



April 6, 2018

***Submitted Electronically via EDIS and in Copies to the Commission, Investigation No. 332-562 and Investigation No. 332-563***

Ms. Lisa R. Barton  
Secretary to the Commission  
United States International Trade Commission  
500 E Street, SW  
Washington, DC 20436

Re: MPAA written submission related to: *Global Digital Trade 2: The Business-to-Business Market, Key Foreign Trade Restrictions, and U.S. Competitiveness; and Global Digital Trade 3: The Business-to-Consumer Market, Key Foreign Trade Restrictions, and U.S. Competitiveness; Scheduling of Hearing, Investigation No. 332-562 and Investigation No. 332-563, 83 Fed. Reg. 3185, January 23, 2018.*

Dear Ms. Barton:

The Motion Picture Association of America (MPAA) hereby submits its written submission related to *Global Digital Trade 2: The Business-to-Business Market, Key Foreign Trade Restrictions, and U.S. Competitiveness; and Global Digital Trade 3: The Business-to-Consumer Market, Key Foreign Trade Restrictions, and U.S. Competitiveness.*

Respectfully submitted,

/s/Anissa Brennan

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The Motion Picture Association of America (MPAA) appreciates the opportunity to offer comments on the International Trade Commission’s investigation of *Global Digital Trade 2: The Business-to-Business Market, Key Foreign Trade Restrictions* and *Global Digital Trade 3: The Business-to-Consumer Market, Key Foreign Trade Restrictions*. The health and sustainability of the global digital marketplace is of critical importance to the U.S. motion picture and television industry.

MPAA has the distinct honor of representing six of the largest producers and distributors of filmed entertainment in the world: Walt Disney Studios Motion Pictures; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Twentieth Century Fox Film Corporation; Universal City Studios LLC; and Warner Bros. Entertainment Inc. Each of our members has significant equities in the global digital marketplace – from the creation of audiovisual content, to the licensing and distribution of movies and television programming to myriad B2B and B2C platforms around the world.

This filing is divided into six sections. The first provides a brief overview of the U.S. motion picture and television industry. The second explores the impact of intellectual property theft on the B2B and B2C digital marketplace with specific attention to the emergent problem of illicit streaming devices (ISDs). The third explores implications of the erosion of copyright on the B2B and B2C digital marketplace. The fourth section explores traditional access barriers to the B2B market. The fifth section explores traditional access barriers to the B2C market. The final section offers concluding observations and observes some best practices for fostering a healthy legitimate digital marketplace.

## I. Industry Overview

The U.S. motion picture and television industry is one of the most highly competitive in the world; one of the few industries that consistently generates a positive balance of trade in virtually every country in which it does business. In fact, the U.S. film and television industry was responsible for \$16.5 billion in exports worldwide in 2016 with a positive services trade surplus of \$12.2 billion, or five percent of the total U.S. private sector trade surplus in services. Consumer spending for the theatrical and home entertainment markets reached \$88.4 billion worldwide in 2017.

The motion picture and television industry has undergone a technological revolution in the past 15 years and is now digital from end to end. This revolution has been driven by the development and commercialization of digital production, editing, and distribution; digital 3-D and IMAX formats; digital cinema; and, Blu-ray DVD technology. Digital motion picture technology and products enable creators to produce special-effects and cinematic experiences impossible just a decade ago, while making the content more secure, and lowering the costs of replication and distribution, especially for smaller independent film makers.

Supporting 2.1 million American jobs, the U.S. motion picture and television industry is a nationwide network of small businesses—93,000 across the U.S., with 87% employing fewer than 10 people. While some of these small businesses may not directly conduct business

internationally, with 70% of global box office and a growing share of TV revenue coming from overseas markets, their success relies on a healthy and fair global digital marketplace.

Last year when MPAA had the opportunity to appear before the ITC, there were approximately 450 legitimate services providing audiovisual content to consumers online. In the past year alone, 30 additional sites have been created and are providing consumers access to high-quality audiovisual content. These sites accommodate all manner of consumer viewing preference – from ad-supported and rental to electronic sell-through and subscription.

In 2017, global home entertainment consumer spending increased by 11 percent to \$47.8 billion dollars. Further, the number of subscriptions to online video services around the world increased to 446.8 million in 2017 – a 33 percent increase compared to 2016. And, online video content viewing continued to increase in 2017, reaching 167.5 billion views and transactions – a 41 percent increase compared to 2016. MPAA members are entering into unique licensing deals with global platforms such as Amazon, Netflix, and iTunes, as well as local platforms such as Maxdome in Germany and TF1 in France. Consumer demand for high-quality content is driving global digital trade.

