing content that has been taken down remains off their networks. While these reforms were a positive step forward, there are several significant deficiencies in the Copyright Act that should be corrected for Nigeria to properly implement the WIPO Internet Treaties and meet its international obligations and evolving global norms, including the following:

- Section 35 of the Copyright Act introduced a compulsory license scheme that is incompatible with Nigeria's international obligations, including under the Berne Convention and the WIPO Internet Treaties. Under this provision, the NCC could bypass the copyright owner and authorize the use of a copyrighted work "by any person for the purpose of rectifying the abuse of a dominant market position or to promote public interest." The provision undermines rights holders' ability to assert their rights in or license their works because any user could request that the NCC bypass the copyright owner and authorize or prohibit certain uses of a work based on the mere allegation that the user "made reasonable effort to obtain permission from the owner of copyright on reasonable commercial terms and conditions and that the effort was not successful." Hence, Section 35 undermines contractual freedom and legal certainty and is inconsistent with Nigeria's international obligations, including under the Berne Convention and the WIPO Internet Treaties. This section is also outside the scope of the compulsory licenses set out in the Berne Convention and its Appendix, which cannot be applied to the right of making available or beyond the narrow uses set out therein. Moreover, Section 35 reduces the scope of the exclusive right of making available, thereby undermining implementation of the WIPO Internet Treaties by compromising their milestone right.
- The Copyright Act also introduced extended collective licensing (ECL) in Nigeria. An ECL system is appropriate only in well-developed collective rights management systems, where organizations represent a substantial number of rights holders for each segment of the collective marketplace, and only in well-defined areas of use, where obtaining authorization from rights holders on an individual basis is typically onerous and impractical to a degree that makes a license unlikely. As noted above, Nigeria's collective management system is inadequate. In addition,

the provision is overly broad. For these reasons, such a system is not appropriate in Nigeria and the new ECL framework should be withdrawn. At the very least, adequate safeguards should be introduced, e.g. via the CMO Regulation proposals (discussed below), using best practice examples such as Article 12 of the European Union (EU) Digital Single Market (DSM) Directive.

- The Copyright Act appears to provide for a hybrid fair use-fair dealing provision that may be implemented substantially broader than the U.S. fair use doctrine to the detriment of the creative industries for several reasons. First, the provision includes additional broad purposes that are not present in the U.S. statute, including "private use" and "private study." Second, U.S. fair use is determined on a fact-intensive, case-by-case basis. Without the foundation of a well-developed body of case law, Nigeria's untested, broader fair use provision would result in uncertainty for both rights holders and users on the parameters of permissible uses. The additional broad purposes listed in the text adds to the uncertainty and risk that Nigerian judges, none of whom have ever adjudicated a fair use case and would be doing so without any binding precedent to guide them, will find an unacceptably wide range of uses to be non-infringing. Third, the expansive, new "fair use" exception is included as part of a "fair dealing" system that includes several overly broad new exceptions, as discussed below. This hybrid approach further adds to the uncertainty and risk that the fair use provision will deny copyright owners fundamental protections on which they rely to license their works and sound recordings. Therefore, the broad hybrid fair use-fair dealing provision is inconsistent with the three-step test.[2] In particular, the provision is not limited to certain special cases and there is a substantial risk that it would be applied in a manner that conflicts with the normal exploitation of a work or unreasonably prejudices the legitimate interests of the rights holder.
- An exception for archives, libraries, and galleries, is broader than the exception in U.S. law and inconsistent with the three-step test, because it would permit these institutions to make and distribute "copies of works protected under this Act as part of their ordinary activities" without limitation, and it would also permit lending such copies to users.
- The Copyright Act provides for compulsory licenses for translation and for reproduction of published works. This provision should be revised to ensure it is calibrated according to the terms of the Berne Convention Appendix, which it currently is not.
- While the Copyright Act includes an exclusive right of distribution, extraneous language has been added that appears to limit the right of distribution "for commercial purposes" and for works that have "not been subject to distribution authorized by the owner." IIPA is concerned that this language could be interpreted to extend the concept of exhaustion of rights to distributions of digital content.
- While the broadcast right for sound recordings is granted as an exclusive right in Section 12, it is then downgraded to a mere remuneration right in Section 15. Sound recording producers' broadcast right should be maintained as an exclusive right without being downgraded to provide the fair market conditions in which rights holders can negotiate commercial terms that reflect the economic value of uses of recorded music to broadcasters.
- The Copyright Act introduces draconian criminal sanctions, including imprisonment, for rights holders who fail to keep proper records of the disposition of their rights. This provision is unprecedented and disproportionate to any intended purpose and should be deleted.
- The overbroad quotation exception should be revised to limit the use of a quotation to purposes of criticism or review.
- Private copying exceptions, and with them, provisions for levies, should apply only to content that is lawfully acquired—the exceptions should not be misused as a means to legalize piracy—and ensure that rights holders receive adequate shares of collections made, deductions are kept to a minimum, and compensation is payable directly to rights holders.
- The term of protection for all works and sound recordings should be extended to 70 years from fixation or publication (and the same for juridical entities), and, for all works, to the life of the author(s) plus 70 years.

[2] See, e.g., Article 13 of the WTO TRIPS Agreement.

ENFORCEMENT

- **Maximize provisions in the new Copyright Act to improve enforcement, including resourcing and training NCC staff and law enforcement to use their powers more effectively, and increasing enforcement actions against online piracy services that are harming the creative industries.**

A large number of Nigeria-based individuals operate advertising-funded piracy websites. These individuals use mainly foreign based, but also some regional, web hosting services to distribute links to infringing content, including pre-release and other high value content. These sites also frequently make use of .NG country code Top Level Domains (ccTLDs) to provide access to websites that make available infringing content.[3] The sites not only provide access to pirated U.S. copyrighted materials, but also to Nigerian content.[4] Social media is used to further drive traffic to these sites, thereby increasing revenue derived from advertising. Site operators use a mix of pop-under and in-situ advertisements to generate revenue based on site traffic and advertisement clicks. Unlike in most other countries, and reflective of their ability to freely operate in Nigeria, infringing site operators do little to hide their identities and contact information. Nigeria has also witnessed the proliferation of Internet protocol TV (IPTV)-based piracy. Chinese-manufactured set top boxes are shipped to Nigeria in large quantities, and an illicit distributor loads those devices with applications that are designed to access pirated content and sells them to consumers, often involving a monthly subscription to access the pirated content.

Many of these piracy sites and services fail to remove infringing content upon notification by rights holders. Moreover, removal of infringed content upon receipt of a notice should not be sufficient where the content is uploaded by the site operators, because such operators should not be eligible for safe harbor protections. For music and audiovisual piracy, the unauthorized content includes a mix of domestic and international content. Such sites are exceedingly popular within Nigeria but also, in many cases, regionally and beyond, hampering not only the development of the local music, film, and television industries but also polluting other markets.

The growing number of these websites undermine legitimate channels for licensed content, including streaming video-on-demand (SVOD) and movie theaters. Stream-ripping sites, including *savefrom.net* and *ssyoutube.com*, remain popular, with the latter site receiving the fourth highest level of traffic from Nigeria from January to December 2025 based on *SimilarWeb* data. Direct download piracy sites such as *TrendyBeatz* also continue to be very popular. From January to December 2025 *TrendyBeatz* received the highest level of traffic from Nigeria with over 67% of traffic to the site from Nigeria, amounting to 35 million visits. Other popular direct/indirect download sites include *Hiphopkit.com* (over 1.3 million visits from January to December 2025) and *Waploaded.com* (over 12.7 million visits in the same period). Based on *SimilarWeb* data, the site *Tubidy.cool* saw an increase in traffic from Nigeria of over 120% in from January to December 2025.

On February 7th, 2025, the Proceeds of Crime (Designation of Nigerian Copyright Commission as a Relevant Organisation) Order, 2025, was published in the Gazette designating the NCC as a relevant organization for the purpose of using the Proceeds of Crime (Recovery and Management) Act, 2022. This measure has enabled the NCC to proceed with enforcement, leading to an increase in website blocking actions. Nevertheless, Nigerian enforcement authorities, including the NCC, suffer from insufficient training and lack the capacity and resources to adequately address these piracy problems, particularly online. More must be done by law enforcement, local domain registries and registrars, and ISPs to shut down pirate online services. For example, local intermediaries, including hosting providers, domain registries, and registrars should take effective measures to prevent the use of their services in connection with infringing sites, including by enforcing provisions of their Terms of Service that allow them to terminate and suspend services in the case of infringement of intellectual property rights (IPR). In a positive development, in 2025 the NCC

[3] Many piracy sites, both operated from within Nigeria and overseas, make use of the *.NG* country code Top level Domain (ccTLD). Accordingly, Nigeria should act against piracy sites that use the *.NG* and.*COM.NG* ccTLDs. Unfortunately, the music industry did not receive a substantive response from the domain registrar *WEB4AFRICA.NG* in response to a complaint filed in 2018.

[4] See PM News, ANOGA fights online piracy, discovers over 200 illegal websites, available at https://pmnewsnigeria.com/2017/11/28/anoga-fights-online-piracy-discovers-200-illegal-websites/.

assisted the motion picture industry with a criminal complaint filed against the operator of the piracy site *TheNetNaija*. The operator was subsequently arrested, and the service was shut down. Further, the NCC supported the music industry with outreach to the domain registry NiRA to secure the suspension of several *.ng* domains.

Several enforcement deficiencies and limitations negatively impact intellectual property (IP) protection and enforcement in Nigeria, including:

- excessive bureaucracy within government agencies—including Nigerian police, NCC, and other related agencies—that undermines protection of IP rights by obstructing rights holders' ability to make criminal complaints against piracy and other forms of infringement or to seek to protect their IP rights;
- protracted litigation and case backlogs in courts, which result in delayed and non-deterrent outcomes and create little disincentive against piracy, enabling locally operated pirate sites to thrive and proliferate;
- insufficient resourcing and technical capacity of IP officials;
- lack of funding for IP agencies in the country resulting in an ineffective IP protection system; and
- poor utilization of technology by the IP agencies leading to inefficient administrative systems.

Nigeria needs to more effectively enforce against the numerous unlicensed online music and audiovisual services that operate in Nigeria, which are harming many markets inside and outside of the country. NCC staff should be sufficiently resourced and trained to fully use the criminal provisions in the Copyright Law as the basis for improved enforcement actions against piracy services. Moreover, more resources are needed for the NCC online enforcement unit to adequately engage in sustained efforts to combat piracy in the country, including to ensure authorities have critical resources such as electricity and Internet access.[5] In addition, the Government of Nigeria should take the following steps to improve enforcement:

- The Judiciary should fully maximize the enforcement tools in the Copyright Act to protect rights holders and take the following actions:
  - build up case precedents that promote the rights of creators and reinforce confidence and trust in the law and the Judiciary by borrowing from case law interpretation in foreign jurisdictions that provide adequate and effective protection and enforcement of copyrights;
  - form specialized cybercrime courts and prosecution units;
  - designate specialist courts and specialist IP judges within states that have large creative ecosystems;
  - increase reliance on expert witnesses in the requisite IP fields; and
  - partner with reputable academic institutions for regular updates on IP laws, consultations, and training on IP to improve IP expertise among judges.
- Provide adequate statutory and punitive damages in cases of copyright infringement and online piracy.
- Ensure that rights holders' enforcement of their rights is not impeded due to protracted litigation.
- Provide sufficient resources and enhance engagement by enforcement authorities to ensure IP cases can be investigated and prosecuted efficiently and at scale.
- Ensure the NCC, in collaboration with other relevant IP agencies in the country, develops an awareness policy to educate rights holders on available IP protection mechanisms.
- Increase judicial and prosecutorial training in IPR cases, with a focus on anti-piracy enforcement matters.

Nigeria's government should make these improvements and continue to increase enforcement efforts against online piracy services that are harming the creative industries in Nigeria and around the world.

- **Raise awareness among ISPs around effective policies to address piracy, and increase public awareness regarding the illegality of and harm caused by piracy.**

[5] IIPA understands that unreliable electricity and Internet access is an obstacle for NCC's enforcement officials.

There is no formal framework for cooperation between ISPs and rights holders in Nigeria. The Government of Nigeria should raise awareness among ISPs around effective policies to prevent piracy, including the site blocking provision (Section 61) of the new Copyright Act. NCC should use this provision to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities, with a view to building the foundations of cooperative efforts between ISPs, enforcement entities, and rights holders. With some notable exceptions,[6] the Nigerian government has not adequately used these tools to improve enforcement.

Furthermore, many Nigerians are unaware that piracy is illegal and that pirate websites are operating illegally. For many, piracy is seen as common and widespread, and they have not seen those engaged in piracy face consequences. The Government of Nigeria should implement a policy to increase public awareness regarding the illegality of and harm caused by piracy. The government should expand upon the Nigeria Communications Commission Guideline for the Provision of Internet Service, which mandates ISPs to ensure that users are informed of any statements of cybercrime prevention or acceptable Internet use published by the Commission or any other authority, and that failure to comply with these acceptable use requirements may lead to criminal prosecution, including for violations of IP rights. Such public messaging will be vital in raising awareness against piracy.

- **Reform the collective management framework in Nigeria to ensure a clear, fair, market-based, and transparent system, including by engaging with sound recording producers to allow for the existence of a CMO that represents local and foreign producers effectively, has the relevant expertise and technical capability to perform collective management functions, is owned or controlled by member rights holders, is a non-profit organization, and meets international best practices.**

The NCC has failed to meaningfully engage recording industry stakeholders on the accreditation of a related rights CMO following a protracted dispute between the NCC and The Copyright Society of Nigeria (COSON, the CMO that was responsible for managing performance rights in musical works and sound recordings, but whose operating license was withdrawn by the NCC). While rights holders and the NCC took steps to improve COSON's transparency and governance, in 2023, the NCC, in consultation with select rights holders, validated an Action Plan for CMOs in the Music Industry that included recognition of the Musical Copyright Society of Nigeria (MCSN) as the only accredited music industry CMO. However, several leading domestic stakeholders and international companies in the industry, controlling significant repertoire, have expressed concern regarding the ability of MCSN to effectively manage their rights. To resolve this, the Government of Nigeria should reform the collective management framework in Nigeria, in partnership with key stakeholders, including the recording industry body, RELPI, to ensure a clear, fair, market-based, and transparent system. This should include engaging with sound recording producers to allow for the existence of a CMO that represents local and foreign producers effectively, has the relevant expertise and technical capability to perform collective management functions, is owned or controlled by its member rights holders, and is a non-profit organization. Accordingly, IIPA recommends that, through RELPI, a new CMO should be established with the support of the NCC to ensure there is adequate and effective representation of both local and international rights holders. With these provisions in place, as well as improved enforcement as noted above, CMOs would be able to license effectively in Nigeria.

The NCC published the Copyright (Collective Management Organizations) Regulations 2023 (CMO Regulations), which is intended to repeal the Copyright (Collective Management Organizations) Regulations 2007 and update Nigeria's collective management regulations in keeping with international and good practices. At a fundamental level, the CMO Regulations should reflect essential characteristics and ensure that CMOs are operating according to good standards of transparency, accountability, and governance. Accordingly, the definition of a "collective management organization" should be amended such that entities falling within the definition are owned or controlled by their member rights holders as well as to confirm the non-profit nature of the organization; and the regulation addressing ECL should be amended to include essential safeguards in keeping with best practice that must be met before an ECL system is put into operation in Nigeria.

[6] See Independent, NCC Secures Suspension of Notorious Pirate Site, available at https://independent.ng/ncc-secures-suspension-of-notorious-pirate-site/.

COMPLIANCE WITH EXISTING OBLIGATIONS TO THE UNITED STATES

As noted above, certain provisions of the new Copyright Act, notably the overbroad compulsory licensing provision of Section 35, are likely inconsistent with Nigeria's obligations under the WTO TRIPS Agreement, the Berne Convention, and the WIPO Internet Treaties.

SINGAPORE

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Singapore be placed on the Watch List in 2026.[1]

Executive Summary: While Singapore's Free Trade Agreement with the United States, which entered into force in 2005, resulted in important improvements in Singapore's copyright protection and enforcement regimes, the Government of Singapore should address several pressing concerns that threaten to undermine these gains achieved. In 2021, Singapore's government amended the Copyright Act, adopting a broad exception to copyright protections for purposes of text-and-data mining (TDM) for "computational data analysis." It is critical that any application of the TDM exception is done in a manner consistent with Singapore's international obligations. To date, the Government of Singapore has yet to provide rights holders further clarity around the application of the TDM exception. Further, the Government of Singapore should remove or significantly narrow the exception for the indirect public performance of sound recordings consistent with Singapore's international obligations. This exception allows users to evade paying equitable remuneration to rights holders if the content is received through a television or broadcast (including by radio) or a cable program. Lastly, Singapore's enforcement authorities should take more effective actions against unlawful illicit streaming devices (ISDs) and piracy syndicates located in Singapore, both of which threaten legitimate markets for copyrighted materials both in Singapore and around the world.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Increase enforcement against unlawful ISDs, including by taking action against distributors that sell non-preloaded devices while providing instructions or assistance to load infringing applications, and piracy syndicates.

Legal Reforms

- Conduct a review to ensure the broad exception for text-and-data mining is applied in a manner consistent with Singapore's international obligations.
- Remove or significantly narrow the exception for the indirect public performance of sound recordings consistent with Singapore's international obligations.

