ISRAEL

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
2011 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

Special 301 Recommendation: Israel should be on the Watch List.[1]

Executive Summary: Israel, which on September 7, 2010, became the 33rd member of the Organization of Economic Co-operation and Development (OECD),[2] and whose economic power matches that of the likes of South Korea and the European Union in terms of per capita GDP, has lagged behind in terms of protecting creative output of Israelis and foreign creators. Stark examples are easy to find – the Israel Export & International Cooperation Institute (a joint venture between the Israeli Government and the private sector to promote Israel's exports) indicates that out of US$64 billion exported to the world in 2008, filmed entertainment made up a meager US$50 million. Tellingly, neither music nor books appear on the list. While software exports are high ($3.6 billion), the value of unlicensed U.S. business software in the market is also too high.

A key reason the Israeli creative market remains under-developed is a lack of commitment to the strongest, most modern copyright protections. Israel remains one of only two OECD members that have not implemented key provisions of, or joined, the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonogram Treaty (WPPT), which provide the basic minimum framework for protection of copyright in the online environment.[3] Piracy remains an issue in Israel including PC software piracy which remained at 33%, representing a commercial value of pirated U.S.-vendor software of US$70 million in 2010, according to preliminary data.[4] End-user software piracy still is not criminalized in the country as required by TRIPS. One major and longstanding issue for the audiovisual industry remains the resistance of Israeli cable operators to compensate copyright owners for unauthorized uses of their works through retransmissions of broadcast television signals, despite court decisions confirming remuneration must be paid for unauthorized retransmissions. Israel's Internet usage continued to increase in 2010, and along with it, so did infringing activities online. Right holders' ability to take action to stop online infringement has been significantly limited by a recent Supreme Court ruling, which held that courts are not empowered under Israel's existing legal framework to order ISPs to disclose the details of their users.[5] In 2010, Israel ranked second among all countries in terms of per capita detections of peers participating in unauthorized file sharing of select entertainment software titles. Serious commercial piracy still cannot be addressed in the country effectively, as the number of police officers in the IPR Units remains too low. In addition, internal prosecutors have yet to be assigned to the Units, resulting in long delays in indictment submissions and in lower quality cases being filed due to lack of experience.

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[1] On February 17, 2010, USTR announced the result of its Out-of-Cycle Review (OCR) of Israel. In that announcement, USTR indicated an "understanding was reached" with the Israeli Government on "improving data protection, the term of patents on pharmaceuticals, and provisions on publication of patent applications in Israel," and that "[i]n recognition of Israel's agreement to move forward on legislation to amend its IPR laws, and once the appropriate legislation is submitted to the Knesset, the U.S. Trade Representative will move Israel from the Special 301 Priority Watch List to the Watch List." USTR also indicated that "as soon as the legislation is fully implemented, Israel will be moved off the Special 301 list altogether." IIPA has consistently recommended that Israel remain on the list until copyright issues are resolved. For more details on Israel's Special 301 history, see IIPA's "History" Appendix to this filing at http://www.iipa.com/pdf/2011SPEC301HISTORICALSUMMARY.pdf, as well as the previous years' country reports, at http://www.iipa.com/countryreports.html.

[2] *See* Organization of Economic Co-operation and Development, *List of OECD Member countries - Ratification of the Convention on the OECD*, at http://www.oecd.org/document/58/0,3746,en_2649_201185_1889402_1_1_1_1,00.html.

[3] The following OECD members are members of the WCT and WPPT: Australia, Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, Netherland, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom, and United States. Only Canada, Iceland, New Zealand, and Norway have not, and of those, only Canada has not implemented either Treaty.

[4] BSA's 2010 statistics are preliminary, representing U.S. software publishers' share of commercial value of pirated software in Israel. They follow the methodology compiled in the Seventh Annual BSA and IDC Global Software Piracy Study (May 2010), http://portal.bsa.org/globalpiracy2009/index.html. These figures cover packaged PC software, including operating systems, business applications, and consumer applications such as PC gaming, personal finance, and reference software – including freeware and open source software. They do not cover software that runs on servers or mainframes, or routine device drivers and free downloadable utilities such as screen savers. The methodology used to calculate this and other piracy numbers are described in IIPA's 2011 Special 301 submission at http://www.iipa.com/pdf/2011spec301methodology.pdf. BSA's final piracy figures will be released in mid-May, and the updated US software publishers' share of commercial value of pirated software will be available at http://www.iipa.com.