MPAA members are actively supporting the adoption of digital technologies. Since 2012 the global penetration of digital cinema, which relies on encryption and compression technologies and high-speed data networking and storage, has almost doubled. In 2017, there were over 170,000 cinema screens worldwide of which 98 percent were digital. MPAA members supply their content digitally to the predominantly digital infrastructure.

In addition to these B2B arrangements, MPAA members are also engaging consumers directly. MPAA members wholly or partially own sites and apps that distribute directly to consumers, such as Hulu and Crackle. Moreover, TV Everywhere continues to expand. Each of the broadcast networks has embraced TV Everywhere to bring your favorite television programs to tablets, phones, gaming systems, and computers.

## II. Online Piracy Impacts Both B2B and B2C Markets

Online piracy remains a persistent and growing threat to the motion picture and television industry, impacting both B2B and B2C markets. In 2016, nearly one billion films and television shows were pirated.<sup>1</sup>

In 2016, there were an estimated 450 million downloads of pirated wide release films and primetime television and video-on-demand shows using peer-to-peer protocols in the U.S.– and that doesn't include other sources like streaming and downloading sites; worldwide, that number climbs to 5.4 billion.<sup>2</sup> With regard to worldwide streaming piracy, in 2016 there were an estimated 21.4 billion total visits to streaming piracy sites across both desktops and mobile

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<sup>1</sup> Alliance for Creativity. <https://alliance4creativity.com/mission/the-threat-of-online-piracy/>

<sup>2</sup> Ibid. (analysis of MarkMonitor data)

devices.<sup>3</sup> A 2016 Carnegie Mellon study found that if piracy could be eliminated in the theatrical window, then box office revenues would increase by 15 percent or \$1.3 billion per year.<sup>4</sup>

With regard to specific markets, including in each of the markets identified by the ITC, piracy remains a key impediment to the ability of the U.S. motion picture and television industry to fully tap the potential of the digital marketplace. For example, in Australia, 25 percent of consumers aged 18 to 64 consumed pirate content.<sup>5</sup> And, in Canada, there were 1.88 billion visits to illegal piracy websites in 2016.<sup>6</sup> A recent Ipsos study of the Italian market found that an estimated 128.1 million legal viewings of movies and television series were lost in 2016 due to piracy with financial losses to the audiovisual industry of approximately €86 million.<sup>7</sup> In France, an estimated 27 percent of consumers accessed pirated films in 2016, and there were 4.1 billion illegal content views across all copyrighted content, resulting in lost revenues of 1.78 billion euros.<sup>8</sup> And, in Brazil, there are over 400 pirate websites targeting the Brazilian market, 57 of which receive over one million visits a month.<sup>9</sup>

The seventh season of Game of Thrones which wrapped up on August 27, 2017, was pirated over one billion times as of September 3, according to MUSO. Looking specifically at the season seven premiere, it made headlines for its record-breaking legal viewership of 16.1 million viewers who watched the show either live or later on HBO's streaming platform. That number, however, pales in comparison to its illegal downloads or steams: 187.4 million.

An emerging global threat is streaming piracy enabled by devices loaded with software to illicitly stream movies and television programming. Websites enable one-click installation of modified software onto set-top boxes or other internet-connected devices. This modified software taps into an ecosystem of infringing content add-ons and portals that allow users to illicitly stream movies and television programming live or “on demand.” There are more than 750 websites offering infringing devices or software. The rapid growth of this problem is startling – over six percent of North American broadband households are accessing known subscription TV piracy services. This translates to about 7 million subscribers who pay an average of \$10 each for these illicit services and this equates to an estimated \$840 million a year in illegal revenue. In the UK, it is estimated that 19 percent of adults illicitly stream television programming through illicit streaming devices.

### III. Weakening Copyright Impacts Both B2B and B2C Markets

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<sup>3</sup> Ibid (analysis of SimilarWeb data)

<sup>4</sup> Ma, Liye and Montgomery, Aland and Smith, Michael D. The Dual impact of Movie Piracy on Box-Office Revenue: Cannibalization and Promotion. Carnegie Mellon University. Feb 24 2016.