ENFORCEMENT

- **Increase enforcement against unlawful ISDs, including by taking action against distributors that sell non-preloaded devices while providing instructions or assistance to load infringing applications, and piracy syndicates.**

A major concern in Singapore is the proliferation of ISDs, including popular brands like *SVICloud*, *EVPad*, and *UnblockTech*. It is encouraging to see that the Singapore Police Force Intellectual Property Rights Branch has carried out regular enforcement action and raids against various distributors of ISDs in Singapore. Following raids in October 2022, two distributors of ISDs were prosecuted and sentenced before the Singapore Courts. The first was sentenced to ten months' imprisonment on October 24, 2024, with his two shops fined 200,000 SGD (~$156,000) and 100,000 SGD (~$78,000) respectively under the Singapore Copyright Act. The second was convicted of 17

[1] For more details on Singapore's Special 301 history, see previous years' reports, at https://iipa.org/reports/reports-by-country/. For the history of Singapore's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

charges and in May 2025 sentenced to six months' imprisonment and his company was fined 181,000 SGD (~$141,307). A few cases remain pending before the Courts. These raids are typically initiated *ex officio* but supported by rights holders after the fact.

While raids against popular physical marketplaces in 2022 have had a deterrent effect against physical sales, distributors of ISDs have now moved to e-commerce platforms. That said, it is encouraging to see that actions have been taken against them as well. On June 23, 2025, the Singapore Police Force arrested two people for their alleged involvement in online sales of ISDs. More than 100 units of ISDs, including pirate brands such as *SVICloud*, *EVPad*, *UnblockTech*, were seized from two locations in Singapore.

A remaining concern is the sale of non-preloaded devices with instructions to install infringing apps. The Singapore Copyright Act was amended in 2021 to target retailers who attempt to circumvent liability by selling non-preloaded devices while providing instructions or assistance to load infringing applications. In particular, under Section 150(1) of the Singapore Copyright Act, it is an offense to traffic in a device or offer a service that is capable of facilitating access to an unauthorized copy of a copyrighted work. The seller must know or should reasonably know that the device or service is capable of facilitating access to unauthorized content and has only a limited commercially significant purpose or use other than that capability.

However, since the introduction of the provisions in 2021, no action has been taken against such non-preloaded boxes, creating a false perception of a loophole both with users and e-commerce platforms. Authorities must now actively enforce these existing laws and take action to deter those attempting to circumvent the laws through similar means, especially pirates who knowingly sell devices and/or offer services for the purpose of accessing pirated streaming content. A successful prosecution in a non-preloaded device case would serve as an important deterrent, sending a strong message that such tactics will not shield offenders from liability.

Separately, we commend the Singapore Police Force's proactivity in raising cybersecurity risks arising from the use of ISDs. On November 12, 2025, the Singapore Police Force and Cyber Security Agency of Singapore issued an "Advisory On The Dangers Of Non-Certified Streaming Devices", warning members of the public that accessing illegal streaming sites or downloading unofficial applications through non-certified streaming devices may expose users to malware that could compromise home networks and personal information. It would be helpful if the Singapore Police Force could also publish a non-exhaustive list of commonly encountered non-certified streaming devices to better inform consumers. This could include widely used pirate brands such as *SVICloud*, *EVPad*, and *UnblockTech*.

Additionally, while law enforcement action against distributors of ISDs is welcome, we encourage law enforcement to focus higher up the supply chain to target the ultimate manufacturers and distributors of these ISDs. Singapore's law enforcement officials should work collaboratively with international law enforcement, including regional partners, against such targets.

Another concern is that several piracy syndicates utilize Singapore-related presence (including corporate entities or shell companies or bank accounts) to carry out their criminal enterprises. Some piracy syndicates with a presence in Singapore make the deliberate choice to carry out infringing activities outside of Singapore to avoid enforcement within Singapore, but their Singapore-related activities, such as the recruitment of personnel to upload infringing content, often play a critical role within the criminal enterprise. Local law enforcement should take action against criminal syndicates who rely on corporate entities, bank accounts, or other Singapore-related presence as a means of reputation or money laundering and to legitimize their operations.

LEGAL REFORMS

- **Conduct a review to ensure the broad exception for TDM is applied in a manner consistent with Singapore's international obligations.**

In September 2021, Singapore's government passed and implemented an expansive TDM exception in the Copyright Act that permits copying or communicating for computational data analysis.[2] While Singapore's TDM exception requires the user to have lawful access to the work in question, it does not expressly distinguish between use for commercial or non-commercial purposes, does not expressly permit a contractual override, and is not clear what activities or which beneficiaries are encompassed by the "computational data analysis" limitation. It is imperative that any application of the TDM exception is done in a manner that is consistent with Singapore's international obligations.

- **Remove or significantly narrow the exception for the indirect public performance of sound recordings consistent with Singapore's international obligations.**

Singapore's public performance right includes a carve out for certain "indirect uses" of works or sound recordings, allowing users to evade paying equitable remuneration to rights holders if the content is received through a television or broadcast (including by radio) or a cable program. The exception is out of step with Article 15(1) of the WPPT (which Singapore has not limited in any way through Article 15(4) and therefore applies in full) and has already proven to be a contributing factor to lower than expected public performance collections in Singapore, which is expected to continue to the detriment of rights holders if the exception is not removed or narrowed significantly to serve its specific policy purpose.

[2] See Article 244 of Singapore's Copyright Act of 2021, available at https://sso.agc.gov.sg/Acts-Supp/22-2021/Published/20211231?DocDate=20211007&ProvIds=P15-P28-&ViewType=Within&Phrase=computations&WiAl=1

TAIWAN

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Taiwan remain on the Watch List in 2026.[1]

Executive Summary: Although the Government of Taiwan took positive steps in 2019 to improve its digital marketplace for legitimate content, including outlawing piracy devices (PDs) and apps, over the last six years Taiwan has failed to remedy other legislative and enforcement deficiencies. Taiwan has thus reemerged as a regional haven for digital piracy, making it a less viable market for the creative industries. Unfortunately, online piracy continues to worsen. While some recent criminal enforcement actions led to positive outcomes in the past, case pendency is growing and offshore piracy sites accessible in Taiwan still operate freely and without fear of deterrent penalties. Rights holders did succeed in 2025 in obtaining relief through the courts by the issuance of orders to disable access in Taiwan to eight *Yogurt TV* domains and 14 domains associated with the notorious *KissKH* piracy syndicate.[2] However, to stem persistent piracy, the Government of Taiwan must increase the use of its existing mechanisms that ensure Internet service providers (ISPs) can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities, including piracy sites and services hosted outside Taiwan.

Additionally, Taiwan's 2013 Copyright Act remains outdated, raising questions regarding Taiwan's existing international obligations and its ability to meet international best practices. Taiwan should also refrain from imposing any new market access barriers, including those impacting the audiovisual industry and over-the-top (OTT) services. Finally, at a minimum, Taiwan should ensure its copyright protection and enforcement framework complies with its obligations under the World Trade Organization (WTO) TRIPS Agreement, including providing expeditious remedies that constitute a deterrent to further infringement, and ensuring the scope of any exceptions and limitations under its Copyright Act are narrowly tailored and specific.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Ensure criminal authorities investigate and prosecute more online piracy cases and seek deterrent-level punishment against commercial piracy operations.
- Confirm existing laws ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities, including those sites outside Taiwan or where the operator is unknown.

Legal Reforms

- Enact legislation to address the gaps under the amended Copyright Act to provide effective relief for copyright infringement.
- Ensure the adequacy of civil remedies by enhancing Article 88 of the Copyright Act to remove the restrictive language on calculating damages.
- Remove current exceptions and refrain from introducing new exceptions that are broader than the limits of the three-step test.
- Address shortcomings in amendments to the Collective Management Organization (CMO) Act.

[1] For more details on Taiwan's Special 301 history, see previous years' reports at https://www.iipa.org/reports/reports-by-country. For the history of Taiwan's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

[2] Additionally, the Taiwan piracy ecosystem was dealt a blow when the top piracy domain, *gimy[.]ai*, was globally suspended (out of a site blocking action in India).

- Comply with the requirements of the World Intellectual Property Organization (WIPO) Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively, the WIPO Internet Treaties) irrespective of formal accession.
- Ensure that any potential OTT regulations or any regulations on intermediary platforms do not disincentivize foreign investment.

Market Access

- Eliminate market access barriers to U.S. audiovisual content, including investment, the basic cable rate cap, and discriminatory television content quotas.

ENFORCEMENT

Online and mobile device piracy in Taiwan increased in 2025. Domestic and foreign-based websites, apps, OTT platforms, and other online services that provide illegal content continue to undermine the ability of rights holders and legitimate services to distribute copyrighted content and see their investments reach full potential in Taiwan. Forum sites and bulletin boards often link to downloads hosted on cyberlockers, which are also widely used in Taiwan. For instance, there were over 21.5 million visits to cyberlockers *Mega.nz* from Taiwan from January 2025 to October 2025, and over 6.1 million visits to *Rapidgator.net* during the same period. *Baidu Pan* is also heavily used to share infringing content. Stream ripping is one of the key piracy threats to the recorded music industry worldwide and the piracy method was also very popular in Taiwan.[3] In recent reports, the music industry cites that Taiwanese enforcement agencies take significantly fewer actions against music piracy, in part because many piracy websites are hosted outside Taiwan. Streaming sites like *gimy, movieffm, and 777TV* remain key piracy concerns in Taiwan.

The proliferation of PDs also remains a problem in Taiwan, and enforcement against PD operators is insufficient.[4] For example, streaming devices that run with proprietary infringing apps enable unauthorized access to live channels and video-on-demand (VOD) content and are readily available online and in physical marketplaces.[5] Additionally, the need for enhanced enforcement measures is now more crucial following the emergence of new means of infringement via mobile apps, including those with built-in karaoke capability imported from China or created in Taiwan. These apps allow consumers to access and download content from a cloud database located overseas, with the app providing access to a vast amount of unauthorized karaoke audiovisual content. Rights holders of such karaoke audiovisual content in Taiwan have consequently suffered significant losses because of this issue. Given these significant and growing piracy challenges in Taiwan, IIPA and its members strongly encourage Taiwan to take the priority actions identified below.

- **Ensure criminal authorities investigate and prosecute more online piracy cases and seek deterrent-level punishment against commercial piracy operations.**

The past few years have seen several criminal piracy enforcement cases conclude with meaningful penalties, but these have been insufficient in stemming growing piracy concerns. For example, in September 2023, the Taiwan Police seized over 1000 *SVICLOUD* piracy devices and arrested seven suspects working in the piracy operation. In

[3] The most popular stream-ripping site was backupmp3.com which allows the unlicensed downloads of audio and video content from YouTube. In the last 12 months (November 2024 to October 2025) the site received over 99% of its traffic from Taiwan with the site receiving over to 20 million visits from Taiwan during this time.

[4] Piracy Devices (PDs) refer to media boxes, set-top boxes, or other devices and their corresponding apps and services. Mostly originating from China, PDs are available throughout Taiwan, including at so-called "3C" shops, and via online retailers, and facilitate unauthorized streaming of motion pictures and television content through apps that direct users to pirated content. These devices often contain, or can connect to, a hard disk to store the downloaded content and may have an SD card slot, which helps novices connect to foreign piracy sites. More than 30 different brands of such devices are now available in the marketplaces in Taiwan. Manufacturers of popular PDs in Taiwan include *Unblock Tech*, *EVPAD*, and *SVI Cloud*.

[5] Infringing CDs and USB drives containing unauthorized copies of Taiwanese sound recordings (often together with Chinese and international repertoire) are commonly sold on online stores, including via Chinese e-Commerce platforms such as *Pinduoduo* and *Taobao as well as* Taiwanese local e-Commerce platforms such as *Shopee, Ruten and Yahoo*.

February 2024, after more than three years since a criminal referral was brought against the piracy service *gimy* in December 2020, the Taipei District Court sentenced its primary operator to 26 months in prison, the site's programmer to 22 months, and two of its operators to 18 and 12 months, though the Court did not seize the operators' gains. However, despite the conviction against the operators of *gimy*, the court also did not seize the domains, which allowed the piracy service to remain operational. IIPA hopes to see the Taiwanese Courts recognize that domain seizures are crucial and necessary to the permanent takedown of notorious piracy streaming services in Taiwan. However, although *gimyTV's* main domain, *gimy.ai,* and related sites, such as *gimy.tube* and *gimy.is* were blocked, new domains remain operational as of this report.

Enforcement authorities have also recently been more proactive in combating piracy websites when the operations have a clear nexus to Taiwan. For example, in April 2023, the Taoyuan District Court sentenced two operators of the piracy website *8maple* (domains including *8drama.com*; *8maple.ru*; *fenglin.to*; *eyny.tv*) to 18 months in prison and confiscated illicit gains of approximately US$1,946,000. Unfortunately, similar enforcement efforts are not undertaken when piracy operators or operations are located overseas.

While these actions and penalties should certainly be commended, the Government of Taiwan should take the following steps to improve the scale and efficiency of processes to deter the widespread and commercial-scale piracy taking place in Taiwan:

- Reduce the timeline for criminal processes; at present, the processes are lengthy, which means that piracy websites can continue operating while cases go through the courts (including appeals).
- Mitigate or remove entirely burdensome procedural requirements, which introduce unnecessary complexity and delays to an already lengthy criminal referral process. For example, notarized and legalized powers of attorney continue to be required for the filing of each individual criminal referral and in each court, meaning the same power of attorney used in the first instance trial court is not sufficient when the same case goes on appeal. Taiwan does not apply the best practice of abolishing reliance on apostilles, which adds unnecessary time to enforcement.
- Prioritize content piracy cases, including those involving PDs and apps. Enforcement authorities (including the Intellectual Property Rights (IPR) Investigation Corps in the Criminal Investigation Bureau (CIB), the Telecommunication Police Brigade (TPB), and the Criminal Investigation Brigade (CIBr)) should employ the amended laws to their maximum extent to seek deterrent-level punishment against commercial piracy operations.
- Take deterrent action against persons who facilitate stream ripping (i.e., the app developer or website operator) which infringe on the reproduction or making available rights and often unlawfully circumvent technological protection measures (TPMs). This can be challenging as many of these persons are unknown or not located in Taiwan.
- Consistently implement Articles 87 and 93 of the Copyright Act that provide a clear legal basis for enforcement against the dissemination of piracy apps and the manufacture and trafficking of PDs and piracy apps, as well as against resellers of devices that do not have piracy software or apps pre-loaded (but that are well equipped by the manufacturer or by middleware providers to install illicit software or apps), as implementation continues to be lacking and inconsistent.
- Seek unsuspended sentences (not probationary) to maximize the deterrent effect of prison terms.

Unless the Government of Taiwan takes these steps to address piracy sites and services, Taiwan will continue to become an outlier in Asia, as more governments in the region (and elsewhere in the world) are taking active steps to address rampant and evolving online and mobile piracy.

- **Confirm existing laws ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights**

holders' applications to appropriate authorities, including those hosted outside of Taiwan or where the operator is unknown.

Taiwan's consumers often obtain pirated content from overseas websites. Unfortunately, Taiwan's legal framework to address overseas infringements remains inadequate. Taiwan's legal system does offer a mechanism for the Taiwan Network Information Center (TWNIC) to order ISPs to disable access to structurally infringing websites on a no-fault basis. This "Response Policy Zone" (RPZ) mechanism is not limited to copyright (or other IP) infringement thus, various rights holders have employed it in the past few years, and to date, 91 piracy domains have been blocked as a result. Unfortunately, this existing mechanism still falls short. First, an investigation report must be filed with the Criminal Investigation Bureau for each site (which may span multiple domains), and the bureau then reviews the matter and passes it along to prosecutors. Prosecutors then seek an order at court for the RPZ to be deployed to seize the instruments of infringement, in this case, the domains, so that violations of copyright will cease pending further investigation. Rights holders have used the RPZ to block domains on various occasions with positive effect, and a further benefit of RPZ blocking is that many ISPs deploy a landing page to inform users of the court action and help them migrate to legitimate alternatives.[6]

While the Taiwan government (both the courts and the Executive Yuan) has indicated to rights holders that the RPZ process constitutes an effective mechanism and has encouraged rights holders to make broader usage of it, the RPZ may not be the ideal permanent solution. First, the current remedy available to disable access to such sites (i) can only be initiated via a criminal process, which can lead to delays (and the onward criminal process can be incredibly lengthy); (ii) is entirely discretionary and the duration for which access is disabled is dependent on a number of factors and may be shortened if the criminal investigation is halted; and (iii) even when implemented, access is disabled only in relation to the specific defendant domains identified, i.e., there has been to date no dynamic impact. In discussions between Taiwanese government officials, rights holders, and ISPs, ISPs indicated that they are generally sympathetic to the need to better address the growing illicit behavior on platforms, the platforms maintained the position that they will not act unless directed by the government or ordered by courts. The courts have indicated a test case could be brought under the current laws, and might result in a site blocking order, however, there are limitations on how long such an order could remain in place if a defendant cannot be located in Taiwan.

Therefore, that rights holders need a remedy, either by fully implementing and streamlining existing legislation or by passing additional legislation, to ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities, including those hosted outside of Taiwan or where the operator is unknown.