[5] Civil Leave to Appeal 4447/07 *Rami Mor v Barak* (Supreme Court, 25 March 2010). The case dealt with online defamation, but the ruling is not limited to defamation cases.

Priority Actions Requested in 2011:

Enforcement

- Enforce court decisions ordering Israeli cable operators to compensate copyright owners for unauthorized retransmissions of television broadcast signals containing their works, and establish a fair remuneration structure going forward.
- Ensure courts impose higher damages that create a deterrent to further infringements.
- Fortify the Special Police IPR Units, by adding staff, funding, and providing them with *ex officio* raiding authority. A National Police Unit director should be assigned to coordinate districts for effective and sustained enforcement.
- Tackle burgeoning Internet piracy through proactive Israeli Police pursuance of Internet piracy cases.
- Establish national and independent unit specifically to prosecute piracy cases, and give such cases priority attention for expeditious handling and processing in the courts.

Legislation

- Amend the Copyright Act, *inter alia*, to confirm criminal liability against enterprise end-user software piracy, provide minimum statutory damages, prohibit circumvention of technological protection measures and the trafficking in circumvention devices, and establish effective means for enforcement against online infringement.
- Clarify the scope of ISP liability for authorizing infringements and provide incentives for them to help right holders tackle online infringement, including takedowns and effective and fair repeat infringer policies for the online space. Pass legislation allowing courts to order Internet service providers to disclose the details of online infringers

Market Access

- Scrap regulation prohibiting foreign television channels from carrying some advertising aimed at the Israeli market.

PIRACY AND ENFORCEMENT UPDATES IN ISRAEL

Previous reports and filings include discussions of piracy and enforcement challenges faced in Israel. The following section provides brief updates on piracy and enforcement issues in Israel.

Collections for Retransmissions of Broadcast Television Signals: Notwithstanding protections afforded to retransmitted works under Israel's copyright laws and an Israel Supreme Court decision confirming that Israeli law affords such copyright protection to cable retransmissions, Israeli cable operators continue to resist making payments for retransmissions of any broadcast television signal. Specifically, AGICOA filed a claim *eleven* years ago on behalf of its members seeking compensation for the unauthorized retransmission of copyright works by Israeli cable operators. This compensation is contemplated by international treaties including the Berne Convention and the TRIPS Agreement (as well as the WCT). Most of AGICOA's claims, filed after many years of trying to come to terms with cable operators directly, have gone unresolved.[6] It seems clear from the disregard of the Israeli courts and the failure by Israeli cable operators to advance serious settlement discussions that there is little will in Israel to ensure a fair result, namely an agreement or court order that equitable compensation must be paid to copyright owners of audiovisual works where those works are retransmitted by cable operators without authorization.

It is imperative that this matter be resolved promptly with a fair settlement for past failure to compensate right holders, together with a reasonable agreement with AGICOA for payments going forward. In a previous Israeli Government Submission to USTR in the Special 301 process, the government indicated, "[r]etransmissions are subject to copyright exclusive rights," and "[w]ith respect to the referred to court case brought by AGICOA that case is still pending in the court system and its outcome will depend, inter alia, on the ability of AGICOA to prove their case." We appreciate the Israeli Government's statement confirming the exclusive rights of our copyright owners, but respectfully suggest that local government officials have it within their power to support and motivate constructive

[6] Some of their claims have now been paid thanks to a favorable outcome in a bankruptcy case filed by certain cable operators that were part of the original suit.

settlement discussions both for past violations of copyright laws by cable operators and for fair payments going forward.

Business Software End-User Piracy Causes Harm to U.S. Software Houses: The Business Software Alliance reports that, while the level of business software end-user piracy has remained relatively low in the past few years, more can be done to decrease the US$70 million in value of U.S.-vendor unlicensed software, which translates to direct harm felt by U.S. software companies in the Israeli market. There can be no doubt that protecting copyright in Israel and reducing piracy brings resulting positive gains to the Israeli economy. For example, a study released in 2010 by International Data Corporation for BSA demonstrated that reducing the PC software piracy rate in Israel by ten percentage points in four years (from 33% to 23%) would deliver US$799 million in new economic activity, 3,207 new IT jobs, and $430 million in additional tax revenues by 2013.[7] Front-loading the benefits by reducing software piracy ten points in the first two years of the same four-year period compounds the economic benefits, delivering US$1.07 billion in new economic activity and US$582 million in new tax revenues. Often, in the Israeli context, small companies do purchase legal software, but engage in under-licensing, while large organizations are seeking volume licensing solutions which make life simpler for both the software companies and the organizations.

