



COPYRIGHT INDUSTRIES' GLOBAL CHALLENGES FOR 2009

REDUCE COPYRIGHT PIRACY ■ REMOVE MARKET ACCESS BARRIERS ■ STRENGTHEN LAWS

The greatest challenges faced by the U.S. copyright industries in 2008 include convincing foreign governments to take sustained steps to reduce significantly copyright piracy levels, to remove the negative effects of barriers to market entry, and to modernize copyright laws and enforcement tools to meet minimum obligations under copyright treaties and agreements, including the TRIPS Agreement, the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty, and regional and bilateral free trade agreements (FTAs). Technological advances also require foreign governments continually to adjust their laws and enforcement tools to unleash legitimate services providing online delivery of creative content, while deterring use of that content without permission or compensation to its creator. As copyright piracy operations by criminal syndicates become more sophisticated, and they continue their high profit-low risk pirate enterprises, the copyright industries must also look to governments to take leadership through enactment and implementation of strong organized crime statutes with copyright piracy as a predicate offense. The following is a summary of key challenges facing the copyright industries:

- **INTERNET-BASED PIRACY:** Internet piracy, from infringing websites, top site pre-release groups, to unauthorized P2P file sharing, has undergone explosive growth, hindering legitimate electronic commerce opportunities and causing mounting losses to the music, movie, videogame, business software and publishing industries. To respond to the threats posed by Internet infringements, governments should ratify and fully implement the WIPO Treaties, establish a framework encouraging cooperation by Internet service providers with content owners including workable notice and takedown systems and graduated response mechanisms. They should train and empower enforcement authorities to investigate and prosecute computer-based and Internet-based infringements.
- **OPTICAL DISC PIRACY:** Pirate product in optical disc formats (e.g., CDs, VCDs, DVDs, CD-ROMs, recordable discs) has long caused enormous harm to copyright owners. Production capacity continues to outpace legitimate demand with the excess serving pirate markets. Effective and deterrent enforcement must target both pirate optical disc factories and the growing damage caused by burning labs (including tough deterrent sentencing against owners and financiers of these facilities). Some key OD piracy countries still lack regulations to require licensing and allow inspections of industrial factory production.
- **END-USER PIRACY OF BUSINESS SOFTWARE AND OTHER COPYRIGHT MATERIALS:** Unauthorized use of software by businesses and government entities, as well as piracy of other copyright materials like sound recordings, movies, video games, and printed materials using government or corporate servers, computers networks or facilities, result in the loss of billions of dollars to U.S. creative industries. Governments must take steps to deter such infringements, by issuing orders or directives to government agencies, entities, contractors, and educational institutions to use only legal content over their facilities, and by undertaking criminal enforcement against enterprise piracy.
- **PIRACY OF BOOKS AND JOURNALS:** The publishing industry continues to face severe challenges in the physical world, dominated by unauthorized commercial-scale photocopying in shops, underground, and on university campuses, unauthorized photocopying for commercial research, unauthorized translations, and offset print piracy. These highly organized and networked operations require a coordinated government response including effective enforcement and the imposition of deterrent penalties.
- **MOBILE DEVICE PIRACY:** The pre-loading or loading of illegal copyright content onto mobile devices, such as phones, MP3 players, or memory sticks or drives has become a growing new problem. Mobile device piracy often occurs in shopping malls or kiosks, demanding an enforcement response like that for traditional retail store or street stall piracy. Holding mall owners accountable for the illegal activities of their tenants is a key enforcement tool.
- **ILLEGAL CAMCORDING OF THEATRICAL MOTION PICTURES:** Most piracy of motion pictures today begins with an illegally camcordered copy in a movie theater. Countries must enact and enforce measures to make it illegal to use or attempt to use an audiovisual recording device to make or transmit a copy of a motion picture.
- **CARTRIDGE-BASED VIDEOGAME PIRACY:** Factory piracy of entertainment software in cartridge format remains a serious problem, with such cartridges finding their way into numerous countries around the world. Sustained enforcement actions must be taken against these factories and their owners and financiers.
- **PAY TV PIRACY AND SIGNAL THEFT:** Unauthorized transmission of pay TV or satellite signals causes increasing losses to the audiovisual content industries and legitimate broadcasters. Governments must take steps to curtail such illegal activities.
- **MARKET ACCESS:** There exists a strong connection between a country's willingness to open its market to legitimate copyright businesses and its ability to combat piracy effectively. Where there are unjustifiable impediments to the introduction or distribution of legitimate products, or to the commercial establishment of companies involved in the creation, manufacture or distribution of such products, illegal operations fill the void with piratical product.