LEGAL REFORMS

- **Enact legislation to address the gaps under the amended Copyright Act to provide effective relief for copyright infringement.**

There have been no relevant reforms or proposals to Taiwan's Copyright Act (since 2013) capable of improving copyright protection and enforcement. The legislative proposals that have been tabled by the government in recent years and those that have been enacted (various Copyright amendment bills and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) Implementation Law) actually lean in the opposite direction.[7] Such proposals include reducing the scope of substantive copyright protection and undermining certain aspects of criminal copyright liability. Thus, there have been no recent signs that the government is serious about

[6] For example, in March 2021, eight domains associated with the *gimy* piracy syndicate were blocked, in September 2025, eight domains in the *Yogurt TV* criminal case were blocked, and in October 2025, fourteen *KissKH* piracy domains were blocked.
[7] The Copyright Amendments passed in May 2022 are part of Taiwan's effort to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) free trade agreement. The Amendments will come into force if Taiwan joins the CPTPP.

tackling online copyright infringements and improving the situation for the creative industries in Taiwan. Nonetheless, Taiwan should pass meaningful copyright amendments that include the following:

- ensure the ISP liability framework incentivizes intermediaries to act against online piracy and that safe harbors apply only to passive and neutral intermediaries that do not contribute to infringing activities; such intermediaries should fulfill certain conditions, including adoption of a repeat infringer policy, with a requirement for marketplaces and encouragement for all ISPs to institute "know your business customer" (KYBC) policies; and that, upon obtaining knowledge of infringement (including a notice) or otherwise becoming aware of circumstances of which the infringement is apparent, intermediaries should promptly take steps to limit, stop, and prevent further infringement, including expeditious takedown of infringing content and other measures demonstrated effective in preventing or restraining infringement;

- expressly include IP infringement as a basis for mechanisms that ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities, including those hosted outside of Taiwan or where the operator is unknown;

- clarify that the list of acts setting out "an infringement of copyright" is non-exhaustive to allow the provision to be applied to modern types of infringement, such as stream ripping;

- revise Article 87 to remove the condition that violators must "receive benefit" from their actions, since in some cases the "benefit" may be indirect and difficult to prove. Currently, the requirement to prove the offender's knowledge that the broadcast or transmitted content infringed copyright may make this provision unenforceable when the content is licensed to broadcast or transmit in a specific territory but then broadcasted or transmitted beyond the licensed territory;

- classify all criminal copyright infringement, including Internet piracy, as "public crimes" (that is, a crime capable of ex officio enforcement), which would be an effective deterrent and would benefit all rights holders, including those who cannot afford to pursue civil enforcement actions;

- extend the term of protection for copyrighted works, including sound recordings and audiovisual works, in line with the international trend, i.e., to 70 years after the death of the author, 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;

- clarify that it is a criminal offense to engage in unauthorized camcording of motion pictures in movie theaters or of live musical performances;[8]

- ensure sound recordings are treated the same as literary, musical, and dramatic or choreographic works, including but not limited to providing producers and performers exclusive (rather than mere remuneration) rights for public performance and retransmissions of sound recordings;

- ensure future amendments do not reduce criminal liability standards (e.g., requiring participation in CMOs as a prerequisite for criminal enforcement, limiting infringement to a "whole" work requirement, setting a high minimum damage threshold, exempting a broad range of uses of copyright works from criminal liability, and removing the minimum prison sentence of six months for making and distributing infringing copies);[9] and

[8] The music industry reports that infringement through camcording live concerts is increasing.

[9] The draft mandates that rights holders participate in a CMO to benefit from criminal enforcement against some infringing re-broadcasts or public communications, which impinges on the contractual freedom of creators and raises serious questions of TRIPS compliance. Parallel imports should not be decriminalized, because the government needs appropriate means to address the fact that many piratical imports are labeled as legitimate goods, which undermines Taiwan's legitimate marketplace. Also, the exemptions from criminal liability set forth in Article 37 are too broad, covering, for example, exploitation of digitized karaoke machines or jukeboxes, which contain reproductions of musical works for public performance and re-transmission.

- ensure the three-step test explicitly applies to all exceptions and limitations, including exceptions and limitations enacted if Taiwan joins the CPTPP.

- **Ensure the adequacy of civil remedies by enhancing Article 88 of the Copyright Act to remove the restrictive language on calculating damages.**

Civil damages in Taiwan for copyright infringement are currently inadequate. Article 88 of the Copyright Act includes restrictive language on calculating damages and limits damages to roughly US$31,787 in cases where actual damages cannot be clearly determined. Due to the nature of most copyright piracy in a digital context, actual damages cannot typically be clearly determined, which is why the United States has deterrent-level statutory damages. Article 88 should be enhanced by removing the limits and restrictive language. Additionally, the damage threshold is far too high and does not address goods that have a low market price. The damage threshold should be applied on a per infringement basis and reconsideration of a reasonable minimum damage threshold is needed.

- **Address shortcomings in amendments to the CMO Act.**

In 2022, Taiwan amended its CMO Act. The Act still presents shortcomings, however, that affect the establishment of new CMOs and their governance. For example, Article 4 includes the obligation for half of the promoters of a new CMO to be residents in Taiwan and creates obstacles for rights holders' associations and current members of a CMO to be promoters of a new CMO. Moreover, Article 15 creates term limits for management-level positions and internal controls that are difficult to apply to CMOs in which a reduced number of rights holders hold significant shares of the market. Additionally, Article 6-1 prevents a current member of a CMO from being a promoter of a new CMO. This generates an obstacle to the creation of a competing CMO for the same category of rights, as rights holders that are not satisfied with the service being provided by the incumbent CMO would have to leave said CMO before applying for a permit for a new CMO.

Taiwan should also consider amending the CMO Act to address the practical issue of royalty rate setting by CMOs. Article 24(1) requires CMOs to consider "[t]he result of consultations with the users, and the users' suggestions," but is effectively only reported to the copyright authority (TIPO) after a general public consultation period, rather than being open for dispute and/or review by TIPO prior to its publication. There is a need to ensure greater engagement between CMOs and their users prior to the publication of any new rates. For example, Article 24 could be amended to require TIPO review and approve any changes to CMO royalty rates rather than having them automatically take effect at the end of the 30-day announcement period. Until these concerns are remedied, there is little opportunity for free-market licensing negotiations between rights holders and users of collectively managed music rights.

- **Comply with the requirements of the WIPO Internet Treaties irrespective of formal accession.**

While it may be politically impossible for Taiwan to officially join the WIPO Internet Treaties, Taiwan should nonetheless adopt a legal framework that provides adequate and effective protections for creative works in the Internet age, including meeting the requirements of the treaties, which provide the global minimum standard of protection for copyrighted works online.

- **Ensure that any potential OTT regulations or any regulations on intermediary platforms do not disincentivize foreign investment.**

The National Communications Commission (NCC) continues to actively consider a draft "legal framework" for the revised Internet Audiovisual Services Act (IAVSA) initially raised in 2020. The "framework" for the IAVSA would obligate foreign OTT and VOD service providers to register with the NCC, appoint a local agent, comply with a content regulation system that is potentially inconsistent with international standards, and potentially disclose sensitive

commercial information. The draft also proposes local content obligations and associated penalties for noncompliance. The full revised draft of the IAVSA (based on the framework) has not been publicly released.

Unfortunately, some local stakeholders have pointed to the significant problem of piracy originating outside of Taiwan (as discussed above) to advocate for local registration requirements. Local registration requirements would discriminate against legitimate services and be ineffective against the problem of illicit piracy services located outside of Taiwan that target the Taiwanese market. As noted above, there are other remedies that would effectively address this problem.

Additionally, a Digital Intermediary Services Act (DISA) put forward by the NCC, which focuses on regulating platform accountability, illegal content, transparency, and disclosing business information and service terms to protect users' rights, was met with widespread disapproval from stakeholders and was shelved in September 2022. The issues of greatest concern were the breadth of definitions, remedies proposed with respect to certain intermediaries (particularly with respect to online content regulation), and disclosure of sensitive commercial information. To date, the draft remains shelved, although IIPA understands the DISA itself remains under active consideration.

MARKET ACCESS

- **Eliminate market access barriers to U.S. audiovisual content, including investment, the basic cable rate cap, and discriminatory television content quotas.**

The Cable Radio and Television Law limits foreign direct investment (FDI) in a domestic cable television service to 20% of the operator's total issued shares. FDI in satellite television broadcasting services is also restricted to no more than 50%. In 1990, Taiwan set a rate cap for cable TV service of NT600 (US$20) per month per household, which has never been adjusted to keep up with inflation. Other restrictions on television services include a mandatory carriage requirement of 90 -100 channels in the basic cable package and, for all Internet Protocol TV (IPTV) offerings above the basic level cable TV services, only *à la carte* pricing is allowed. Such investment restrictions and rigid regulations of retail cable rates by the central and local government have hindered the development of the cable TV industry, satellite operators, and content providers, resulting in at least one major channel provider announcing their exit from the market in 2023.

In January 2017, the NCC issued regulations that included significant local content requirements that limit the broadcasting of U.S. audiovisual content on terrestrial and satellite television.[10] These discriminatory conditions limit consumer choice, undermine the growth of the pay-TV sector in Taiwan, restrict U.S. exports, and should be repealed.

[10] The Administrative Regulation for the Terrestrial TV Stations Broadcasting Local Production Programs and the Administrative Regulation for the Satellite TV Channels Broadcasting Local Production Programs require terrestrial TV stations to broadcast at least 50% of locally produced dramas between 8 pm and 10 pm and local satellite TV channels to broadcast at least 25% of locally produced children's programs between 5 pm and 7 pm and at least 25% of locally produced drama, documentaries, and variety programs between 8 pm and 10 pm. These regulations require 40% of these locally produced programs to be new productions. Furthermore, cable TV services must broadcast at least 20% of local programming.

THAILAND

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Thailand remain on the Watch List in 2026.[1]

Executive Summary: The Royal Thai government continues to struggle to systematically combat piracy, although efforts to disable access to top piracy sites through court orders have borne fruit in 2025, leading to the blocking of some major piracy websites in Thailand. Unfortunately, pirate operators have moved faster than the authorities, quickly hopping to new domains, requiring more to be done to streamline and accelerate the process. Though rights holder collaboration with the Economic Crime Suppression Division of the Royal Thai Police has yielded some positive results, after initial enforcement actions, outcomes against piracy remain largely non-deterrent. As such, piracy overall remains a serious problem and hinders the growth of the legitimate copyright industries in Thailand. After officially acceding to the WIPO Copyright Treaty (WCT) in 2022, the government is now reviewing proposed amendments to the Copyright Act to meet the requirements of the WIPO Performances and Phonograms Treaty (WPPT) with the goal of joining the treaty in 2026. IIPA urges the Government of Thailand to take advantage of this opportunity and the opportunity presented by the European Union (EU)-Thai Free Trade Agreement (FTA) negotiations to make necessary improvements to Thailand's legislative and enforcement framework, including enhancing injunctive relief under the Copyright Law to address online infringement more effectively. At the same time, Thailand should avoid introducing other measures that are inconsistent with international standards and best practices. It is critical for the government to avoid implementing unrelated concepts into the Copyright Act as part of the accession process. The Royal Thai government should also remove market access barriers that negatively impact the creative industries.

PRIORITY ACTIONS REQUESTED IN 2026

Enforcement

- Ensure enforcement officials increase the number of enforcement actions against commercial-scale digital piracy services and, critically, bring criminal prosecutions through to convictions.
- Speed up the criminal prosecution process, which remains excessively lengthy and lacks transparency, against commercial-scale piracy websites and ensure cases move expeditiously to trial and result in deterrent sentences.
- Improve the speed of obtaining and implementing CCA Section 20(3) orders, including dynamic applications, by shortening the timeframe from application to issuance of "dynamic" blocking letters to address domain hopping.
- Encourage e-commerce platforms to implement effective measures to prevent distribution of infringing physical goods, including measures to more effectively address repeat infringers.
- Act against rogue collective management organizations (CMOs) and promote best practices in collective management.

Legal Reforms

- Introduce legal reforms, including further amendments to the Copyright Act, to address several critical issues (e.g., providing injunctive relief, making IP infringement non-compoundable, improving the Internet service provider (ISP) liability framework to properly incentivize cooperation to address piracy, improving protections for technological protection measures (TPMs) and rights management information (RMI), combatting theatrical camcording, improving CMO registration criteria and oversight, narrowing broad copyright exceptions, and extending the term of copyright protection) to improve Thailand's copyright protection and enforcement framework, and refrain from introducing measures that are inconsistent with international standards and best practices.

[1] For more details on Thailand's Special 301 history, see previous years' reports, at https://iipa.org/reports/reports-by-country/. For the history of Thailand's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

- Ensure that the WPPT implementation is consistent with the requirements of the treaty, including by ensuring that economic rights to performers are afforded only to those performances fixed in sound recordings and not in other fixations.

Market Access

- Remove market access restrictions negatively impacting the creative industries, such as foreign ownership and censorship restrictions, screen quotas, television must-carry requirements, and over-the-top (OTT)/video-on-demand (VOD) regulations.

ENFORCEMENT

- **Ensure enforcement officials increase the number of enforcement actions against commercial-scale digital piracy services and, critically, bring criminal prosecutions through to convictions.**

Both U.S. producers and distributors, as well as local Thai producers and services, are harmed by online piracy services, which specifically target Thai users with Thai-language sites.[2] Streaming unauthorized content is the most popular form of piracy, whether through streaming websites, apps, piracy devices, circumvention devices or software, or even through social media. Many websites serve as portals that allow users to download apps that provide access to pirated content, including the latest theatrical run motion pictures, television content, sporting events, and live streamed pay-per-view events and concerts. Many piracy websites have become lucrative platforms for advertising gambling services, and operators often use cryptocurrency and mule accounts, which make it difficult for authorities to track payments and uncover operators' identities.

BitTorrent indexing and tracker sites, cyberlockers, and BBS/forums also remain problematic. The popularity of peer-to-peer (P2P) networks and domestic BitTorrent sites are also significant piracy concerns. In February 2024, the Royal Thai Police Economic Crimes Division (ECD), with support from the Alliance for Creativity and Entertainment (ACE), raided and took down *Siambit.me*, the largest torrent tracker site in Thailand with an average of 5.5 million monthly visits. However, another torrent website, *Bearbit*, quickly took its place. The operators have continued to evade enforcement efforts, with the newest domain, *Bearbit.org*, receiving 42.57 million visits between January and October 2025. Internet-protocol television (IPTV) services also remain a major concern. *MYIPTV4K*, a notorious pirate IPTV service offering subscription-based access to a large library of live TV streams, continues to remain popular in the region, with multiple listings on various e-commerce platforms.

In Q2 2024, the top three stream-ripping sites were *SSYouTube.com* (3.2 million visits from Thailand), *savefrom.net* (1.5 million visits), and *Y2meta.app* (1.3 million visits). Unlicensed mobile apps such as Musi are also popular. Some of these services have been subject to website blocking orders or other litigation in some jurisdictions, yet no action has been taken in Thailand. Cyberlockers such as *Mega.nz* and *4shared.com* that egregiously or primarily facilitate access to infringing materials also remain a problem in Thailand. Illegal apps on smartphones are popular among Thai users seeking to access vast amounts of pirated content either for free or at a very low cost. These include apps for downloading infringing MP3 content. Increasingly, piracy websites are using content delivery networks and cloud services, making identification of website operators and server locations very difficult.

Cooperation over the past few years between industry, the Technology Crime Bureau, the Cyber Crime Investigation Bureau (CCIB), the ECD, and the Department of Special Investigations (DSI) has improved, resulting in some notable enforcement actions. In September 2025, DSI executed raids that resulted in the shutdown of *INWIPTV*, a major illegal IPTV piracy service, including seizure of broadcasting equipment, servers, financial records, and other

[2] Notwithstanding the expanding availability of legitimate services for music and audiovisual materials, increasing access to broadband Internet, particularly on mobile devices, has led to escalating piracy of recorded music, motion pictures, television and streaming content, video games, published materials, and broadcasts. Legitimate services in Thailand for content include iTunes, Google Play Store, Netflix, Disney+, Hotstar, Amazon Prime Video, HBO Go, Viu, WeTV, iQIYI, TrueID, Deezer, KKBox, Spotify, YouTube, and AIS, among others.

materials.[3] Also in September 2025, enforcement action was taken against several suspects linked to *Uplayhd.live* (and associated domains).[4] While the raids are a positive development, the cases that have been brought, including against *Siambit.me, 037hdmovie.com, 123-hd.com, 24-hd.com*, *i-moviehd.com*, and *Movie2free*, have been pending for long periods and have so far failed to result in deterrent outcomes against the pirate operators. Furthermore, the prosecution process is too slow, as discussed below. As a result, there have not been significant reductions in piracy or needed deterrence, and Thai-language piracy sites and services continue to operate largely with impunity, unfairly competing with legitimate rights holders.

- **Speed up the criminal prosecution process, which remains excessively lengthy and lacks transparency, against commercial-scale piracy websites and ensure cases move expeditiously to trial and result in deterrent sentences.**

Legitimate online services are harmed by the increasing threat from piracy services. It is thus imperative that Thai authorities prioritize and expedite the prosecution process, ensuring that pirate website operators face timely and appropriate legal ramifications. In particular, the Royal Thai government should swiftly prosecute commercial-scale streaming piracy sites and services, including the operators of *Movies2Free.com*, *i-moviehd.com*, *123-hd.com, 037hd*, *Siambit.me, 24-hd.com, New-hd.com*, and *Serie-day.com*. The need for a more efficient prosecution process is illustrated by the lack of progress in the case against *Movies2free,*[5] which was shut down by the DSI in November 2019. After the enforcement action, the DSI announced that the piracy site was one of the largest in Thailand and had been generating US$160,000 per month in advertising revenue alone.[6] However, six years later, the case still has not yet been heard before the Courts. In another example, the ECD executed a raid against the operators of *Siambit.me* in February 2024, but the case has not proceeded to prosecution more than a year later. These delays highlight the challenges in the current system, in which forensic procedures and the prosecution process can extend over several years, hindering the effectiveness of legal action against such piracy operations. A commitment to robust enforcement, timely prosecutions, and appropriate deterrent penalties are essential to curtail current levels of piracy in the country.