Industry reports disappointment that no court has ever awarded the maximum statutory damage award (NIS100,000, or US$27,000) and thus the increased maximum in the 2007 Copyright Law is dead letter. Decisions by Israeli courts have created uncertainty about whether right holders can pursue copyright remedies against parties who, by virtue of their violation of the terms of an End User License Agreement (EULA), have forfeited their authorization to use the software. BSA reports that where end-user software piracy has been detected, and court cases brought, in some busier districts (such as Tel Aviv district court) cases slow and a first hearing can take up to six months to obtain.

Book Piracy: In 2009, publishers became aware of a growing problem of illegal photocopying occurring at copy shops on at least two university campuses. The unauthorized copying appeared to be facilitated by the university student union, which was producing the illegal copies of textbooks and selling them to students. The publisher's source believes that university administrators are aware of the illicit activity but have not acted against the ongoing pirate activity. It is not known at this time how widespread illegal photocopying is but publishers are continuing to investigate. Certain universities also offer print-on-demand services where a student can request that a customized course pack be printed, for a fee, and likewise post excerpts taken from U.S. books on the institution's intranet for student use. The publishers' permission was not obtained and neither have royalties for such use been paid.

Physical Piracy: Commercial piracy of music product remains a major problem in Israel, with an estimated three million counterfeit CDs sold annually, 95% of which are infringing CD-Rs burned in small homemade labs. While the police IP Unit has taken some steps to deal with this problem, more action is needed and the Unit does not have the required resources and manpower to address the problem effectively.

Internet Piracy: It is well documented that Israelis love using the Internet, with latest figures showing an average use of 2,300 minutes per month, second in the world only to Canada.[8] More than 5.3 million Israelis, close to three quarters of all Israelis use the Internet (2009), with almost 1.7 million broadband subscribers as of 2008 (according to ITU). As such, Internet infringements have unfortunately increased in Israel, e.g., illegal P2P filesharing, infringements using BitTorrent, accessing infringing files through deeplinking sites, and illegal uses of web bulletin boards and cyberlockers. The recording industry estimates that over 90% of all music transmitted over the Internet in Israel is infringing. The Entertainment Software Association (ESA) reports that during 2010, its vendors detected 2.32

[7] Business Software Alliance and IDC, *Piracy Impact Study: The Economic Benefits of Reducing Software Piracy: Israel*, 2010, at http://portal.bsa.org/piracyimpact2010/cps/cp_israel_english.pdf.

[8] Sharon Bauder, *Canada, Israel Rank Highest in Internet Usage*, VJ Virtual Jerusalem, January 11, 2011, at http://www.ynetnews.com/articles/0,7340,L-4007770,00.html.

million connections by peers participating in unauthorized file sharing of select member titles on P2P networks through ISPs located in Israel, placing Israel fourteenth in overall volume of detections in the world and second in per capita detections.[9] Breakdowns by ISP show that Bezeq International-Ltd, Golden Lines Cable and NetVision subscribers account for approximately 86% of this activity occurring in Israel.

The Israeli Government has in the past recognized the importance of dealing with the problem of online piracy,[10] but so far little has been done to address the problem. Government enforcement authorities (police, tax authorities, customs) are uninvolved in online enforcement, and the criminal liability of online infringers under existing law remains unclear. As a result, civil action remains the only course of action available to right holders to deal with infringement. Regrettably, the ability to bring civil litigation has now been severely hampered by a March 2010 decision of the Supreme Court holding that Israeli courts are not empowered to issue disclosure orders against ISPs. Although the court's ruling rests on procedure (that existing court rules do not provide a basis for such orders), the ruling means that right holders cannot obtain the details of anonymous infringers for the purpose of bringing litigation against them.