<sup>5</sup><https://www.creativecontentaustralia.org.au/media-release/new-piracy-research-shows-fall-in-rates-following-a-range-of-measures-including-new-legislation>

<sup>6</sup><https://static1.squarespace.com/static/5a68f49af6576e4326f50337/t/5a6f31a1ec212d3a1503db00/1517236645551/FairPlay+Canada+2018-01-29+Exhibit+1.pdf>

<sup>7</sup> 2016 Ipsos. FAPAV and video piracy in Italy.

<sup>8</sup> <http://www.ey.com/fr/fr/newsroom/news-releases/ey-communique-de-presse-piratage-de-contenus-audiovisuels>

<sup>9</sup> Tendências Consultoria Integrada, The Economic Impact of Brazil's Audiovisual Industry (October 2016), at pp. 57-59, available at ([http://www.mpaamericalatina.org/wp-content/uploads/2015/12/MPAAL\\_10\\_04\\_2016-english-fv.pdf](http://www.mpaamericalatina.org/wp-content/uploads/2015/12/MPAAL_10_04_2016-english-fv.pdf)),

The explosion of business-to-business and business-to-consumer digital products and services is predicated on copyright. Copyright incentivizes the creation of high-quality content by securing to creators the exclusive rights to control the dissemination of their creations.

Around the world, the demand for high-quality online content is driving the demand for increasingly sophisticated devices for viewing content and for increasingly faster broadband speeds. The U.S. Chamber of Commerce Global IP Center's (GIPC) 2017 IP Index found a high correlation between strong copyright protections and innovative technologies for enjoying content. The Index also found that countries with high levels of copyright protection had wider and more convenient access to video content – more than double the level of advanced and easy access home entertainment<sup>10</sup>.

The licensing of U.S. intellectual property, which includes copyrighted content, accounted for \$124.5 billion of a total of \$403.5 billion of ICT-enabled services exports, or 31 percent in 2016.<sup>11</sup> Contractual freedom to license on a territorial basis is of paramount importance to the audiovisual sector. MPAA shares the concerns of European producers that elements of the Digital Single Market initiative could erode the freedom of film and television producers to exploit their rights as they choose by mandating cross border licensing. This mandate would impact B2B and B2C digital services, as well as digital products. Such an erosion of copyright in the EU would harm the U.S. trade surplus with Europe in ICT-enabled services. A 2016 Oxera study found that the erosion of territoriality would, in the near term, cost audiovisual producers 8.2 billion Euros annually and 9.3 billion Euros annually in consumer welfare (i.e. higher prices, lower quality, reduced cultural and linguistic diversity, and reduced content).<sup>12</sup>

MPAA member companies utilize encryption technology – also called technological protection measures (TPMs) – to prevent content from being illegitimately accessed or distributed. The global minimum standards for copyright in the digital environment, including legal protections for TPMs, are established by the WIPO Internet treaties. Content creators and distributors' widespread adoption of TPMs has enabled offering consumers an expanded menu of options for enjoying content, including purchasing a movie online and downloading it to a hard drive (electronic sell-through), streaming a movie for a limited time on a pay-per-view basis (TVOD), or enjoying a film as part of a subscription service, such as Netflix (SVOD).

Of the key markets identified by the ITC, India and Brazil have yet to join and fully implement the WIPO Internet treaties and Russia should tighten its protections against devices that circumvent TPMs. Moreover, while all EU Member States have joined the WIPO Internet treaties, some Member States have failed to provide appropriate measures for the legal protection of TPMs. For example, Germany and Luxembourg do not provide adequate sanctions against the act of circumvention and preparatory acts facilitating circumvention and Finland and Sweden do not provide adequate protection against the act of circumvention. Moreover, Belgium, United

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<sup>10</sup> [http://www.theglobalipcenter.com/wp-content/uploads/2017/02/GIPC\\_IP\\_Index\\_2017\\_Report.pdf](http://www.theglobalipcenter.com/wp-content/uploads/2017/02/GIPC_IP_Index_2017_Report.pdf)

<sup>11</sup> U.S. Department of Commerce at page 4, <https://www.commerce.gov/sites/commerce.gov/files/media/files/2018/digital-trade-in-north-america.pdf>

<sup>12</sup> <https://www.oxera.com/Latest-Thinking/Publications/Reports/2016/The-impact-of-cross-border-access-to-audiovisual-c.aspx>

Kingdom, Spain, and France establish broad power for national authorities to intervene and dictate to rights holders how to make their works available.