More substantial sentences are also necessary to deter pirates. For example, in May 2024, the Central Intellectual Property and International Trade (IPIT) Court issued a verdict against the operator of *We-Play.live*, imposing a fine of only 25,000 baht (~US$700) on the operator. Sentences handed down by Thai Courts remain woefully non-deterrent, as exemplified by the insufficient fine in the *We-Play.live case*. More needs to be done to ensure that criminal cases are resolved quickly and that the sentences are sufficient to deter operators from engaging in this criminal enterprise.

- **Improve the speed of obtaining and implementing CCA Section 20(3) orders, including dynamic applications, by shortening the timeframe from application to issuance of "dynamic" blocking letters to address domain hopping.**

In 2016, the Amendment to the CCA B.E. 2550 (2007), which entered into force in 2017, added IP infringement as a predicate crime in Section 20, permitting injunctive relief against ISPs to disable access to infringing websites. This was a promising reform, and as IIPA has reported, in 2024 rights holders working together achieved positive results, with the first-ever full website DNS blocking order against piracy sites *i-moviehd* and *imoviehds.* In 2025, the Royal Thai government issued blocking orders against most major piracy sites in the country. Certain IIPA members and local rights holders have successfully brought several actions resulting in court orders to disrupt access to notorious piracy sites like *123hd*, *24hd*, *037hd*, *i-moviehd*, *uflix*, *uplay*, *dooflix*, *320hd*, *series469*, *nungmovies*, *inwiptv*, *Serieday*,

[3] Over the prior 12 months, *INWIPTV* and its associated domains accumulated more than 4 million visits worldwide, with the majority of traffic originating from Thailand.
[4] The sites offered around 200 live channels, including sports, news, and local programming, as well as a video-on-demand (VOD) library of approximately 15,000 titles. Collectively, these domains attracted over 1.5 million global visits in the prior 12 months, with more than 99% of traffic coming from Thailand.
[5] *Movies2free* was the 15th most popular site in Thailand with 34 million visits in Q3 2019.
[6] See https://torrentfreak.com/police-shut-down-thailands-most-popular-pirate-site-following-hollywood-request-191108/

moviehdfree, *kubhd.com*, *movie2free*, and *baan-series*, among others. The results of these actions have been to reduce user visits to these pirate sites between 80-94%. Rights holders have further achieved removal of the sites from search results.

However, progress has been backsliding because the speed with which the government is acting upon additional requests to disable access to "hopped" domains has been too slow and needed paperwork to remove those sites from search results is not forthcoming, diminishing the impact of the blocking orders on the overall piracy ecosystem. There is hope that the process will become more effective because the government is working to automate systems for filing the cases in the first instance and for notifying ISPs of the need to block the "hopped" domains. The introduction of dynamic website blocking orders to prevent a blocked site immediately moving to another domain and being accessible again would significantly improve the effectiveness of these actions.[7] In addition, compliance remains an issue as many ISPs do not comply with court orders and the penalty provision for non-compliant ISPs is not enforced.[8] Rights holders also encourage the Royal Thai government to turn its attention to facilitating enforcement against other piracy sites, including stream-ripping sites. Overall, these cases should not only be handled with greater priority but should be combined with enforcement efforts as outlined above for the greatest deterrent impact.

- **Encourage e-commerce platforms to implement effective measures to prevent distribution of infringing physical goods, including measures to more effectively address repeat infringers.**

The distribution of infringing physical products, including counterfeit CDs, digital storage devices pre-loaded with infringing music content, and illegal streaming devices remains an issue on e-commerce platforms in Thailand. According to the Thai Entertainment Content Trade Association (TECA) report, the DIP took swift action against repeat infringers by cooperating with e-commerce platform *Shopee* within two days after TECA sent the report to DIP regarding music products that infringed the rights of its members. DIP has provided good support to TECA for a range of activities, including work on site blocking for stream-ripping sites, conducting anti-piracy workshops with TECA, assisting TECA and platforms with the Memorandum of Understanding on the Protection of Intellectual Property Rights (IPR) on the Internet, and working on repeat infringer and other infringement issues. However, repeat infringers are still able to distribute infringing products on various e-commerce platforms.

E-commerce platforms should implement effective measures to prevent the distribution of infringing products on their platforms, including by repeat infringers (including, for example, "Poohstudio1999", which manifested itself across several platforms and using several derivative names like "poohstudio1976"). Authorities should, *inter alia*, leverage the existing Memorandum of Understanding on the Protection of IPR on the Internet for meaningful action by e-commerce platforms.

- **Act against rogue CMOs and promote best practices in collective management.**

The absence of regulation of collective licensing, and the establishment and operations of CMOs has resulted in many "rogue" entities purporting to operate as CMOs in Thailand. As a result, fraudsters continue to exploit the market confusion and the lack of authoritative information. The number of CMOs in operation, and the problems that creates, has caused serious market disruption, directly harming rights holders (local and international) who struggle to have their performance rights effectively managed and enforced in Thailand, legitimate CMOs, as well as users in Thailand.

In response, the Government of Thailand published a consultation on August 20, 2025 on a Draft Royal Decree on Collection of Compensation for Use of Copyrighted Works and Performers' Rights, which would introduce Extended Collective Licensing (ECL). This is a disproportionate and unwarranted response. ECL provisions are only

[7] Dynamic website blocking orders are common in many jurisdictions including in the EU.

[8] ISPs can be subject to fines under Section 27 of the Computer Crime Act (Baht 200,000 / $6,400 and a further daily fine of Baht 5,000/$160) until the ISP complies with the relevant blocking order. According to the Thai Entertainment Content Trade Association (TECA), as of December 19, 2025, only six ISPs (AIS, DTAC, TRUE, NT, 3BB, SYMC) complied with website blocking court orders.

appropriate in specific situations where a CMO already represents most rights and rights holders, but a small minority of unrepresented rights holders or rights could result in a hold up. This is not the case in Thailand, where on the contrary, there is a thriving market of licensing opportunities. ECL in Thailand would represent a disproportionate infringement of the property rights of rights holders, potentially forcing them to enter collective management without their consent. The Royal Thai government should therefore abandon plans to introduce ECL and instead focus on promoting best practices in collective management, bringing stability and certainty to the sector.

LEGAL REFORMS

- **Introduce legal reforms, including further amendments to the Copyright Act, to address several critical issues (e.g., providing injunctive relief, making IP infringement non-compoundable, improving the ISP safe harbor framework, improving protections for technological protection measures (TPMs) and rights management information (RMI), combatting theatrical camcording, improving CMO registration criteria, narrowing overbroad copyright exceptions, and extending the term of copyright protection) to improve Thailand's copyright protection and enforcement framework, while avoiding the introduction of other measures that are inconsistent with international standards and best practices.**

On July 13, 2022, Thailand officially acceded to the WCT, effective October 13, 2022. After amending the Copyright Act in February 2022, the Government of Thailand undertook a review of the Copyright Act and consulted on an amendment bill to meet the requirements of the WPPT, with the goal of acceding to the treaty by the end of 2026. Despite feedback from rights holders, the proposed amendments remain broadly drafted, and in some important respects are not consistent with the WPPT. As discussed below, a significant concern is the proposal to grant economic rights to performers in performances that are fixed in any fixation, rather than limiting these rights to performances fixed in sound recordings, which is the obligation in the WPPT. The draft amendments also propose removing minimum penalties in the Act, which could result in non-deterrent penalties for copyright infringement. The proposal, if enacted, could send a troubling signal that copyright infringement does not have serious adverse economic impacts on rights holders, authors, and performers. The following are critical issues with the proposed amendments to the Copyright Act that should be addressed in subsequent drafts to ensure that the Royal Thai government achieves its stated goals of modernizing its copyright law, complying with its international obligations, and fully implementing and adhering to the WCT and WPPT (collectively, the WIPO Internet Treaties).

- **Remuneration Rights**: Previous drafts of the proposed amendments had provided that a performers' remuneration right should be introduced for sound fixations in audiovisual works. Later revisions to the draft amendments appear to have stepped back on this, though IIPA's concerns regarding the potential inclusion of such remuneration rights remain. IIPA maintains that such remuneration rights are inconsistent with international copyright agreements and fundamentally out of step with law and practice in markets around the world, including the United States. International norms, as set forth in the Berne Convention, the WTO TRIPS Agreement, the WIPO Internet Treaties, and the Beijing Treaty, support the individual exercise of exclusive rights.

- **Injunctive Relief:** To improve the effectiveness of enforcement against online copyright piracy, the draft amendments should provide mechanisms that ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities (analogous to the CCA remedy, which applies to all IP crimes). The current FTA negotiations between the EU and the Royal Thai Kingdom present a good opportunity to agree to disciplines in this area, since the EU proposal includes language based on Article 8.3 of the Information Society Directive of the EU, providing for the possibility of "an injunction against intermediaries whose services are used by a third party to infringe an intellectual property right."

- **Infringement a Non-Compoundable Offense:** IIPA urges the Royal Thai government to amend the Copyright Act to ensure that IP infringement becomes a non-compoundable state offense, thus enabling the police to act on

their own initiative (i.e., *ex officio*) without any requirement of a formal complaint from rights holders. In the age of online piracy, this ability for authorities to take ownership of investigations and cases is critically important.[9]

- **Service Provider Liability Amendments:** The 2022 amendments to the Act included helpful improvements to the intermediary liability framework, such as requiring an effective notice-and-takedown mechanism and repeat infringer policies. Nevertheless, further improvements are still needed. First, as noted above, in line with the text being negotiated with the EU, the government should establish the possibility of "an injunction against intermediaries whose services are used by a third party to infringe an intellectual property right." Second, and relatedly, the law should clearly establish an initial basis for liability of online service providers for infringements carried out by third parties using their services. This secondary liability provides legal incentives for online service providers to cooperate with rights holders to deter the unauthorized storage and transmission of copyrighted materials on their services. Without a clear basis for secondary liability, safe harbors (granting exemptions for such liability) would be unnecessary. Third, the eligibility criteria for safe harbors should be clarified to ensure that appropriate repeat infringer policies are an additional condition for safe harbor eligibility rather than an exemption to liability. Finally, the eligibility criteria for safe harbors from liability should include, in addition to the notice-and-takedown requirement, a requirement for ISPs to implement other measures dem
- onstrated effective in preventing or restraining infringement and conditions that the service provider does not have actual or constructive knowledge of the infringing content and does not receive a financial benefit directly attributable to the infringing activity.

- **TPMs:** TPMs are critical for the success of digital services, including those that provide legal content to users in Thailand today, and should be protected. The 2022 amendments and related implementing regulations made several improvements to TPMs protections in Thailand, including prohibiting acts of circumvention of TPMs and trafficking in circumvention technologies, devices, components, and services (e.g., enabling actions against stream-ripping websites or other such services). IIPA requests the government issue further regulations or guidelines on the provisions for TPMs to clarify that providing for the service, promotion, manufacture, sale, or distribution of piracy devices and applications/software/add-ons available thereon violate TPMs protections.[10]

  Additionally, while Thai law contains provisions that prevent the circumvention of TPMs that are applied to protect the copyright in digital works, the law deviates from international norms because it allows only the owner of the TPM to bring an action under the provision. International best practice is that TPMs are applied to a copyrighted work for the benefit of the copyright owner, and the copyright owner (or any other injured person) has the right to bring an action for the circumvention of these TPMs. Thailand must clarify its law on TPMs to allow a copyright owner to bring such an action in situations where TPMs were applied on its behalf.

- **RMI:** Exceptions to protections for RMI are over broad and should be narrowed. For example, the blanket exclusion of educational institutions, archives, libraries, and non-profit broadcasting organizations from violations of the RMI protections is inappropriate and unjustified.

- **Theatrical Camcording Provision Should Be Revised:** Thailand enacted anti-camcording legislation in 2014. However, the anti-camcording provision falls short because it requires a link between the act of theatrical camcording and a copyright infringement, instead of criminalizing the camcording act itself.[11] Criminalizing the act of camcording, including audio-only captures, without requiring a link to copyright infringement, would empower

[9] In May 2022, the Supreme Court of India held that offenses under Section 63 of the Copyright Act, 1957 are cognizable and non-bailable offences. *M/s Knit Pro International v The State of NCT of Delhi & Anr.*, CRIMINAL APPEAL NO. 807 of 2022, Sup. Ct. India, May 20, 2022. Thailand should follow India's lead on this issue to fully modernize its system and provide the tools necessary to tackle online piracy.

[10] Piracy devices include media boxes, set-top boxes, or other devices that allow users, through the use of installed piracy apps and software, to stream, download, or otherwise access unauthorized content from the Internet. Such devices are still being purchased in malls and on e-commerce websites but are rarely sold with pre-installed infringing applications, making enforcement action and takedowns more challenging.

[11] Thailand continues to represent a potential risk for illicit theatrical camcording, particularly in relation to illegal Thai audio tracks. A large number of Thai audio files are still being made and subsequently edited onto illicit movie versions. If effectively implemented, the Copyright Act provision that deems camcording an infringement of copyright could help, but this provision should be strengthened to adequately address the problem.

law enforcement to intercept illegal recordings before they enter the online pirate ecosystem. These provisions should be revised to ensure that the possession of an audiovisual recording device in an exhibition facility with the intent to copy or transmit a whole or part of an audiovisual work (including the video, the soundtrack, or both) is prohibited, and that exhibition facilities are given standing to bring complaints. Those engaging in the act proscribed should be subject to interdiction by cinema employees and the police, immediate seizure and forfeiture of the equipment used and any unlawful copies made, as well as civil and criminal penalties.

- **Collective Management Provisions:** As noted above, the Government of Thailand should abandon plans to introduce ECL and instead focus on promoting best practices in collective management, bringing stability and certainty to the sector. Moreover, any regulation on collective management should not be extended to apply to rights over audiovisual productions and should not affect the audiovisual market built on direct licenses.

- **Exception for the Visually, Hearing, Intellectually, or Learning Impaired:** Copyright Act Number 4 B.E.2561 (2018) was published in November 2018 and entered into force in March 2019. The Act permits persons with disabilities who cannot access a copyrighted work due to impairment in vision, hearing, movement, intellect or learning, or other deficiencies to have equal opportunities to other persons to access, make copies, modify, or distribute the copyrighted work. DIP has issued a Ministerial Regulation on the details of authorized or recognized entities that may provide accessible format copies and how such copies may be distributed. However, the Thai exception goes well beyond the mandate of The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which creates a limitation and exception for the benefit of the blind, visually impaired, and otherwise print disabled. That exception is mandatory for individual WIPO members that ratify the Treaty. From the music industry's perspective, in accordance with the Marrakesh Treaty, sound recordings should not be covered by the exception at all. In the alternative, the exception should be properly defined and restricted in scope to apply solely to specific acts regarding specific works for the benefit of specific individuals, with adequate safeguards, and with equitable remuneration payable to rights holders. This exception should be amended or implemented in such a way to faithfully implement the Marrakesh Treaty and not conflict with the "three-step test" of the Berne Convention, WTO TRIPS Agreement, and WIPO Internet Treaties.

- **Inadequate Term of Protection:** Thailand should extend its term of copyright protection to align it with the international trend of 70 years after the death of the author, or, in cases in which term is calculated based on publication (such as sound recordings), to at least 70 years from publication. Unfortunately, the most recent amendments to the Copyright Act did not change the term of protection, which remains at 50 years. In the case of sound recordings, there are now at least 73 countries worldwide that provide for a term of protection of 70 years or more. Thailand is encouraged to act quickly to catch up with the new international standard of protection, or risk adversely affecting the development of the Thai music market. Further, if the term of protection is not extended in time, some Thai classics from the 1970s—including the classics of Soontaraporn, Suraphol Sombatcharorn, and Paiboon Buth—will fall out of copyright protection, even though they are still widely consumed by the public. This will have a negative effect on local artists' income, especially those who have retired and rely on the royalties for a living.

- **Reversion of Rights:** The Amendment Act to the Copyright Act proposes to establish that rights in public performances of sound recordings that are transferred under sale agreements shall revert to the performers after five years. This would force record companies to renegotiate with performers every five years, creating a highly complex database of remuneration agreements (as some performers would possibly withdraw their consent, some will allow it to lapse), and require CMOs to track in much more finite detail the correctness of this database to ensure accurate distributions. The total increase in administrative costs would lead to a lesser pool of money to distribute to artists. Instead of proceeding with this change, the Government of Thailand should focus on educating artists so that they can make informed decisions about their rights and freely negotiate according to their own circumstances.

- **Penalties:** The Government of Thailand is proposing to remove the minimum penalty rate for infringement of copyright. The WPPT requires a deterrent and effective set of criminal penalties. Rather than remove the minimum penalty rate, the government should reduce the minimum penalty rate and introduce a first-time waiver section, or instead retain minimum penalties for repeat infringers only. At the same time, the Government of Thailand is considering making non-payment of the remuneration to performers by producers of sound recordings an infringement of copyright. This would be disproportionate and contrary to global standards.

- **Ensure that the WPPT implementation is consistent with the requirements of the treaty, including by ensuring that economic rights to performers are afforded only to those performances fixed in sound recordings and not in other fixations.**

The proposed amendments discussed above also provide for new additional rights for performers; however, the subject matter is not defined or determined. These new economic rights vest in performances that have been "fixed in fixations," and "fixations" are not defined. Such an expansion is not necessary for alignment with the WPPT and may create significant challenges in the practical application of rights within the audiovisual industry. The scope of the proposed new performers' protection exceeds WPPT requirements and aligns more closely with protections under the Beijing Treaty on Audiovisual Performances, which grants performers exclusive rights in performances fixed in audiovisual media, a treaty to which Thailand is not yet a party.[12] It is important that the scope of performers' rights instead strictly reflects and is aligned with the provisions of the WPPT to ensure clarity and consistency in the application of the law. The current outcome does not align with the purpose of the proposed amendment, i.e. proper implementation of the WPPT.