With no criminal enforcement and limited ability to bring civil action, local industry depends on voluntary cooperation from ISPs to deal with online piracy, and industry groups report a generally satisfactory level of cooperation. Nevertheless, in light of the Supreme Court decision, legislation setting out a procedure for disclosure of infringer details is urgently needed. The Supreme Court, in its ruling, called upon to legislators to rectify the problem and pass legislation explicitly granting courts the powers to order disclosure. Recent reports indicate that the Ministry of Justice is working on legislation, but to date no draft has been published for comments. Until such legislation is passed, right holders are left with no ability to take action against anonymous infringers.

COPYRIGHT LAW UPDATES AND RELATED ISSUES

Copyright law in Israel is governed by the 2007 Copyright Law. The law creates a basic structure for protection of U.S. copyright in Israel, but still may not be fully compatible with Israel's international obligations, and should be modernized including, *inter alia*, to bring it into compliance with the WCT and WPPT.

- No Protection Against Circumvention of Technological Protection Measures: Israel is one of the only OECD members that has not protected technological protection measures from unlawful circumvention, or the trafficking in circumvention technologies or devices or the providing of circumvention services. The Israeli Government points out in written filings that Israel is not a member of either the WCT or WPPT so it is under no obligation to introduce protections of TPMs. This is true, but the government is incorrect to suggest that authors oppose or do not rely on TPMs to make content available in the digital environment. Protection against circumvention of TPMs remains a vital part of development new distribution models for the digital and online environments. WIPO advocates such protection, noting, "it is not sufficient to provide for appropriate rights in respect of digital uses of works, particularly uses on the Internet … no [digital] rights may be applied efficiently without the support of technological measures of protection …. There was agreement that … appropriate legal provisions were needed to protect the use of such measures." The Israeli Government is also incorrect to assert there is a "lack of uniform implementation worldwide," as there are over 100 countries/territories as of February 2011 that had fully or partially implemented the anti-circumvention obligations, had already committed to, or had draft legislation which would provide such protection.

[9] These figures do not account for downloads that occur directly from hosted content, such as infringing games found on "one-click" hosting sites, which appear to account each year for progressively greater volumes of infringing downloads.

[10] The Israeli Government has indicated in its 2009 Submission to USTR in the Special 301 process that "[p]iracy carried out through the internet is … receiving attention," and noted, "like in many countries, where the servers are located outside of the jurisdiction enforcement is impeded," while when "activities are carried out from Israel enforcement is easier." The government's point regarding the potential complexities of enforcement when multiple jurisdictions are involved in an infringement is well taken, although the IFPI cases indicate that it is quite possible, and indeed, in the years ahead, will be necessary for enforcement authorities to deal with cases in which activities occur both domestically and extraterritorially.

- Need to Criminalize Enterprise End-User Software Piracy: The Israeli Government has taken ambiguous positions over the years as to whether end-user software piracy constitutes a crime in Israel. This situation makes deterrence very difficult as to end-user piracy, since it means BSA has had to rely on bringing civil cases against enterprise end-user software piracy. In those cases there is invariably a lack of deterrence. The Israeli Government has in previous submissions excused its failure to criminalize this commercial form of piracy, indicating that "Business Software End user liability is addressed by Israeli copyright law" and asserting that "Israel has some of the world's lowest rates of business software piracy." They have more recently helpfully indicated that "[c]riminal liability may also inure provided that the software has been distributed on a commercial scale." The dissemination of software within a business setting constitutes such commercial scale distribution. IIPA is interested in exploring this theory for criminal liability in Israel under the new Law (and the Israeli Government's interpretation in its filings). The unauthorized use of business software and other copyright materials in a commercial setting must be criminalized in order to meet the TRIPS Article 61 requirement to criminalize piracy on a commercial scale. To the extent the current law does not criminalize unlicensed use of software, the government should amend the law.

- Minimum Statutory Damages Needed: Currently, under Section 56 of the Copyright Law, 2007, statutory damages range between no damages and NIS100,000 (US$27,000), replacing the old minimum of NIS10,000 (US$2,700) and maximum of NIS20,000 (US$5,400). While the higher maximum is very helpful, the fact that there are no longer minimum statutory damages has harmed enforcement. To illustrate, while some courts have awarded zero damages against some infringers, no court has ever awarded any amount approaching the NIS100,000 (US$27,000) maximum. This absence of a certain deterrent outcome for infringers has negatively affected copyright owners' ability to seek redress effectively. For example, the Business Software Alliance, which operates its program through warnings and the elimination of illegal uses, has been stymied in its efforts due to the lack of an effective statutory damage remedy. The lack of such a remedy has also had a negative impact on enforcement against resellers (who are also subject to the same civil damages regime). It should further be noted that statutory damages are awarded at the discretion of the court ("the court is allowed, at the claimant's request") rather than at the election of the claimant, which is regrettable. Finally, the question arises whether pre-established damages should be available on a per-copy basis, or only on a per-work basis. Recent judgments regarding software copyright infringements have resulted in one statutory damage award per software title infringed, regardless of how many copies were infringed (though the number of infringing copies may be considered in the court's determination of the amount of the award).