#### IV. Market Access Barriers to B2B Market

*Digital Theatrical Market:* The Brazilian government has imposed burdensome regulations on Brazil's theatrical market. A Presidential Decree took effect in 2017, continuing a 2015 mandate for a local content screen quota ranging from 28 to 800 days, depending on the number of screens per theatrical complex.<sup>13</sup> The rule also limits a single title to be shown on no more than 30 percent of a theater's screens. In addition to a screen quota, Brazil's regulator, ANCINE, noticed its intention in 2014 to regulate the digital distribution of audiovisual works for theatrical exhibition. ANCINE's digital cinema regulation would restrict the transfer, delivery and encoding of digital content. ANCINE also tried to compel stakeholders to disclose information about their commercial contracts. These restrictions are unworkable and inefficient and would impose additional and undue costs on exhibitors, distributors and, ultimately, Brazilian consumers.

In May 2016, the Government of Indonesia removed the film sector from its Negative Investment List, allowing for 100 percent foreign investment in film production, distribution and exhibition. This positive development, which encourages more competition and growth in Indonesia's film sector, is threatened by the Ministry of Culture and Education's plan to enforce a shelved film law from 2009. The 2009 law would impose significant new barriers to entry, including a 60 percent screen quota, and would ban the dubbing of imported films and restrict vertical integration.

Spain continues to maintain a screen quota. For every three days that a non-EU country film is screened, one European Union film must also be screened. This quota is reduced to four to one if the cinema screens a film in an official language of Spain.

China severely restricts access to its theatrical market.<sup>14</sup> Notwithstanding China's commitment under the 2012 U.S.-China Film Agreement to permit an additional 14 "enhanced format" foreign revenue-sharing films into its market annually, China maintains an official quota of 20 foreign revenue sharing films annually. The market is further constrained by the Government's film importation and distribution monopoly. While China affirmed in the Film Agreement that any properly licensed Chinese enterprise may distribute imported films, SAPPRT has yet to approve any new distributors. China Film Group also dictates the release dates and length of theatrical runs of foreign films, often restricting the ability of the U.S. producer to obtain a film's full value. Historically, the Chinese government has decreed "black-out periods" during which no new foreign imported films may be released theatrically, to prevent competition against Chinese films released during the same period. Restricting the release of new foreign imported titles during peak season drives down theatrical revenues and exacerbates content theft, as pirates address consumers' demand for foreign blockbuster titles.

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<sup>13</sup> 95 percent of Brazil's digital screens are now digital. The Economic Impact of Brazil's Audiovisual Industry. Tendencias Consultoria Integrada. October 2016.

<sup>14</sup> Today close to 100 percent of China's theatrical market is digital.

*Video On Demand Market:* The Government of Brazil is considering an additional tax on audiovisual works released on demand even though a tax is already applied to these same works in several different release windows. This VOD tax is a threat to the growth of the Brazilian VOD market.

In some EU Member States including Poland, France, and Belgium, steps have been taken to regulate the legitimate VOD market through prominence requirements, mandatory windows, and quotas. In May 2017, the European Council reached a general approach to amend 2010/13/EU (AVMS-D). While there are some positive elements in the Commission's proposal including more flexibility on advertising rules, the document includes a 30 percent share of EU works in VOD catalogues and prominence obligations. This proposal is currently being discussed in the Trilogue.

Switzerland amended its Film Act in 2016 by extending the "unique distributor clause" to all forms of exploitation, including all forms of video-on-demand/online distribution. This means that exploitation of a film in any media in Switzerland now requires a single distributor to have control over all language versions exploited in Switzerland. This interferes with internationally established licensing practices by depriving rightsholders of the ability to control the licensing of his/her works.

#### V. Market Access Barriers to B2C Market

*Pay Television Market:* Brazil heavily regulates its pay-TV sector with a series of discriminatory barriers. Law 12.485/2011 imposes content quotas on pay-television and delegates unprecedented powers to the regulator to limit advertising and direct business activities.

The Indian government, through its regulator, TRAI, continues heavy rate regulation of India's pay-TV sector with strict price controls, infringing on the ability of right owners to establish commercial terms and conditions for use of their works. And, the must provide mandate for linear channels on cable, IPTV and DTH precludes exclusive licensing, quashing contractual freedom. These price controls were initially implemented in 2004 with the idea to help make the market more competitive, but in 2017 the Indian television market stands as one of the most competitive in the world. With thousands of production houses, a variety of distribution platforms, and hundreds of channels, Indian consumers have a wide range of viewing options and price controls only seem to be restraining the growth of the Indian pay-TV sector.