MARKET ACCESS

- **Remove market access restrictions negatively impacting the creative industries, such as foreign ownership and censorship restrictions, screen quotas, television must-carry requirements, and over-the-top (OTT)/video-on-demand (VOD) regulations.**

Foreign Ownership Restrictions: Foreign ownership of terrestrial broadcast networks is prohibited in Thailand. Further, rules established in 2015 require National Broadcasting and Telecommunications Commission (NBTC) approval when a television license holder seeks to either invest more than 25% directly or more than 50% indirectly in another licensed company. This rule severely limits investment and creates significant barriers to entry for U.S. companies.

Screen Quota: Section 9(5) of the Motion Picture and Video Act (MPVA) allows the Film Board to establish ratios and quotas for foreign films. If implemented, such restrictions would create new barriers and reduce consumer choice. In August 2024 the Ministry of Culture (MOC) proposed replacing the MPVA with a new Film Law; the latest draft, last publicly disseminated in May 2025, helpfully removes the screen quota. IIPA strongly encourages the Thai government to remove the screen quota in the final Film Law, which will now need to be approved by the new Cabinet following Thailand's general elections expected in Q1 2026.

Screening Requirements: The Department of Cultural Promotion (DCP), under MOC, is strictly enforcing approval requirements for all film screenings. According to Section 25 of the current Film and Video Act B.E. 2551 (2008), all films screened in cinemas must have a rating certification and license number from the DCP. A key challenge is the requirement to submit the full script, complicating the approval process.

[12] See Art. 7 – 10 of the Beijing Treaty on Audiovisual Performances.

Censorship Restrictions: The MPVA imposes onerous classification and censorship requirements on films. Thailand should remove these onerous requirements, including the 15-day period for obtaining ratings and censorship approval, the associated high costs for film ratings, and the severe penalties for failure to comply. The proposed new Film Law would implement self-regulation for theatrical and OTT/VOD releases, and IIPA is continuing to actively monitor the progress of this draft Law, which will now need to be approved by the new Cabinet following Thailand's general elections expected in Q1 2026.

Broadcasting Regulatory Environment License Renewal Uncertainty: Domestic free-to-air broadcasters face significant uncertainty as all Digital TV licenses reportedly expire in 2029 and the NBTC has not yet provided a transparent renewal framework. This ambiguity is already suppressing licensing spending and freezing investment decisions, which in turn constrains market access for rights holders and undermines planning for lawful distribution. IIPA urges Thai authorities to provide transparent, timely guidance to stabilize the broadcast and streaming ecosystem and support lawful market access for rights holders.

Television Must-Carry Requirements: There has been some media reporting suggesting the 2012 "must carry" rules—which require that the programs aired on free-TV be broadcast on any platforms (including satellite and IPTV) without conditions—may be reversed by the NBTC. Until this is done, the regulations raise important IPR issues, precluding the ability of rights holders to enter exclusive distribution arrangements in Thailand.

OTT/VOD Regulation: Various government agencies, including the NBTC, have publicly noted their interest in regulating OTT services. Adding to the regulatory uncertainty, in 2025 NBTC consultations have floated licensing constructs for OTT/VOD, including the possibility of requiring streaming operators to set up a local presence to respond to government requests around content that the government finds objectionable (a form of mandatory content moderation) as well as to "promote" local content via local content investment obligations. These regulations, if enacted, would limit consumer choice, stifle business development, and add further burdensome barriers to market entry.

COMPLIANCE WITH EXISTING OBLIGATIONS TO THE UNITED STATES

Many of the deficiencies in Thailand's enforcement framework described above—including inadequate efforts to combat piracy, burdensome and inefficient civil and criminal procedures, and inadequate and non-deterrent civil and criminal remedies—run afoul of Thailand's obligations under the WTO TRIPS Agreement enforcement provisions, including Articles 41, 42, 45, and 61.

URUGUAY

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2026 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: IIPA recommends that Uruguay be placed on the Watch List 2026.[1]

Executive Summary: In November 2023, the Uruguayan Copyright Act was amended to introduce an unwaivable right to a "fair and equitable" remuneration for performers. The right extended to the communication and making available to the public of phonograms and recordings of musical works in audiovisual works. The drafters of this unclear amendment did not consult rights holders in the audiovisual and music industries nor the Uruguayan Copyright Council. Subsequently, the Executive Branch of the Uruguayan government published Decree No. 404/23 (Decree) clarifying digital service providers (DSPs) and user-generated content (UGC) platforms were not required to pay the new performers' remuneration. Unfortunately, the same Decree contained additional ambiguous provisions with potentially disruptive effects on the audiovisual sector, including statutory remuneration rights for audiovisual authors that are inconsistent with provisions of the Copyright Act. Further clarification is necessary to ensure that creative industry stakeholders are not harmed by the new law's conflict with the Decree.

PRIORITY ACTION REQUESTED IN 2026

Legal Reform

- The Government of Uruguay should (i) not repeal the Decree, as requested by the performers' collective management organization (CMO) *Sociedad Uruguaya de Artistas Interpretes*, known as "SUDEI" ; (ii) reaffirm that audiovisual authors' remuneration rights remain individually exercisable under Article 29 (2019 Law), avoiding any de facto override by the Decree; and (iii) issue interim guidance to prevent platform-level liability or duplicative claims while the government clarifies the statute.

LEGAL REFORM

- **The Government of Uruguay should (i) not repeal the Decree, as requested by the performers' CMO SUDEI; (ii) reaffirm that audiovisual authors' remuneration rights remain individually exercisable under Article 29 (2019 Law), avoiding any de facto override by the Decree; and (iii) issue interim guidance to prevent platform-level liability or duplicative claims while the government clarifies the statute**

In November 2023, the Uruguayan Copyright Act was amended to introduce an unwaivable right to a "fair and equitable" remuneration for performers for the communication and making available to the public of phonograms and recordings of musical works on audiovisual works. The amendment's language was unclear, and industry was concerned that the implementing regulation(s) would define the right as an unwaivable and untransferable right to an additional remuneration to be paid by DSPs. If the right were defined in this way, the local CMO would be able to make a claim on behalf of performers despite any contractual agreement the performer might have with a phonogram or audiovisual producer. Subsequently, Spotify threatened to leave the Uruguayan market. As a result, in December 2023, the Executive Branch published the Decree, which included a provision clarifying that the remuneration described in the copyright amendment should be paid by the phonogram producer that has a contractual arrangement with the performer. The Decree also contained a provision establishing that platforms will not be responsible for payment of any additional remuneration to performers. The Decree further established a Commission at the Ministry of Industries,

[1] For more details on Uruguay's Special 301 history, see previous years' reports at https://www.iipa.org/reports/reports-by-country/. For the history of Uruguay's Special 301 placement, see https://www.iipa.org/files/uploads/2026/01/Appendix-C-FINAL-2026.pdf.

Energy and Mining to facilitate communication between producers and performers. The Commission met in January 2024 but did not make any recommendations publicly.

SUDEI is actively pushing for the repeal of the implementing Decree. As part of their campaign, the CMO submitted a petition for an arbitration panel to be created, which was rejected by the Copyright Council. In its ruling, the Copyright Council helpfully confirmed that the Decree clearly establishes that any remuneration due to performers must be dealt with between the producer and the performer in the context of the contracts or arrangements existing among them. The Council also denied the intervention of CMOs in the matter and stated that record label trade associations and/or CMOs were not and should not be in possession of individual contractual information of deals between labels and performers.

Article 5 of the Decree also introduced a sweeping change in the management of existing remuneration rights for the benefit of audiovisual authors. Under Article 29 of the Law of 2019, scriptwriters and authors could assert these rights individually or via a CMO. A Decree cannot override legislation; nevertheless, the local author's CMO, Asociación General de Autores del Uruguay (General Association of Authors of Uruguay, AGADU), immediately seized upon the language in Article 5 of the Decree, asserting a broad entitlement to collect remuneration including for the making available rights of all audiovisual authors. This inconsistency between the Decree and the underlying Copyright Act has introduced confusion, disrupting the market for distribution of U.S. audiovisual works for which remuneration is already paid via residuals under collectively bargained agreements between U.S. producers and authors.

Further clarification from the Uruguayan government confirming the rights of authors and performers to manage their remuneration rights individually is needed. Additional clarification is necessary to define that these remuneration rights, however exercised, will not be enforced against DSPs, including streaming service platforms and users. This persistent lack of clarity in Uruguay creates a substandard environment for U.S. creative outputs. To alleviate confusion and prevent platform-level liability or duplicative claims while the statute is clarified, it would be helpful if the government issued interim guidance on the matter. It is critical that any additional implementing regulations make clear that these remuneration rights are not subject to mandatory collective management.

APPENDIX B

ADDITIONAL CONCERNS IN OTHER KEY FOREIGN MARKETS

APPENDIX B – ADDITIONAL CONCERNS IN OTHER KEY FOREIGN MARKETS

AUSTRALIA

There have been multiple reviews in recent years regarding the availability of Australian content and the disparity in local content obligations for free-to-air broadcast and digital services. In 2019, the Australian Competition and Consumer Commission, through its *Digital Platforms Inquiry Final Report*, recommended "harmonization" of content regulation across broadcast and Video-on-Demand (VOD), introducing the possibility of local content obligations extending to VOD services. In November 2025, the Albanese government followed through on its 2023 National Cultural Policy commitment to introduce an investment obligation for VOD services. This obligation is violative of Australia's FTA commitments to the United States. To date, there has been no evidence supporting claims of a market failure in this area. Indeed, the data on investment in Australian content for streaming services continues to indicate high levels of production and wide availability for subscribers. There remains no necessity for quotas or obligations to invest in local content.

In 2023, Australia's Attorney-General announced the establishment of a Copyright and Artificial Intelligence (AI) Reference Group (CAIRG) "to better prepare for future copyright challenges emerging from AI."[1] In 2024, CAIRG released a report on *Copyright material as AI inputs*.[2] The Productivity Commission (an independent authority that does not administer government programs) conducted an inquiry into "Harnessing Data and Digital Technologies." In August 2025, the Commission released an interim report that suggested the need for a new text and data mining (TDM) exception tied to Australia's fair dealing copyright framework, which they argued will better promote the development of AI technologies, purportedly to increase productivity. This proposal faced strong public pushback from local and international rights holders who argued the country's framework is already well-equipped to accommodate development of new technologies such as generative AI. Consequently, in late October 2025, the Australian government announced that it would not pursue a TDM exception to its copyright law. The government also reactivated the Copyright & AI Reference Group to explore a licensing-led approach to AI use in Australia. However, the proposal to consult on whether a compulsory license should be introduced remains a concern.

Limited copyright enforcement in Australia is a growing concern. IIPA encourages the Australian Federal Police to dedicate more resources to investigating and taking meaningful and effective enforcement action against crimes involving intellectual property (IP).

Finally, Australia has a market distorting 1% cap on fees commercial radios pay for the right to use sound recordings in their broadcasts. This has caused rights holders' significant economic losses over the years. The royalty cap amounts to a forced subsidy to the commercial radio industry, reduces the amount of funds available for investment in local talent, and is without precedent internationally. There was a private members bill during the last parliament proposing to remove the cap, but it was not passed in time before the last parliamentary election. The removal of the cap is long overdue.

BELGIUM

Belgium transposed the European Union (EU) Directive 2019/790 on copyright and related rights in the Digital Single Market (DSM Copyright Directive) and SatCab Directive[3] in 2022. The existing author and performer unwaivable remuneration right was extended to the new definition of retransmission and is subject to mandatory collective rights management for cable retransmission and for direct injection when authors and performers transfer their rights to

[1] See *Copyright and Artificial Intelligence Group (CAIRG)*, Australian Government Attorney General's Department (2025), https://www.ag.gov.au/rights-and-protections/copyright/copyright-and-artificial-intelligence-reference-group-cairg.
[2] See *Copyright and AI Reference Group* (September 2024), https://www.ag.gov.au/sites/default/files/2024-09/AGD-Questionnaire-4-September-2024.pdf.
[3] SatCab Directive is Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organizations and retransmissions of television and radio programs and amending Council Directive 93/83 [2019] OJL130/82.

audiovisual producers. This new definition includes simultaneous/live and unabridged retransmission of television or radio programs when carried out by a party other than the broadcaster, including via satellite, digital terrestrial, Internet Protocol Television (IPTV) networks, and mobile networks. This remuneration right was introduced without consultations with stakeholders or a proper impact assessment. Additionally, it covers live retransmission if it takes place in a controlled and secure environment for authorized users. Belgium went beyond what is prescribed in the Directive by introducing another mandatory unwaivable remuneration right for performers and authors that is paid by audiovisual and music on-demand services and, unless there is a collective agreement, is subject to mandatory collective rights management (Articles 60-62). This adds a completely unnecessary step, which will be costly and highly bureaucratic to administrate, to the process for remunerating artists for the use of their recordings by online streaming services. Instead of benefitting Belgian or international artists, the remuneration right jeopardizes the future of the Belgian music sector by damaging the ability of record labels to invest in Belgian artists and the country's wider music sector. It further makes entry for digital music services into Belgian and EU markets more complicated and costly. The law entered into force in 2022 and some of its provisions are being challenged before the Belgian Constitutional Court, which recently decided to refer thirteen preliminary questions in the case to the Court of Justice of the EU.

BULGARIA

Bulgaria is consulting on the transposition of the Network and Information Security 2 (NIS2) Directive. The draft provisions define the scope of legitimate access seekers as extremely narrow and mandate that top-level-domain (TLD) name registries and entities providing registration services cooperate only with national competent authorities, CSIRT (Computer Security Incident Response) teams (sectoral and national), and pre-trial proceedings authorities. This definitional limit, which restricts the scope of parties that could use the provision, was brought to the attention of the Parliamentary Committee on E-Government and Information Technology to the 51st National Assembly but was ultimately rejected, as evidenced by the committee's report prepared for the second plenary vote. Such a narrow interpretation would negatively impact online copyright enforcement actions. Additionally, Bulgaria has not fully implemented Article 8(3) of the EU Copyright Directive (2001/29/EC).[4] However, in March 2025, the Bulgarian Ministry of Culture initiated consultations with stakeholders with a view toward introducing legislation on enforcement that would fully implement Article 8(3).

COSTA RICA

As part of Costa Rica's implementation of the Beijing Treaty on Audiovisual Performances, the Legislative Assembly is considering a concerning proposal that would introduce a new remuneration right for performances fixed in an audiovisual work with a mandatory collective management clause. Such a remuneration right is inconsistent with international norms, which support the individual exercise of exclusive rights, and raises concerns regarding Costa Rica's obligations under the Central America-Dominican Republic Free Trade Agreement (CAFTA-DR). Another concern in Costa Rica is a 2023 bill that proposed the exemption of most public venues from payment of broadcasting and public performance rights.

GERMANY

The 2021 transposition of the DSM Copyright Directive introduced an overbroad limitation on the exercise of exclusive rights for "presumably permitted uses" and content that is "pre-flagged" by users as non-infringing. These new *de facto* exceptions exceed the "three-step test" and will lead to an untenable situation in which certain uses would be permitted in Germany but not elsewhere in the EU or worldwide.[5]

[4] In May 2023, the Sofia City Court granted a website blocking injunction against local ISPs in respect of The Pirate Bay and local BitTorrent site *Zamunda* following an application filed in February 2020. The local law was applied in light of EU law and the court found in favor of the rights holders. In July 2023, two ISPs filed separate appeals to the decision and in May 2024, the appeal court issued a decision upholding the ISPs appeal finding that there was in fact no legal basis to issue website blocking orders. An appeal was filed, and an appeal hearing took place in September 2025. The decision remains pending.

[5] Article 13 of the WTO TRIPS Agreement obligates WTO members to "confine limitations or exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the rights holder." See also Berne Convention Article

Germany also maintains an additional remuneration right (ARR) for authors and performers, subject to mandatory collective rights management, and exercisable against online content sharing service providers (OCSSPs) like YouTube. This means that authors and performers who have licensed or transferred their rights to producers and already obtained remuneration under these contracts, would still be able to ask for a remuneration from an OCSSP, where the producer has licensed the content to the OCSSP. Moreover, the ARR also applies where use of the content on the OCSSP is subject to an applicable copyright exception (e.g., parody, satire, or pastiche). The ARR is unwaivable and must be administered by collective management organizations (CMOs). This provision raises significant questions regarding both its practical application as well as its legitimacy, not least due to the unreasonable restrictions on freedom of contract. Reportedly, complaints have been filed with German Constitutional Court.

Germany has failed to implement the EU enforcement legislative framework correctly because it has failed to provide for effective injunctive relief against intermediaries. Rather, intermediary injunctions are considered a measure of last resort due to the burdensome "subsidiarity requirement." This impacts enforcement in practice, especially for orders against Internet access providers and domain registrars.

Germany is also late in implementing the NIS2 Directive which had an implementation deadline of October 17, 2024. However, in July 2025, the Federal Cabinet adopted the bill for the implementation of the Directive, and the draft law is expected to be passed by parliament by the end of 2025.

HONG KONG

In 2024, the Hong Kong Intellectual Property Department opened a public consultation on Copyright and AI, including a proposed TDM exception, and in February 2025 concluded that a TDM exception was "necessary." There is no evidence that the introduction of a TDM exception in Hong Kong is needed – the existing copyright regime based on exclusive rights ensures a mutually beneficial licensing market for copyrighted works. While there continues to be pushback from industry, the Hong Kong government reportedly remains committed to introducing legislation to adopt a new policy for TDM. The Chief Executive of the Hong Kong Special Administration, John Lee Ka-chiu, in his 2025 Policy Address to the Legislative Council on September 17, 2025, stated that "following the completion of the public consultation on enhancement of the Copyright Ordinance regarding the protection for AI technology development in September last year, the government will formulate a code of practice in respect of relevant legal principles and prepare a legislative proposal."