- Establish Fair and Effective Means For Enforcement Against Online Infringement: As noted, the Israeli law (and interpretation in the courts) is evolving with respect to online infringements, although the decisions are mixed. The Israeli Government has indicated in the past action toward examining legislation to deal with the issue of ISPs and their indirect responsibility for infringements taking place over their services, but apparently there is no proposal before the Knesset. Any initiative adopted should foster cooperation with right holders in taking down infringing conduct, including a notice and takedown mechanism, preserve injunctive relief in all cases foster cooperation in investigations into piracy in the non-hosted environment including effective and fair policies to deal effectively with repeat infringers.

- Protection for Foreign Phonogram Producers on Basis of National Treatment Desired (Sections 8, 10): Under the 2007 Law, foreign right holders in sound recordings (other than U.S. sound recordings which enjoy national treatment on the basis of bilateral arrangements) were denied equal treatment and could be denied rights, and therefore payments, for their sound recordings in Israel. The government should reinstate protection for foreign sound recordings enjoyed under the previous law, granting all foreign phonogram producers the full set of rights granted to Israeli nationals.[11]

[11] The 2009 Israel Submission indicates, among other things, that "[t]he treatment of sound recordings under the new Copyright Law is fully conformant with Israel's bilateral and multilateral obligations," a statement with which we agree. However, the Submission fails to address the justification for the weakening of protection, i.e., the failure to maintain protection under the previous law, and the move from providing equal national treatment to discriminatory treatment for non-U.S. foreign recordings.

- Presumption of Ownership for Non-U.S. Foreign Sound Recordings Omitted (Section 64): The presumption of ownership available in Section 64 of the 2007 Law does not expressly cover sound recordings. Since U.S. sound recordings enjoy national treatment in all respects by virtue of bilateral arrangements dating back to 1950, when sound recordings were considered works in Israel, the presumption in the 2007 Law should apply to U.S. recordings. The former version of Section 64 should be reinstated.

- Limited Right to Injunctions: Section 53 could limit the ability of copyright owners to enjoin infringements of their rights, by providing that the right to an injunction in copyright infringement cases exists "unless the Court has grounds for not ordering so." This limitation appears to undermine the well-rooted view under Israeli case law that the right for an injunction in infringement of IP matters (copyright included) is not subject to exceptions. This amendment raises questions about Israel's compliance with TRIPS Article 44.

- Destruction/Forfeiture Not Adequately Provided: Section 60 of the 2007 Law provides for the possibility of destruction of infringing goods, but also gives courts the ability to order the "transfer of the ownership of the infringing copies to the claimant, if he has so requested, and the court may, if it finds that the claimant is likely to make use of those infringing copies, order the complainant to make payment to the defendant in the manner which it shall prescribe." This provision appears to violate Article 46 of TRIPS which mandates the disposal of infringing goods "without compensation of any sort," since the Section appears to create a default rule allowing the transfer with payment.

- Term of Protection for Sound Recordings: Under the 2007 Law, Israel protects sound recordings for only 50 years "from the date of its making." There is no reason not to afford at least 70 years to the owners of sound recordings.[12] The international trend is for more countries to amend their laws to provide at least 70 years for sound recordings, and the Government of Israel should agree to follow this trend and provide longer term to producers of sound recordings in Israel.