Indonesia's 2005 Broadcasting law includes a Made-in-Indonesia requirement for advertising, including for pay-TV. The Government is currently considering how to implement these rules. Moreover, in October 2015, the Indonesian Broadcasting Commission (KPI) notified platform operators about pre-censorship and classification requirements for programs on all TV channels, suggesting onerous penalties for non-compliance. If implemented, these requirements would negatively impact the pay-TV industry, raising costs and reducing consumer choice.

The Government of Russia enacted legislation in January 2015 that bans advertising on pay and scrambled signal channels. While the law has no practical effect on state-owned television channels, it has a significant impact on cable and on-demand services, including those operated by U.S. companies. It is estimated that advertising revenues dropped by 46 percent in 2015 as a

result of this law.<sup>15</sup> More recently, in January 2016, Russia amended its media law to ban foreign entities and persons from establishing certain media platforms, including television companies. It also restricts foreign ownership of media in existing companies to no more than 20 percent.<sup>16</sup> Non-compliance could result in foreign shareholders losing important rights within the company. As a result, many of Russia's media businesses have been recently restructured.

The Chinese pay-television market is virtually closed to U.S. industry. Foreign investment is prohibited; foreign programming is subject to quotas; and, local cable networks are prohibited from carrying foreign satellite channels without government approval or landing permits, which are limited to Guangdong and to a handful of foreign channels. Furthermore, foreign satellite channels beaming into China are required to downlink from a government-owned encrypted satellite platform, and may only be shown in three-star hotels and above and in foreign expatriate compounds. The annual fee for each channel remains excessively high at \$100,000.

*Online Market:* In Russia in late 2016, a draft law was introduced in the Duma to regulate online film websites and limit foreign ownership of such sites to 20 percent. The law would also impose very burdensome regulations on the operators of legal sites. The law is opposed by Russian and foreign film distributors and website owners of legitimate content, fearing that the new law could become a tool to limit legal websites and, as a consequence, result in more piratical film sites. The draft bill passed its first reading in the Duma in January 2017 and has the potential to undermine some of the positive results flowing from Russia's internet anti-piracy law, which disables access to substantially infringing websites.

In China in September 2014, SAPPRFT issued regulations requiring online websites to obtain permits, submit content for censorship review and limit online distribution of foreign content to 30 percent. SAPPRFT also requires the submission of full seasons of foreign TV series for censorship review, creating delays in the availability of such series and effectively ruling out day-and-date releases. The sheer scope of these policies has undoubtedly led to increases in online piracy. Furthermore, the Government recently instructed online video websites to allow state-owned media enterprises to own "Special Management Stakes," including voting powers in decision making, an edict with which online websites have, so far, refused to comply. China's online video policies create uncertainties and have had a disruptive impact on the growth of China's online video sector and the licensing of audiovisual content. In addition, foreign investment in OTT platforms remains prohibited.

In Indonesia, a draft law intended to tackle convergence issues would require OTT platforms to locally establish.

## VI. Conclusion

The U.S. motion picture and television industry, which is digital from end to end, is a major U.S. employer with a positive balance of trade in virtually every country in which it does business.

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<sup>15</sup> Focus on the Audiovisual Industry in the Russian Federation. European Audiovisual Observatory. January 2016.

<sup>16</sup> Ibid.



There is every indication that the industry's trade surplus will continue to grow under expanded legitimate digital trade. The most significant impediment to this growth is online copyright infringement. This infringement harms content creators, the platforms that license high-value, high-quality content, and the consumers who are put at risk when they visit infringing websites. More broadly, online theft harms the health and sustainability of the online ecosystem and has a serious distorting effect on U.S. competitiveness and legitimate digital trade.

MPAA urges governments to enact effective laws and regulations to protect copyright content online, including provisions designed to encourage meaningful removal of piracy listings. Piracy services are almost always in business for one reason – to make a profit – so laws, regulations and enforcement tools must be tailored and directed at eliminating such opportunities. Positive examples include the UK's Infringing Website List and Operation Creative which disrupts advertising revenue to websites that fail to comply with police orders to operate legitimately.<sup>17</sup> Another example is the U.S. Trustworthy Accountability Group (TAG), a cross-industry accountability program that fights ad-supported internet piracy in an effort to promote brand integrity and eliminates fraudulent digital advertising traffic.<sup>18</sup>

Moreover, there is now global recognition that injunctive relief is an effective tool to reduce online copyright infringement. Employed today in over 40 countries around the world, injunctive relief ensures that ISPs take steps to disable access to copyright infringing websites. With close to a decade of implementation, studies overwhelmingly demonstrate that in those countries where injunctive relief is employed, it greatly contributes to (1) reduced usage of infringing websites to which access has been blocked<sup>19</sup>; (2) reduced overall usage of infringing websites<sup>20</sup>; and (3) increased traffic to legitimate offerings for copyrighted content<sup>21</sup>.