On enforcement, a great deal of pirated vinyl produced in mainland China, particularly Guangdong province, continues to be smuggled through Hong Kong for worldwide distribution. Hong Kong Customs should enhance border control measures to stop the smuggling and cease the dissemination of these infringing goods worldwide.

Since the implementation of the Copyright (Amendment) Ordinance in 2022, Hong Kong Customs has started taking action against traders distributing illicit streaming devices. For example, in October 2023, Hong Kong Customs conducted an enforcement operation and raided ten retail shops and seized about 1200 suspected illicit streaming devices and a batch of computers and video equipment, with an estimated market value of about $1.4 million. However, it appears that the case has not yet proceeded to prosecution. Prosecutors should seek custodial sentences, to ensure that enforcement actions result in deterrent outcomes against pirate distributors and operators.

Additionally, digital piracy in Hong Kong remains problematic. Popular piracy streaming sites like *Gimy, movieffm.net, 94itv,* and *xiaoyakankan.com* continue to proliferate, undermining the ability of rights holders and legitimate services to distribute copyrighted content.

9(2) (same, as to reproduction right); WIPO Copyright Treaty (WCT) Article 10 (same, as to all Berne exclusive rights and all exclusive rights granted under the WCT itself); WIPO Performances and Phonograms Treaty (WPPT) Article 16(2) (same, as to all rights provided for under WPPT).

HUNGARY

Hungary imposes extended collective licensing (ECL) for the making available right of performers, which interferes with the ability for performers to freely assign or license their right if they don't expressly opt-out following an overly burdensome process. This ECL requirement is having a disruptive effect on the streaming market because, contrary to international norms, the local performers' CMO (EJI) is currently collecting royalties from digital service providers (DSPs) on behalf of Hungarian performers.

IRAQ

In Iraq, local Internet Service Providers (ISPs) often distribute or sponsor access to illegal streaming platforms. These platforms, including *Cinemana, CEE, Vodu, Shashety, MyTV+, Show365, Cinema Box, Veo, Shabakaty, Ubox, Weaana TV, Vega Box*, and *GigaNet World TV*, are currently distributing copyrighted content illegally, without authorization. ISPs in Iraq bundle such illegal IPTV and over-the-top (OTT) services, which they directly fund, with Internet subscriptions, offering consumers illegal access to premium content. This practice significantly undermines the demand for legitimate services and has the potential to contribute to the dissemination of pirated content across the region. There is a need for the Iraqi government to take measures to tackle such illegal services and activities, ensuring that ISPs and telecom operators partner with legal platforms.

JAPAN

In 2019, the Japanese Copyright Act was amended to include an exception, in Article 30-4, that permits the exploitation of a work for data analysis (meaning the extraction, comparison, classification, or other statistical analysis of the constituent language, sounds, images, or other elemental data from a large number of works or a large volume of other such data) or in any other case in which it is not a person's purpose to personally enjoy or cause another person to enjoy the thoughts or sentiments expressed in that work. While the act states that it does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the work or the circumstances of its exploitation, it does not expressly distinguish between use for commercial or non-commercial purpose, nor does it expressly require lawful access to the works in question. It is also not clear what activities are encompassed by the non-personal enjoyment carveout. Rights holders are deeply troubled by the current lack of clarity and certainty, which risks Article 30-4 permitting the use of unlawfully accessed copyright material as the source for TDM activities. Following continuous advocacy by industry stakeholders, the Agency of Cultural Affairs released official guidance in 2024 regarding Japan's TDM exception, noting that the TDM exception does not apply in cases that would unreasonably prejudice the interests of rights holders and highlighting the ability of rights holders to utilize lawful access protections, including technological protection measures (TPMs), to restrict access to their works, including in AI training use cases. The risk of an overbroad interpretation of the TDM exception has gathered significant attention in 2025, including in the form of push back from the creative sector as well as government representatives.[6] It is imperative that any application of the TDM exception is done in a manner consistent with Japan's international obligations.

In 2023, the government also passed amendments to the Copyright Act to establish a system similar to ECL to address orphan works or works where the copyright owner cannot be easily identified. The Agency for Cultural Affairs is now working on implementing regulations and has completed a round of public consultations on the shape of these regulations; the new system will be implemented in early 2026. The introduction of such a compulsory licensing system interferes with freedom of contract and well-established licensing models for audiovisual works. The new system also risks disadvantaging foreign rights holders due to unclear provisions/mechanisms for opting out. The government should address these concerns through clear further regulations and implementing guidance.

[6] In October 2025, Japan's Digital Minister announced the government had asked OpenAI to switch to an opt-in rather than an opt-out model to ensure a mechanism for copyright holders to be compensated for use of their works on AI platforms is available.

Further, Japan does not provide a public performance right for producers of sound recordings, depriving U.S. rights holders of significant revenues.[7] This concerning practice is undergoing a current review by the Agency of Cultural Affairs. Additionally, Japan has a limited making transmissible right, which is an incorrect implementation of the WIPO Performances and Phonograms Treaty's (WPPT) making available right and is narrower than the making available right in other countries. In particular, Japan's right only encompasses the upload of a protected work and not its actual transmission to the public.

Measures should also be taken to address Japan's inadequate online liability framework, which prevents action from being taken to remove copyright protected content including that appearing on unlicensed user-uploaded content platforms. Such measures should include: (i) ensuring that there is a clear legal basis for the liability of active online services; (ii) clarifying that safe harbors online apply to neutral and passive intermediaries that do not contribute to infringing activities; (iii) clarifying the responsibilities of services to be eligible for safe harbors, including an obligation on hosting service providers to remove infringing content expeditiously upon obtaining knowledge or awareness of infringing activity, to take measures demonstrated effective in preventing or restraining infringement, and to implement an effective repeat infringer policy; (iv) requiring marketplaces and encouraging all relevant intermediaries to implement "know your business customers" (KYBC) policies to ensure they keep up to date and accurate information about their customers and to allow rights holders to obtain accurate information to protect their rights against direct infringers; and (v) to address piracy from outside of the jurisdiction, providing for mechanisms that ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites, on a no-fault basis, upon rights holders' applications to appropriate authorities. The government has previously recognized that disabling access to infringing sites is among the countermeasures to piracy to be considered. Since such a remedy can effectively reduce piracy and has been shown to increase legal consumption, in a measured way that academics have found does not conflict with Japanese constitutional principles, the government should consider adding this important remedy.

KAZAKHSTAN

The highly problematic CMO provisions of the newly amended Copyright Law of Kazakhstan grants (in Article 46-1(2)) extended collective licensing (ECL) rights for any accredited CMO, with a highly theoretical possibility for non-represented rights holders to opt-out. To make matters worse, the government has accredited several CMOs to manage rights in musical works and sound recordings — all without substantial mandates from major international rights holders. With the controversial 2025 reform of the Copyright Act, this regime would now also apply to interactive exploitations. In addition to that, the law now imposes on CMOs the use of a government controlled 'Unified Digital Platform', which centralizes registers of rights holders, repertoire, and contracts with users and with rights holders, among others. The practical cumulative impact of these changes is the government control and confiscation of intellectual property rights of international music rights holders.

KENYA

While the Government of Kenya has indicated its intention to ratify the WIPO Copyright Treaty (WCT) and the WPPT (collectively, the WIPO Internet Treaties), it has yet to do so or to set a timeframe for accession. Instead, Kenya should ratify and implement the WIPO Internet Treaties as part of its ongoing Copyright Act amendment process. Kenya's 2019 amendment to the Copyright Act was intended to address some of the challenges of the digital age, but Kenya's copyright framework remains deficient in several significant respects. Since then, there have been several proposals to amend the existing Copyright Act, including the Intellectual Property Bill (2020), Draft Copyright and Related Rights Bill (2023), and more recently, a new draft Copyright and Related Rights Bill (2025). The second draft of the 2025 draft Bill appears to strengthen remedies in certain respects, including by maintaining a remedy (draft Article 83) to disable access to primarily infringing sites and services, including but not limited to addressing live events

[7] The music industry estimates that the value of public performance rights in Japan is $120 million per year, with a significant portion of that value attributable to U.S. rights holders.

and addressing removal or alteration of TPMs and rights management information (RMI). In other respects, the 2025 draft Bill does not yet fully address some other deficiencies in Kenya's copyright framework to comply with international obligations. The current draft of the Bill additionally includes concerning safe harbor provisions that appear to be overbroad. To ensure adequate and effective protection and enforcement of IP rights, Kenya's government should address the following shortcomings in Kenya's copyright and enforcement framework, many of which have not been properly addressed in the 2025 draft Bill, including by:

- Clarifying and rejecting any proposals requiring copyright registration and compulsory recordation of assignments, and removing the requirement in the Copyright Act that authentication devices be affixed to sound recordings, all of which are incompatible with Kenya's international obligations, including under the Berne Convention and the WTO TRIPS Agreement, and with the requirements of the WPPT;
- ensuring that the exclusive rights of communication to the public, broadcasting, and making available are clearly defined and maintained as exclusive rights in keeping with the WPPT;
- ensuring that exclusive rights apply to all sound recordings, including "born digital" recordings;
- ensuring that key definitions such as "broadcast" are defined in line with international treaties, including the Rome Convention and the WPPT, as a technical term referring specifically to wireless, over the air, and one-to-many transmissions;
- providing adequate and effective protections for TPMs and RMI, in line with international standards, including introducing definitions for TPMs and RMI in the 2025 Bill that are in keeping with the international standard;
- providing a term of protection consistent with international norms (life of the author plus 70 years, or at least 70 years from fixation or publication for sound recordings or works not measured by the life of a natural person);
- ensuring that scope of exceptions and limitations to copyright protection is properly confined to the three-step test, including by expressly incorporating the three-step test into the law;
- improving Kenya's online liability regime to ensure that it supports sustainable growth of the digital content markets and does not shield copyright infringing services in keeping with the international standard, including by: (i) ensuring there is a clear legal basis under which ISPs may be held liable for IP infringements carried out by third parties using their services or networks; (ii) clarifying that safe harbors apply only to passive and neutral intermediaries that do not contribute to infringing activities; (iii) clarifying the responsibilities of ISPs eligible for safe harbors, including an obligation to remove infringing content expeditiously upon obtaining knowledge or awareness of the infringing activity, to take measures demonstrated effective in preventing or restraining infringement, and to implement effective repeat infringer policies; and (iv) requiring marketplaces and encouraging all relevant intermediaries to implement KYBC policies to ensure they keep up to date and accurate information about their customers and to allow rights holders to obtain accurate information to protect their rights against direct infringers;
- maintaining a clear legal basis for website blocking injunctions targeting all illegal websites, which are available on a preliminary basis in the Copyright Act, and clarifying the availability of mechanisms that ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities;
- ensuring that the collective management framework and system reflect the essential characteristics of a CMO (that they are non-profit and owned or controlled by their member rights holders) and that CMO operations are in keeping with the principles of transparency, accountability, and good governance consistent with international standards and best practices;
- rejecting any proposal to introduce a statutory licensing scheme for ring back tunes, as artists and rights holders should be allowed to freely negotiate fair commercial terms for the use of their recordings on the back of strong exclusive rights and effective measures to enforce their rights;

- introducing a rate-setting standard applicable to the licensing of collectively managed rights requiring that rates reflect the economic value of the use of the rights in trade (i.e., willing buyer/willing seller standard);
- providing deterrent civil and criminal penalties to combat piracy, including applying increased penalties for second and subsequent offenses and fines and imprisonment terms for all criminal offenses, including for circumvention of TPMs, distribution of devices designed to circumvent TPMs, and removal/alteration of RMI; and
- clarifying the role of the proposed Copyright Tribunal, which should include hearing and determining matters referred to the Tribunal expeditiously and fairly, and clarification that rights holders may elect to bring claims to either the Tribunal or to the Courts.

In addition, a mandatory IP recordation system, established under the Anti-Counterfeit Authority (ACA), went into effect in January 2023. Under this system, it is an offense subject to criminal sanctions to import products protected by IP rights into Kenya if such rights have not been recorded with the ACA. Simply, upon import, rights holders must record with the ACA in addition to IP registration. The mandatory IP recordation system raises several concerns, including regarding Kenya's compliance with the Berne Convention, which prohibits formalities regarding the enjoyment and exercise of copyright rights.[8] Kenya should amend its mandatory recordation system to be voluntary and ensure that copyright is not in scope.

The Computer Misuse and Cybercrimes Act, 2018, Kenya Gazette Supplement No. 60 (Acts. No. 5), as amended in 2025 by The Computer Misuse and Cybercrimes (Amendment) Act, 2025 (in force November 4, 2025) provides an additional framework to the Copyright Act for disabling access to websites engaged in copyright infringement. While this framework covers a broader category of activities than just IP theft, and therefore has raised some concerns among opponents, the government has clarified that website takedowns under the amended Act must be subject to judicial review.[9] IIPA supports this remedy to disable access to primarily infringing sites as proposed under the Copyright Act amendments, and we are heartened that the government is paying due deference to constitutional principles and due process in other areas of the law.

Finally, in recent years there has been a notable increase in government interference in the collective management sector:

- The Copyright Office failed to renew the operating licenses of the three music CMOs, despite reasonable efforts by some, especially the Kenya Association of Music Producers (KAMP), to meet the Office's demands and operate within the country's collective management regulations/framework.
- In June 2024, the Kenya Copyright Board (KECOBO) unprocedurally awarded a license to the Performing and Audio-Visual Rights Society of Kenya (PAVRISK) to collectively manage performance and broadcast rights as a single window licensor in the country. With the support of the International Federation of the Phonographic Industry (IFPI) and the National Group (Recording Industry of Kenya (RIKE)), KAMP successfully challenged KECOBO's action at the Copyright Tribunal which resulted in a directive from the Tribunal that KECOBO awards a provisional operating license to all the mechanical licensing collectives (MLCs) and ensure that the accreditation process is transparent, objective, and in line with the law.
- KECOBO unsuccessfully sought a stay at the High Court to overturn the Copyright Tribunal's directive and consequently, in May 2025, KECOBO awarded KAMP a provisional operating license for six months. In the most recent development, KECOBO awarded KAMP a full year operating license in September 2025 following the MLC meeting the Regulator's conditions. KAMP is, however, challenging KECOBO's decision to restrict the MLC's operating license to producer-only share of the

[8] See Berne Convention Article 5(2).
[9] See *Government Clarifies Website Takedowns Under Cybercrime Act Subject to Judicial Review*, CAPITAL NEWS (October 23, 2025), https://www.capitalfm.co.ke/news/2025/10/govt-cybercrime-act-website-takedowns-judicial-review/.

sound recordings while passing on performers' rights to PAVRISK without regard to the producer's exclusive ownership of sound recordings in the country's Copyright Act.
- RIKE, working with KAMP and IFPI, successfully pushed back against the government's attempts in August 2025 to take over collective management operations.

While there has been some positive progress, IIPA underscores that the Government of Kenya's interference or over-involvement in the collective management space could undermine the industry's potential and market stability. Further, copyright is a private right whose management should be left to rights holders, including deciding on the systems for rights administration. KECOBO should instead focus on working with rights holders to align the laws and regulations with international standards and best practice.

Finally, while the proposed Finance Bill of 2024, which included discriminatory taxes on digital content and foreign DSPs, was withdrawn by the President, any return to similar proposals should be strongly rejected. Regarding music piracy, support from authorities is needed to scale up enforcement actions against foreign-based stream-ripping services that dominate the piracy landscape and authorities should receive further training and guidance to handle digital piracy cases.

MALAYSIA

Malaysia should modernize its law to extend the term of protection for sound recordings, films, and other works to at least 70 years. Malaysia also needs to improve and strengthen TPM anti-circumvention provisions to encourage the development of new business models for the dissemination of film, television, and video game content and ensure that any copyright limitation of liability should apply only to passive and neutral intermediaries that do not contribute to infringing activity.

In Malaysia, mandatory one-stop shop CMO licensing could reemerge. A task force made up of government officials and industry players is evaluating whether centralized control over collective licensing is necessary and will report their findings back to the government. This has the potential to revive the previously failed central collective licensing system under Music Rights Malaysia Limited (MRM), which was abandoned in 2020. Such a system would interfere with rights holders' ability to determine how and by whom their rights are managed, as well as how royalties are collected, apportioned, and distributed. Malaysia should desist from this course of action.

While certain stakeholders have continued to call for the Malaysian government to implement a TDM exception, arguing that an exception will better promote the development of AI technologies, to date IIPA is not aware of such an exception being introduced or implemented. There is no evidence that would support the introduction of a TDM exception in Malaysia – the existing copyright regime based on exclusive rights ensures a mutually beneficial licensing market for copyrighted works.

Authorities frequently cite resource limitations as reasons for the inaction or slow action regarding criminal cases, although the remedy to disable access to infringing websites is working to reduce piracy, albeit in need of some improvements (such as disabling access to all redirect, subdomain, and root domains). In an encouraging development, the Deputy Prime Minister has developed and chairs the new Malaysian Cybercrime Task Force, which has tackling digital piracy as one of its stated aims. Through initiatives such as this, IIPA hopes to see more enforcement actions in Malaysia, especially in the IPTV space. In particular, one of the most notorious IPTV piracy operators in the region is *MYIPTV4K*, which offers subscription-based access to a large library of live TV streams and an extensive pirated video-on-demand library of movies and TV series. *MYIPTV4K* has been active for more than ten years and attracts over 16,000 monthly active users across the region. Criminal enforcement action by the Malaysian police is needed to close such an expansive and longstanding piracy network.

