

ANNEX: BARBADOS

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

2018 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

A priority in Barbados is to improve the legal regime by ratifying and properly implementing the WIPO Internet Treaties—the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). This is a necessary step to protect basic digital copyright and neighboring rights, to create a favorable environment for the digital marketplace in Barbados, and to connect Barbados to the global legal ecosystem for the creative industries.

Legal and enforcement shortcomings for the copyright industries in Barbados are not limited to the online environment. Even the traditional market of broadcasting, including licensing and receiving payments for recorded music is problematic. The recording industry reports that Barbados is one of many Caribbean countries (e.g., Trinidad and Tobago) that continues to permit the unlicensed and uncompensated broadcasting, cablecasting and simulcasting of copyrighted music. Some services currently refuse to pay royalties on the grounds that their use of recorded music services is not clearly protected by law because Barbados has not ratified the WIPO Internet Treaties (WCT and WPPT). This highlights the need for Barbados to accede to the WIPO Internet Treaties.

But even where uses of copyrighted works and recordings are unequivocally protected by the current Copyright Act of Barbados—such as traditional broadcasting and cable transmission—some broadcasters, including the state-owned Barbados Broadcasting Corporation refuse to pay broadcast fees. In addition, concert promoters take advantage of an exception for “charities” to the public performance right and do not pay license fees to sound recording producers or performers for the use of recorded music at concerts and other live performances. This is an exception only available by law to registered charities. The Government of Barbados needs to review the operation of the Charities Act to ensure that it is not abused to avoid licenses. And, if this cannot be corrected by applying current law, then the law must be amended to prohibit the abusive application of what was intended to be a very narrow public performance exception.

In its April 2017 Special 301 Report, the U.S. Government noted that while the legal framework in Barbados largely addresses IPR, the United States continued “to have concerns about the interception and retransmission of U.S. broadcast and cable programming by local cable operators in Barbados” without adequate compensation for, or consent from U.S. rights holders, including music producers and performers. The U.S. Government also noted its ongoing concerns about, the refusal of Barbadian TV and radio broadcasters and cable and satellite operators to pay for publicly performed music. A 2007 Supreme Court case granted a local performance rights organization (PRO) the right to receive remuneration, which, ten years later, it has still not received. This was a case against a state-owned broadcaster, but unfortunately, the ruling has never been enforced. In addition, the U.S. Government and IIPA members urge the Government of Barbados to adopt a modern copyright law, one that would protect works in both physical and online environments.

The motion picture industry reported in 2017 that there is ongoing widespread broadcast piracy of both free-to-air and premium services in Barbados. This includes the use of unauthorized decoding equipment and the unauthorized retransmission of signals. These activities are violations of both Barbados Copyright Law and of international norms.

Barbados is currently on the [Watch List](#).