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<sup>17</sup> <https://www.cityoflondon.police.uk/advice-and-support/fraud-and-economic-crime/pipcu/Pages/Operation-creative.aspx>

<sup>18</sup> <https://www.tagtoday.net/aboutus/>

<sup>19</sup> Poort, Joost and Leenheer, Jorna and Ham, Jeroen and Dumitru, Cosmin, *Baywatch: Two Approaches to Measure the Effects of Blocking Access to the Pirate Bay* (August 22, 2013), <https://ssrn.com/abstract=2314297>.

Aguiar, Luis and Claussen, Jorg and Peukert, Christian, *Online Copyright Enforcement, Consumer Behavior, and Market Structure* (2015), [https://ec.europa.eu/jrc/sites/jrcsh/files/JRC93492\\_Online\\_Copyright.pdf](https://ec.europa.eu/jrc/sites/jrcsh/files/JRC93492_Online_Copyright.pdf)

<sup>20</sup> Danaher, Brett and Smith, Michael D. and Telang, Rahul, *The Effect of Piracy Website Blocking on Consumer Behavior* (November 2015), <https://ssrn.com/abstract=2612063>.

Danaher, Brett and Smith, Michael D. and Telang, Rahul, *Website Blocking Revisited: The Effect of the UK November 2014 Blocks on Consumer Behavior* (April 18, 2016), <https://ssrn.com/abstract=2766795>

Incopro, *Site Blocking Efficacy in Portugal September 2015 to February 2016* (May 2016)

(<http://www.incoproip.com/wp-content/uploads/2017/07/Site-Blocking-and-Piracy-Landscape-in-Portugal-FINAL.pdf>)

Motion Picture Association, *MPA Study on Site Blocking Impact in South Korea* (2016) ([http://www.mpa-i.org/wp-content/uploads/2018/01/MPAA\\_Impact\\_of\\_Site\\_Blocking\\_in\\_South\\_Korea\\_2016.pdf](http://www.mpa-i.org/wp-content/uploads/2018/01/MPAA_Impact_of_Site_Blocking_in_South_Korea_2016.pdf)).

Incopro, *Site Blocking Efficacy – Key Findings – Australia (February 2018)*

([https://www.creativecontentaustralia.org.au/literature\\_210629/2018\\_Research\\_-\\_Incopro\\_Study](https://www.creativecontentaustralia.org.au/literature_210629/2018_Research_-_Incopro_Study)).

<sup>21</sup> Danaher, Brett and Smith, Michael D. and Telang, Rahul, *The Effect of Piracy Website Blocking on Consumer Behavior* (November 2015), <https://ssrn.com/abstract=2612063>.

Danaher, Brett and Smith, Michael D. and Telang, Rahul, *Website Blocking Revisited: The Effect of the UK November 2014 Blocks on Consumer Behavior* (April 18, 2016), <https://ssrn.com/abstract=2766795>.

In addition to the ability to effectively combat online piracy, it is also imperative that governments provide rightsholders the ability to protect their works from unauthorized use. Protection for encryption technologies, such as technological protection measures, through full implementation of the WIPO Internet treaties, would help ensure a more hospitable legal framework for the technologies that enable diverse online offerings. Moreover, it is imperative that governments respect contractual freedom to license, including and importantly, on a territorial basis.

Finally, the full potential of foreign markets, including those highlighted by the ITC, are often inhibited by traditional market access barriers. Countries around the world, developed and developing, continue to maintain restrictive content quotas, advertising restrictions and foreign investment limitations across both business-to-business and business-to-consumer digital markets. Such policies not only curb the ability of our industry to fairly compete, but also limit consumers' choice of, and access to, legitimate content.

MPAA appreciates the opportunity to share its perspectives on the issues presented in the ITC's notice for parts two and three of its digital trade investigation. We stand ready to address any questions you might have or provide additional information.