PERU

Online and physical piracy continue to be serious problems that undermine the market for legitimate content in Peru. IIPA urges the Government of Peru to devote significantly more resources and political support to combat digital piracy, and specifically, increase funding for the *Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual* (National Institute for the Defense of Competition and the Protection of Intellectual Property, INDECOPI), the agency charged with promoting and defending IP rights. For example, INDECOPI should maintain adequate technical and human resources to enable its ongoing participation in Operation 404, a successful regional antipiracy enforcement campaign, and to build upon recent successful cases in order to have a positive impact on the digital economy. Further, disruptive cases and projects are necessary to address current challenges including mobile app piracy and streaming fraud services.

INDECOPI also recently ordered the country's Internet providers to block access to 128 websites that were illegally broadcasting sports events. Peruvian authorities should continue and strengthen such enforcement against complex IP crime. Law enforcement authorities such as the special public prosecutor's IP and cybercrime units should be more active in supporting and promoting antipiracy cases and operations. State-owned or funded operators rely in an unwarranted way on certain exceptions of the Copyright Act to avoid obtaining licenses for the use of music, thus setting a particularly negative example in the market in terms of respect of copyright.

Regarding legal reform, a bill introduced in 2022 (4627/2022) proposes extending the private copying exception to cloud services. This bill should be rejected. Further, in July 2023, Peru adopted its AI law and its corresponding implementing regulation was adopted on September 9, 2025, confirming (i) the protection of copyright and related rights, and (ii) a list of general obligations for developers of AI-based systems, including disclosure requirements for high-risk systems.

PHILIPPINES

The Government of the Philippines has recognized that online piracy is a major threat to both the local and international creative industries and has made noticeable efforts to implement a more robust IP enforcement regime. Unfortunately, there were several bills introduced in the prior Congress that would amend the IP code to include several problematic provisions that should be addressed, as indicated below:

- Remove the ECL mechanism. An ECL is a system that was developed for certain specific cases in markets with well-developed collective rights management systems, and with CMOs already representing a substantial number of rights holders in their respective fields. This is not the case in the Philippines. Furthermore, an ECL is a limitation on the exercise of rights and, as such, must comply with the three-step test. Accordingly, an ECL may be introduced only where there is a proven market failure and where individual licensing is unfeasible, not into a developed and well-functioning market. There is no evidence justifying the introduction of ECL in the Philippines, and the proposed ECL does not comply with the three-step test.
- Remove the provision for additional remuneration for performers for subsequent communications or broadcasts. This additional remuneration interferes with freedom of contract and established contractual and licensing arrangements.
- Remove the open-ended fair use provision in Section 207 or at least change it to a closed-list fair dealing provision. Open-ended exceptions create unnecessary uncertainty, litigation, and conflicting decisions, causing confusion. Such exceptions can be harmful not only to rights holders but also to users who need certainty regarding which uses are permitted. Closed list systems have been adopted in most countries because they provide a high degree of certainty as to the permitted uses. Fair use is determined on a fact-intensive, case-by-case basis. In the United States, a well-developed body of case law helps to mitigate the inherent uncertainty of the scope of the fair use exception. Without this foundation of a well-developed body

of case law, a fair use exception in the Philippines raises questions regarding the first requirement of the three-step test, that exceptions must be limited to "certain special cases."

- Extend the term of protection for sound recordings and audiovisual and other works to at least 70 years in keeping with the international standard.
- Clarify the requirements for mandatory accreditation of CMOs with the Intellectual Property Office of the Philippines (IPOPHL) in Section 203.2. It should be made clear that individual rights holders, engaged in licensing of rights they own or control, shall not be under any obligation to seek an accreditation.

Although administrative blocking orders in the Philippines have led to some reduction in visits to piracy sites, a significant volume of traffic remains. The program should be expanded to cover more ISPs because there are ISPs that do not participate in the voluntary site-blocking agreement and continue to make such sites accessible in the Philippines.

In addition, more can be done to ensure that site-blocking applications under the administrative scheme are processed within the prescribed timeframe as set out under IPOPHL Memorandum Circular No. 2023-025. Complainants should also be permitted to include a wider range of domains within a single application, rather than being restricted to mirror domains. Currently, multiple filings make the process unnecessarily onerous and time-consuming for rights holders. The overall site-blocking procedure should also be streamlined, and the requirements for repeated or multiple clarificatory hearings should be eliminated.

The Philippines should continue to actively pursue the enactment of a law to ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities. Such a mechanism will allow rights holders to be better positioned to enforce against online piracy and exercise their rights, as well as to support the growth of the legitimate audiovisual industry. A legislative framework will complement the Philippines' administrative site-blocking program and provide a more comprehensive and effective system for safeguarding the rights of local and international rights holders. Following the 2025 Philippine midterm elections, we urge the government to reintroduce legislation which expired in the prior Congress.

SOUTH KOREA

While all bills under the previous National Assembly that sought to introduce an additional statutory remuneration right for directors, authors (including scriptwriters), and performers expired following legislative elections in 2024, some legislators have sought to re-introduce similar bills under the new National Assembly. The South Korean government should continue to ensure consistency with its international treaty obligations and maintain freedom of contract for all rights holders.

South Korea does not fully recognize producers' public performance right, limiting it to only a select list of venues recognized on a "positive list" and maintaining an unacceptably broad exemption from the public performance right. This problem is exacerbated by the government's interference in the setting of public performance tariffs, resulting in rates set below international standards. The Ministry for Culture, Sport, and Tourism (MCST) is actively considering reforms on this matter which are welcome as rights holders would significantly benefit from all businesses having to pay public performance rights, and tariffs being set at a rate that reflects the true value of recorded music.

There have been reports that the Korean government is actively considering the introduction of a TDM exception, and the MCST plans to conduct research on an AI-related copyright law overhaul in connection with Culture Korea 2035, a vision that emphasizes a "fundamental policy shift based on economic and social changes and the emergence of AI. IIPA to date is not aware that such an exception has been passed in the National Assembly. In October 2025, the Ministry of SMEs and Startups introduced the AI Utilization Promotion Act for SMEs, to allow SMEs

to conduct TDM – despite copyright being the remit of the MCST. There is no evidence that would support the introduction of a TDM exception in Korea – the existing copyright regime based on exclusive rights ensures a mutually beneficial licensing market for copyrighted works.

Legislators in the National Assembly are proceeding with draft bills that would unify media regulation under a single ministry or regulatory body under the guise of "media convergence regulation." This is the latest attempt at so-called regulatory harmonization for legacy media (mainly television) with new media platforms (VOD streaming/OTT services). There is concern that rather than regulate down, the new framework will create a pathway to regulate up. This would mean extending Korea's existing onerous television regulation (most notably, its outdated Broadcasting laws, which apply local content requirements and foreign ownership/operating restrictions on TV media in Korea) to the streaming sector (subscription VOD services as well as YouTube, social media, etc.). Korea should preserve light-touch regulation to encourage continued growth of the VOD/OTT sector and avoid heavy-handed or protectionist legislation, which would impact U.S. service providers, in particular.

There are several amendment bills in the new National Assembly that would force content providers to pay for network usage fees, including a provision mandating negotiations for network fees in network service contracts. If implemented, these proposed amendments would restrict trade and freedom of contract, raising concerns under the U.S.-Korea FTA (KORUS). South Korea should avoid unnecessary intervention into the commercial relationship between content providers and ISPs, apply light-touch regulation to OTT services, refrain from regulation or new mechanisms that favor domestic ISPs over global digital content services, and ensure consistency with its KORUS obligations.

South Korea also suffers from an unnecessarily cumbersome pre-approval and classification mechanism for the release of music videos. The procedure of approval and classification of music videos by the Korea Media Rating Board (KMRB) is time-consuming and does not reflect the fast distribution cycle of today's music industry, which releases and promotes music videos at the same time as the sound recording is released. It also generates difficulties in the design of an international release strategy for artists' projects, as all too often the release of an artist's music video is delayed on South Korean delivery channels, including on-line platforms, because of the pre-classification process.

Regarding enforcement of rights related to music online, South Korea should close certain gaps in its copyright legislation, especially with respect to linking to copyright infringing content (which is currently not illegal), and ISP liability rules (Article 102). Some issues have also been identified with the criteria set by the competent authority, the Korea Communications and Standards Commission (KCSC), for blocking actions targeting a certain category of websites where the infringing content is not hosted (e.g. stream-ripping websites). However, since there appears to be a pending government bill to change the blocking procedure, it is hoped that the situation concerning website blocking will improve eventually. The audiovisual industry reports that the system is effective and efficient, resulting in up to 99% reduction in piracy traffic, but improvements can be made, including applying it to English language streaming sites and applying a qualitative (rather than quantitative) standard based on "primary purpose" of the site (rather than proof of licensing, etc.). The extension of Project I-SOP: INTERPOL Stop Online Piracy initiative to 2029, with support from the South Korea Ministry of Culture, Sport and Tourism is welcomed, as a dedicated initiative targeted to digital piracy enforcement globally. It is hoped that the next phase will include a global enforcement operation.

Finally, in a positive development, in November 2024, the Korean Ministry of Culture, Sports, and Tourism arrested one of the operators of the Korean site *TVWiki/NooNooTV*. The operator was later sentenced to three years in prison for violating copyright laws and fined 700 million won. IIPA commends the proactive stance that South Korea has taken to deter widespread and commercial-scale piracy and hope to see continued efforts in this area.

SPAIN

Spain is the only country in the world with an operational additional remuneration right for performers for the making available of their performances in interactive services. This right is unwaivable and untransferable and is subject to mandatory collective management paid by DSPs to the local performers CMO, AIE, in addition to the remuneration received from phonogram producers. The right is an unwarranted disruption of a market that is generally working well for all rights holders, especially performers. Additionally, figures made public by AIE would suggest that the management of this right is highly inefficient, with over 50% of collected income not paid to performers due to deductions applied by the CMO for management costs and funding cultural, educational, and social programs, and the CMO's inability to adequately identify the performer to whom the money is due. Another concern is that Spain imposes mandatory collective management on performers and phonogram producers for the broadcasting and public performance of sound recordings.

SWITZERLAND

The last revision of Switzerland's Copyright Law in 2020 failed to address substantial concerns related to copyright enforcement. Switzerland's Copyright Law does not sufficiently comply with Switzerland's obligations to provide for effective and deterrent remedies against any act of copyright infringement, especially with respect to the use of unlawful sources, cross-border infringement, and intermediary liability. The enforcement deficit remains problematic, particularly within the context of the United States's otherwise strong bilateral trade relationship with Switzerland. IIPA urges the Government of Switzerland to consider additional amendments to the Copyright Act to strengthen enforcement tools for rights holders and bring the Copyright Law in line with its international treaty obligations, current best practices in Europe, and international norms. In particular, Switzerland should make the following legal reforms:

- Amend the Copyright Act to provide sufficient tools to combat all types of piracy, including cross-border piracy, regardless of technical details, including by providing mechanisms that ensure ISPs can impose effective relief to remove infringement, including, where applicable, to disrupt or disable access to structurally infringing websites on a no-fault basis, upon rights holders' applications to appropriate authorities in addition to aligning ISP liability provisions with international standards.
- Require marketplaces and strongly encourage all relevant intermediaries, including data centers and ISPs, to implement and enforce better KYBC protocols.
- Require hosting providers, like *Private Layer*, to stop providing the infrastructure needed by copyright-infringing websites displaying pirated content. This should be done regardless of where a hosting provider is registered, including if the hosting provider is registered in Panama as in the case of *Private Layer*.
- Amend the Copyright Act to affirm that Switzerland's private use exception permits single copies for private use only if they derive from a legal (authorized) source and restrict the permission for third parties to provide services for private use to prevent unlicensed commercial services affecting, or competing with, rights holders' exploitations.
- Ensure narrow practical application of the ECL regime.
- Amend the Copyright Act to redress the unreasonable and commercially damaging statutory restrictions on rights holders' freedom to negotiate licensing terms for the use of their respective rights.
- End the unfair treatment of neighboring rights for sound recordings under collective rights management by modifying the 3% cap in Article 60(2) of the Copyright Act, which remains below the level of other European countries.
- Provide an independent broadcasting and public performance right for music producers, in line with the WPPT.
- Revise additional provisions of the Copyright Act to ensure Switzerland provides adequate and effective copyright protection and enforcement and meets its international obligations.
- Amend the Copyright Act and other relevant laws to enable rights holders to collect evidence to enforce rights (e.g., collection or processing of Internet protocol (IP) addresses to bring *direct* civil claims without a related criminal proceeding).

- Abolish or ease provisions of the Swiss Film Act that negatively affect the distribution and making available of audiovisual works in Switzerland and remove streaming and broadcasting quotas.
- Materially simplify all filing and reporting obligations imposed on the audiovisual industry, including under the Copyright Act and tariffs thereunder and under the Film Act.

Switzerland has also been considering several problematic proposals regarding copyright and AI that would weaken copyright protections through exceptions or the application of an ECL mechanism for GenAI licensing. Finally, the Federal Office of Culture has been considering proposals discussing how to increase the visibility of Swiss repertoire on music streaming platforms and regarding artist remuneration. There is concern that some ideas that have been expressed during this debate, if accepted by FOC, could lead to measures that are discriminatory toward non-local artists or introduce unwarranted and highly disruptive additional remuneration rights subject to mandatory collective management.

UNITED KINGDOM

The Labour government consulted in early 2025 on proposals to address the use of copyrighted materials to train AI models. It plans to report on the outcome to the consultation and next steps before March 18, 2026, at the latest. The consultation document had identified the government's preferred option whereby it would broaden the UK's TDM exception to allow commercial AI developers to train models on material for which they have lawful access, but with a rights reservation (opt out) system and transparency obligations for AI developers regardless of purpose, commercial or otherwise. Following an intense public and parliamentary campaign against its preferred option, the government announced the option no longer had preferred status. The government indicated they would conduct further economic and legal analysis and stakeholder engagement on this and a number of other options i.e. maintaining the status quo, requiring rights holders to opt-in to TDM training, and allowing all commercial TDM without restrictions. There is no evidence that the UK's current exception on TDM, adopted in 2014, is failing or that the combination of licensing and the existing TDM exception would not be able to address future technological developments.

The Creator Remuneration Working Group (CRWG), formed by the UK Government and chaired by the Department of Culture, Media and Sport, has now largely completed its work. Following discussion about remuneration in their cohorts – legacy artists, composers and songwriters, and session musicians – the UK government published a series of streaming Principles, agreed with the labels. This focused on each of the cohorts, with a focus now on measuring their success in a year's time.

Finally, IIPA would like to highlight the Police Intellectual Property Crime Unit within the City of London Police, which plays a key role in the enforcement and disruption of perpetrators of IP crime and the impact of its work is felt beyond the UK. It is vital that it continues to be adequately funded.

APPENDIX C

CHART OF COUNTRIES'

SPECIAL 301 PLACEMENT (1989-2025)

&

IIPA'S 2026 SPECIAL 301 RECOMMENDATIONS

APPENDIX C: CHART OF COUNTRIES' SPECIAL 301 PLACEMENT (1989-2025) AND IIPA 2026 SPECIAL 301 RECOMMENDATIONS

IIPA 2026 SPECIAL 301 RECOMMENDATIONS AND USTR 301 PLACEMENT 2025-2009 (AS OF APRIL/MAY OF EACH YEAR)

COUNTRY	IIPA RECOMMENDATION 2026	2025	2024	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009
ALGERIA		WL	WL	WL	WL	WL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL
ARGENTINA	**WL**	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL
ARMENIA																		
AUSTRALIA																		
AUSTRIA																		
AZERBAIJAN																		
BAHAMAS																		
BAHRAIN																		
BARBADOS		WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL				
BELARUS	**WL**	WL	WL	WL								WL	WL	WL	WL	WL	WL	WL
BELIZ																		
BOLIVIA		WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
BRAZIL	**WL**	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
BRUNEI DARUSSALAM															WL	WL	WL	WL
BULGARIA		WL	WL	WL + OCR	OCR					WL	WL	WL	WL	WL				
CANADA	**WL**	WL	WL	WL	WL	WL	WL	WL	PWL	WL	WL	WL	WL	WL	PWL	PWL	PWL	PWL

COUNTRY	IIPA RECOMMENDATION 2026	2025	2024	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009
CHILE	**PWL**	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL
CHINA (PRC)	**PWL**	PWL	PWL	PWL + 306	PWL + 306	PWL + 306	PWL + 306	PWL + 306	PWL + 306	PWL + 306	PWL + 306	PWL + 306	PWL + 306	PWL + 306	PWL + 306	PWL + 306	PWL + 306	PWL + 306
COLOMBIA	**WL**	WL	WL	WL	WL	WL	WL	WL	PWL + OCR	WL + OCR	WL + OCR	WL	WL	WL	WL	WL	WL	WL
COSTA RICA								WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
CROATIA																		
CYPRUS																		
CZECH REPULIC																		WL
DENMARK																		
DOMINICAN REPUBLIC				WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
ECUADOR		WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	PWL	WL	WL	WL	WL	WL	WL
EGYPT		WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
EL SALVADOR														OCR				
ESTONIA																		
EUROPEAN UNION																		
FIJI																		OCR
FINLAND													WL	WL	WL	WL	WL	WL
GEORGIA																		
GERMANY																		
GREECE								WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
GUATEMALA		WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
HONDURAS												OCR						
HONG KONG																		

