

ANNEX: JAMAICA

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA) 2020 SPECIAL 301 REPORT ON COPYRIGHT PROTECTION AND ENFORCEMENT

In July 2015, Jamaica amended the Copyright Law of Jamaica (1999) to fulfill Jamaica's obligations under the WIPO Internet Treaties—the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). The 2015 amendments included the adoption of technological protection measures (TPMs) to enforce against circumvention, and to provide for Rights Management Information (RMI); the 2015 amendments also extended all copyright terms for works and sound recordings.

While the 2015 legal reforms were a positive step forward, significant problems persist in Jamaica, most notably involving unauthorized transmissions of film and television materials via cable or satellite systems that deny payments to rights holders.

One of the long-standing problems for the motion picture and television industries are the numerous illegally transmitting (and cable retransmitting) broadcast channels in Jamaica. Three years ago, there was some hope of progress, but those efforts have mostly stalled. In 2015, the Broadcasting Commission of Jamaica publicly identified nearly 100 illegally transmitted channels, and issued a directive to cable licensees to cease the illegal transmission of 19 of these channels by August of that year. The 2015 enforcement directive was widely complied with, and there were some steps taken in 2016 to continue the enforcement of broadcast rights among the country's top providers of audiovisual content. Then in 2018, the Broadcasting Commission of Jamaica initiated another audit of cable operators to ensure that cable systems would provide only licensed copyrighted materials to subscribers. However, even after these steps taking down some channels or materials, unauthorized materials are still widely available on broadcast and cable channels—in fact, there are dozens of channels, most by local operators, that continue to broadcast only unauthorized material. Additionally, while Jamaica maintains a statutory licensing regime for the retransmission of copyrighted television programming, it has not consistently enforced the payment of statutory royalties to rights holders for retransmissions.

In June 2017, a major summit was organized to address these problems in Jamaica and in the region. At that time, the U.S. Government led the “Joint CARICOM-United States Public-Private Sector Stakeholder Seminar and Dialogue on Broadcast Licensing and Enforcement in a Converging World” in Jamaica. This long-awaited dialogue was a positive step allowing content licensors, cable operators, regulators, and copyright officers to discuss the direction that Jamaica (and the Caribbean region) should take regarding pirated content on various cable platforms. It was hoped that this initiative would accelerate the pace of reform in Jamaica and in neighboring markets, but progress has since slowed.

Other problems persist for the music industry, most notably the failure of music services to collect and pay royalties to rights holders.

There was a single case two years ago that awarded damages to rights holders for a local cable broadcaster's unauthorized use of materials, but more such cases are needed to be deterrents. While there were reports two years ago of enforcement operations and arrests that targeted transnational criminal organizations operating in Jamaica, there have been no such recent reports.

IIPA recommends that the Government of Jamaica should continue its focus on the large-scale operations, and also properly address the persistent problem of unlicensed broadcasts and cable systems, and the non-payment of royalties to the audiovisual producers. While the Government of Jamaica agreed to work to legalize its broadcast television ecosystem at the 2017 summit, rampant signal theft continues. The Government of Jamaica should enforce its current law and fully implement its promised reforms.

IIPA recommends that Jamaica remain on the Watch List in 2020.