- Protection for Pre-Existing Works and Rule of the Shorter Term (Section 44): Section 44 of the Law intends to impose a rule of the shorter term on works/phonograms, but apparently misapplies this rule in a way that violates Israel's obligations under Article 7(8) and 18 of the Berne Convention. Namely, Section 44 provides, "The period of copyright in a work listed below shall not be longer than the period of copyright prescribed for such work in the law of its country of origin..." Article 18 of the Berne Convention requires that Israel protect "all works, which, at the moment of [the Berne Convention] coming into force, have not yet fallen into the public domain in the country of origin through the expiry of the term of protection." It is well understood that this requires Israel to protect U.S. works, including those that may have fallen into the public domain due to failure to comply with a Berne-prohibited formality, or which never had a term of protection due to failure to comply with a formality. The rule of the shorter term allows that the "term shall not exceed the term fixed in the country of origin," not the term "prescribed for such work" as in the Israeli provision. It is well understood that the "term fixed" means the term the work would have enjoyed had all formalities been complied with. Thus, Israel's Section 44 may be deficient as compared with the Berne Convention and TRIPS, since there may be works or phonograms which fell into the public domain in the United States due to failure to comply with a formality, but which under Berne Article 18, must be protected in Israel. Israel must confirm that Section 44 meets the international obligation, or must amend it so that it does so.

- Parallel Importation: The definition of "infringing copy" in Paragraph 1 of the 2007 Law excludes from protection copies made with the consent of the owner of rights in the country of manufacture and imported into Israel . This

[12] Indeed, since those works are measured from the date of publication (or in the case of "records" from the date it was created) it is even more imperative that, for the sake of providing proper incentives for further creation and dissemination, that an attempt be made to arrive at an equivalent number of years to "life of the author" plus seventy years. In the United States, studies were conducted to arrive at the actuarial equivalent of "life of the author" plus seventy years, which was demonstrated to be ninety-five years from publication.

means that goods which are considered genuine in their country of origin may not be prevented from importation to Israel even where the copyright owner in Israel is not the copyright owner of the work in its country of origin and has not authorized the import. Parallel imports of copyright material ultimately harm local distributorships, and increase the likelihood that piratical product will be "mixed" in with shipments of parallel imports, making piracy harder to detect and enforcement more difficult.

- Limitations and Exceptions: IIPA has in previous submissions discussed exceptions in the 2007 Law which could, if not properly interpreted, run afoul of the well-established Berne "three-step test" (incorporated into TRIPS), especially if applied in the digital environment. IIPA appreciates the Israeli Government's reaffirmation that "[t]he Berne 'three step test' … sets forth a binding international standard that is embodied in the new Copyright Law, and in particular in its 'fair use' section … and exceptions sections." At least one decision has created concerns about how Israeli courts will interpret the new fair use provisions of their law, and we suggest that USTR, in conjunction with experts from the Copyright Office and PTO, begin a dialogue with the government of Israel, to ensure that the Government of Israel acts in a manner conducive with achieving interpretations consistent with Israel's international obligations under the three step test. Exceptions raising cause for concern include:

    - The public performance exception in educational institutions (Section 29) (e.g., where sound recordings are concerned, the exception should be limited to teaching or examination purposes only).

    - The computer program exceptions (backup and interoperability) (Section 24) (e.g., the exception allowing for reproduction or adaptation for purposes of interoperability and for other purposes should be made consistent with the European Directive on the Legal Protection of Computer Programs, Articles 5 and 6 in order to appropriately narrow the exceptions).

    - The temporary copy exception (Sections 26) (while Sections 11(1) and 12(4) confirm that temporary copies are protected in Israel, the exception in Section 26 is vague enough to cause concern, e.g., "to enable any other lawful use of the work," is overly broad).

    - The library/archive exception (Section 30) which as written fails to meet the Berne Convention and TRIPS standard for exceptions; *cf.* 17 U.S.C. § 108(d) and (e) (U.S. Copyright Act) which allows for limited inter-library transfer of a single copy of one article from a compilation or periodical, in limited circumstances, or of an entire work, but only where the work cannot be obtained at a fair price.

MARKET ACCESS

Television Advertising Restriction Violates Israel's WTO Agreement: IIPA generally opposes television advertising restrictions, as they lead to a reduction in advertising-based revenue, impeding the development of the television industry. On May 9, 2002, Israel's Council for Cable and Satellite Broadcasting adopted a new provision to the existing Bezeq Law that regulates the pay television industry. The provision prohibits foreign television channels from carrying advertising aimed at the Israeli market, with the exception of foreign broadcasters transmitting to at least eight million households outside of Israel. This provision violates Israel's commitments in the World Trade Organization (WTO) Services Agreement to provide full market access and national treatment for advertising services. In addition, such restrictions impede the healthy development of the television industry in Israel.