COUNTRY	IIPA RECOMMENDATION 2026	2025	2024	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009
HUNGARY																		WL
INDIA	**PWL**	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL + OCR	PWL	PWL	PWL	PWL	PWL
INDONESIA	**PWL**	PWL	PWL	PWL + GSP	PWL + GSP	PWL + GSP	PWL + GSP	PWL + GSP	PWL + GSP	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL
IRELAND																		
ISRAEL														WL	PWL (9/12 to WL)	PWL	Status Pend-ing	PWL + OCR
ITALY														WL	WL	WL + OCR	WL	WL
JAMAICA								WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
JAPAN																		
JORDAN																		
KAZAKHSTAN																		
KENYA																		
KUWAIT						WL	WL	PWL	PWL + OCR	PWL+ OCR	PWL	PWL	WL + OCR	WL	WL	WL	WL	WL
KRYGYZ REPUBLIC																		
LATVIA																		
LEBANON						WL	WL	WL	WL	WL	WL	WL	WL	WL	WL + GSP	WL + GSP	WL + GSP	WL + GSP
LITHUANIA																		
LUXEMBOURG																		

COUNTRY	IIPA RECOMMENDATION 2026	2025	2024	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009
MACAU																		
MALAYSIA							OCR	OCR	OCR							WL	WL	WL
MEXICO	**PWL + OCR**	PWL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
MOLDOVA																		
MOROCCO	**WL**																	
NAMIBIA																		
NETHERLANDS																		
NEW ZEALAND																		
NICARAGUA																		
NIGERIA	**WL**																	
NORWAY															WL	WL	WL	WL
OMAN																		
PAKISTAN		WL	WL	WL	WL	WL	WL	WL	WL	WL	WL+ OCR	PWL	PWL	PWL	PWL	PWL	PWL	PWL
PANAMA																		
PARAGUAY		WL	WL	WL	WL	WL	WL	WL				WL + 306 + OCR	WL + 306 + OCR	WL + 306	306	306	306	306
PERU		WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
PHILIPPINES														WL	WL	WL	WL + OCR	WL + OCR
POLAND																		WL + OCR
PORTUGAL																		

COUNTRY	IIPA RECOMMENDATION 2026	2025	2024	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009
QATAR																		
ROMANIA						WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
RUSSIAN FEDERATION	**PWL**	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL + GSP	PWL + GSP	PWL + GSP	PWL + GSP
SAN MARINO																		
SAUDI ARABIA						PWL	PWL + OCR	PWL	WL									WL + OCR
SERBIA AND MONTENEGRO																		
SINGAPORE	**WL**																	
SLOVAK REPUBLIC																		
SLOVENIA																		
SOUTH AFRICA	**PWL**			GSP	GSP	GSP												
SOUTH KOREA																		
SPAIN											OCR	OCR	OCR	OCR		WL	WL	WL
SWEDEN																		
SWITZERLAND								WL	WL	WL	WL							
TAIWAN	**WL**																	
TAJIKISTAN									WL	OCR	OCR	WL + OCR	WL	WL	WL	WL	WL	WL
THAILAND	**WL**	WL	WL	WL	WL	WL	WL	WL	WL	PWL + OCR	PWL	PWL	PWL	PWL	PWL	PWL	PWL + OCR	PWL
TRINIDAD & TOBAGO		WL	WL	WL	WL	WL	WL					WL	WL	WL				
TUNISIA																		

COUNTRY	IIPA RECOMMENDATION 2026	2025	2024	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009
TURKEY		WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
TURKMENISTAN			WL	WL	WL	WL	WL	WL	WL	WL	WL	WL + OCR	WL	WL	WL	WL	WL	WL
UNITED ARAB EMIRATES							WL	WL	WL									
UKRAINE				SUSP	SUSP	PWL + GSP	PWL + GSP	PWL + GSP	PWL + GSP	PWL + GSP	PWL	PWL		PFC + 301	PWL	WL	WL	WL
URUGUAY	**WL**																	
UZBEKISTAN				WL	WL	WL	WL	WL + GSP	WL + GSP	WL	WL	WL	WL	WL	WL + GSP	WL + GSP	WL + GSP	WL + GSP
VENEZUELA		PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL
VIETNAM	**PWL**	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL
THE WEST BANK AND GAZA																		
YEMEN																		

USTR 301 PLACEMENT 2008-1990
(AS OF APRIL/MAY OF EACH YEAR)

COUNTRY	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990
ALGERIA	WL																		
ARGENTINA	PWL	PWL	PWL	PWL	PWL + DS	PWL + DS	PWL + DS	PWL + DS	PWL + DS	PWL + GSP + DS	PWL + GSP	PWL + GSP	PWL + OCR	WL + OCR	PFC	PWL + OCR	WL	WL	WL
ARMENIA							WL	WL	WL										
AUSTRALIA										WL	WL	WL	WL		WL	PWL	PWL	PWL	
AUSTRIA											OO	OO							
AZERBAIJAN				WL	WL	WL	WL	WL	WL										
BAHAMAS			WL	WL	PWL	PWL	WL + OCR	OCR											
BAHRAIN											WL	WL	WL	WL					
BARBADOS																			
BELARUS	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	OO								
BELIZE		WL	PWL	WL	WL														
BOLIVIA	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	OO	WL	OO + OCR						
BRAZIL	WL	WL + OCR	PWL	PWL + GSP	PWL + GSP	PWL + GSP	PWL + DS + GSP	WL + DS + GSP	WL + DS	WL		WL	WL	PWL + OCR	SM	PFC	PWL	PWL	PWL
BRUNEI																			
BULGARIA			WL	WL	WL						PWL +OCR	WL + OCR	OO + OCR	OO					
CANADA	WL	WL	WL + OCR	WL + OCR	WL	WL	WL	WL	WL + DS	WL + DS	WL	WL + OCR	WL + DS	WL + 301	SM		WL	WL	WL
CHILE	PWL	PWL	WL + OCR	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL

COUNTRY	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990
CHINA (PRC)	PWL + 306	PWL + 306	PWL + 306	PWL + 306	306 + OCR	306	306	306	306	306	306	306	PFC	WL	PFC	WL	WL	PFC	PWL
COLOMBIA	WL	WL	WL	WL	WL	WL	PWL	WL	WL	WL + OCR	WL + OCR	WL	WL	WL	WL	WL	WL	WL	WL
COSTA RICA	WL	WL	WL	WL	WL	WL	WL + OCR	PWL + OCR	WL	WL	WL	WL	WL	WL					
CROATIA			WL	WL	WL	WL													
CYPRUS												OO	OO	OO	WL + GSP	WL + OCR	WL	WL	
CZECH REPULIC	WL	OCR							WL	WL + OCR	WL	OO							
DENMARK									WL + DS	WL + DS	WL + DS	WL + DS							
DOMINICAN REPUBLIC	WL	WL	WL	WL	WL + GSP	WL	PWL	PWL	PWL + GSP	PWL	PWL	WL	OO		GSP				
ECUADOR	WL	WL	WL	WL	WL	WL			WL	WL	PWL	PWL + OCR + DS	WL			WL	WL		
EGYPT	WL	PWL	PWL	PWL	PWL	WL	PWL	PWL	PWL	PWL	PWL	PWL	WL	WL	WL + OCR + GSP	PWL + OCR	PWL	WL	WL
EL SALVADOR									OCR				WL + OCR	WL	WL + OCR + GSP	WL	WL		
ESTONIA											OO								
EUROPEAN UNION (formerly European Community)			WL	WL + OCR	PWL + DS	PWL + DS	PWL + DS	PWL + DS	PWL + DS	PWL + DS	PWL + DS	PWL	PWL	PWL	PWL	PWL	PWL	PWL	

COUNTRY	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990
FIJI																			
FINLAND																			
GEORGIA								OCR											
GERMANY											OO	OO	OO	OO	SM		WL	WL	
GREECE	WL						WL	WL	PWL + DS	PWL + DS	PWL + DS	PWL + OCR	PWL + OCR	PWL + OCR	WL + OCR	WL	WL	WL	WL
GUATEMALA	WL	WL	WL	WL	WL	WL	WL	WL	PWL	PWL	WL	WL	WL	WL	WL + GSP	WL	WL		
HONDURAS											WL + GSP	WL	OO	OO	SM + GSP				
HONG KONG										OCR	WL + OCR	WL + OCR	OO + OCR						
HUNGARY	WL	WL	WL	WL	WL	WL	PWL	PWL	WL	WL	OO	OO				PWL	PWL	WL	
INDIA	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL	PWL + DS	PWL + DS	PWL	PFC	PFC	PFC	PFC	PWL
INDONESIA	WL	WL	PWL + OCR	PWL + OCR	PWL	PWL	PWL + OCR	PWL	WL	PWL	PWL	PWL + DS	PWL + DS	WL + OCR	WL	WL	WL	WL	WL
IRELAND									WL + DS	WL + DS	WL + DS	WL + DS	OO						
ISRAEL	PWL+ OCR	PWL	PWL	PWL	WL + OCR	WL	PWL + OCR	PWL	PWL	PWL + OCR	PWL	WL	OO	OO	SM				
ITALY	WL	WL	WL	WL	WL	WL	WL	WL	PWL + OCR	PWL	PWL	WL + OCR	WL + OCR	WL	WL	WL + OCR	WL	WL	WL
JAMAICA	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL								
JAPAN								OCR		WL	WL	WL	PWL + DS	PWL	PWL	WL	WL	WL	WL
JORDAN										WL	WL + OCR	WL	OO	OO					
KAZAKHSTAN				WL + GSP	WL + GSP	WL	WL	WL	WL		OO								

COUNTRY	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990
KENYA																			
KUWAIT	WL	WL	WL	PWL	PWL	WL	WL	WL	WL	PWL + OCR	PWL	WL	WL	OO					
KRYGYZ REPUBLIC								OCR											
LATVIA			WL + OCR	WL	WL	WL	WL	WL	WL										
LEBANON	WL + GSP	PWL + GSP	PWL + GSP	PWL+ GSP	PWL + GSP	PWL + GSP	PWL	PWL	WL	WL	OO	OO	OO						
LITHUANIA		WL	WL	WL	WL	WL	WL	WL + OCR	WL										
LUXEMBOURG												WL + OCR							
MACAU								WL	WL + OCR	PWL	PWL								
MALAYSIA	WL	WL	WL	WL	WL + OCR	WL	WL	PWL + OCR	PWL	OCR									WL
MEXICO	WL	WL	WL	WL	WL	WL	OCR			WL	OO	OO	OO						
MOLDOVA									WL										
NAMIBIA																			
NETHERLANDS											OO								
NEW ZEALAND							WL	WL		WL							WL	WL	
NICARAGUA											OO	OO	OO						
NIGERIA																			
NORWAY																			
OMAN	WL								WL	WL	WL	WL	WL	OO					
PAKISTAN			WL	PWL + GSP	PWL	WL	WL	WL	WL	WL	WL	WL	WL + DS	WL	WL	WL + OCR	WL	WL	WL

COUNTRY	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990
PANAMA	PWL	WL + OCR									OO	WL + OCR	OO		SM				
PARAGUAY			306	306	306	306	306	306	306	306	PFC + 301	PWL + OCR	WL + OCR	OO	SM		WL		
PERU	306	306	WL	WL	WL	WL	WL	WL	PWL	PWL	WL	WL	WL	WL	WL	WL	WL		
PHILIPPINES	WL	WL	WL	PWL + OCR	PWL	PWL	PWL + OCR	PWL	WL	WL	WL	WL	WL + OCR	WL	WL	WL	PWL	WL	WL
POLAND	WL	WL	WL	WL	WL + OCR	PWL	WL + OCR	WL	PWL	WL + OCR	WL	WL	WL	WL	WL + GSP	PWL + OCR	PWL		
PORTUGAL	WL	WL											OO + DS						
QATAR							WL		WL	WL	WL	OO	OO	OO					
ROMANIA			WL	WL	WL	WL	WL	WL	WL	WL	OO	OO	OO	WL					
RUSSIAN FEDERATION	WL	WL	PWL + GSP	PWL + OCR + GSP	PWL + GSP	PWL	PWL	PWL	PWL	PWL	PWL	PWL	WL + OCR	WL	SM				
SAN MARINO	PWL + GSP	PWL + OCR + GSP										WL							
SAUDI ARABIA			WL + OCR	WL + OCR	WL	WL	WL	WL	WL	WL	WL	WL	WL + OCR	PWL + OCR	PWL	PWL	WL	WL	WL
SERBIA AND MONTENEGRO (formerly Yugoslavia)	WL	WL																WL	WL
SINGAPORE									WL	WL	WL	WL	WL	WL	SM				

COUNTRY	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990
SLOVAK REPUBLIC (formerly Slovakia)				WL	WL	WL	WL	WL											
SLOVENIA									OCR										
SOUTH AFRICA										WL + OCR	WL		OO + OCR	WL + OCR					
SOUTH KOREA			WL	WL	PWL	WL + OCR	WL	PWL	PWL + OCR	WL + OCR	WL	WL	PWL	PWL	PWL	PWL + OCR	PWL	WL	WL
SPAIN	WL	WL							WL	WL	OO				WL	WL + OCR	WL	WL	WL
SWEDEN	WL									WL	WL + DS	WL + DS							
SWITZERLAND																			
TAIWAN			WL	WL	PWL + OCR	PWL	PWL	PWL	WL	WL			OO + OCR	WL	WL	PWL	PFC	WL	WL
TAJIKISTAN	WL (then OFF due to OCR)	WL	WL	WL	WL	WL	WL	WL	WL										
THAILAND	WL	WL	WL	WL	WL	WL	WL + OCR	WL	WL	WL	WL	WL + OCR	WL + OCR	WL	PWL	PFC	PFC	PFC + 301	PWL
TRINIDAD & TOBAGO	PWL	PWL																	
TUNISIA											OO								
TURKEY			PWL	PWL	PWL	WL	WL	WL	PWL	PWL	PWL	PWL + OCR + DS	PWL + DS	PWL + OCR	PWL + GSP	PWL + OCR	PWL	WL	WL
TURKMENISTAN	WL	PWL	WL	WL	WL	WL	WL	WL	WL										
UNITED ARAB EMIRATES	WL	WL						WL	OCR	WL	WL	WL	WL	WL + OCR	WL + OCR	WL	WL	WL	

COUNTRY	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990
UKRAINE			PWL + 306	PFC + GSP + OCR	PFC + GSP	PFC + GSP	PFC + GSP	PFC + 301 + GSP	PWL	PWL	WL								
URUGUAY	WL	PWL		WL	WL	WL	PWL	PWL	WL	WL	OO	OO							
UZBEKISTAN			WL + GSP	WL + GSP	WL + GSP	WL	WL	WL	WL										
VENEZUELA	WL + GSP	WL + GSP	PWL	PWL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL	WL + OCR	WL	WL	WL
VIETNAM	PWL	PWL	WL	WL	WL	WL	WL	WL	WL	WL	WL + OCR	WL	OO	OO					
THE WEST BANK AND GAZA	WL	WL							OCR										
YEMEN											OO								

USTR 301 PLACEMENT 1989
(AS OF APRIL/MAY OF EACH YEAR)

COUNTRY	1989
ALGERIA	
ARGENTINA	WL
ARMENIA	
AUSTRALIA	
AUSTRIA	
AZERBAIJAN	
BAHAMAS	
BAHRAIN	
BARBADOS	

COUNTRY	1989
BELARUS	
BELIZE	
BOLIVIA	
BRAZIL	PWL
BRUNEI	
BULGARIA	
CANADA	WL
CHILE	WL
CHINA (PRC)	PWL
COLOMBIA	WL
COSTA RICA	
CROATIA	
CYPRUS	
CZECH REPULIC	
DENMARK	
DOMINICAN REPUBLIC	
ECUADOR	
EGYPT	WL
EL SALVADOR	
ESTONIA	
EUROPEAN UNION (formerly European Community)	
FIJI	
FINLAND	
GEORGIA	
GERMANY	
GREECE	WL
GUATEMALA	
HONDURAS	
HONG KONG	
HUNGARY	
INDIA	PWL

COUNTRY	1989
INDONESIA	WL
IRELAND	
ISRAEL	
ITALY	WL
JAMAICA	
JAPAN	WL
JORDAN	
KAZAKHSTAN	
KENYA	
KUWAIT	
KRYGYZ REPUBLIC	
LATVIA	
LEBANON	
LITHUANIA	
LUXEMBOURG	
MACAU	
MALAYSIA	WL
MEXICO	PWL
MOLDOVA	
NAMIBIA	
NETHERLANDS	
NEW ZEALAND	
NICARAGUA	
NIGERIA	
NORWAY	
OMAN	
PAKISTAN	WL
PANAMA	
PARAGUAY	
PERU	
PHILIPPINES	WL
POLAND	
PORTUGAL	WL
QATAR	
ROMANIA	

COUNTRY	1989
RUSSIAN FEDERATION	
SAN MARINO	
SAUDI ARABIA	PWL
SERBIA AND MONTENEGRO (formerly Yugoslavia)	WL
SINGAPORE	
SLOVAK REPUBLIC (formerly Slovakia)	
SLOVENIA	
SOUTH AFRICA	
SOUTH KOREA	PWL
SPAIN	WL
SWEDEN	
SWITZERLAND	
TAIWAN	PWL
TAJIKISTAN	
THAILAND	PWL
TRINIDAD & TOBAGO	
TUNISIA	
TURKEY	WL
TURKMENISTAN	
UNITED ARAB EMIRATES	
UKRAINE	
URUGUAY	
UZBEKISTAN	
VENEZUELA	WL
VIETNAM	
THE WEST BANK AND GAZA	
YEMEN	

KEY:

301: 301 Investigation
306: Section 306 Monitoring
PFC: Priority Foreign Country
PWL: Priority Watch List
WL: Watch List
OO: Other Observations (an informal listing formerly used by USTR)
SM: Special Mention
OCR: Out of Cycle Review to be conducted by USTR
GSP: GSP IPR Review ongoing, except Ukraine and Indonesia where GSP IPR review initiated June 2012
DS: Dispute Settlement